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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

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 225, 226 and 245

[FNS–2008–0001]

RIN 0584–AD60

Direct Certification and Certification of Homeless, Migrant and Runaway Children for Free School Meals; Approval of Information Collection Request

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule; notice of approval of Information Collection Request (ICR).

SUMMARY: The interim rule entitled Direct Certification and Certification of Homeless, Migrant and Runaway Children for Free School Meals was published on April 25, 2011. The ICR for this rule revised an existing information collection, OMB Control Number 0584–0026, and created a new collection OMB Control Number 0584–0585. The Office of Management and Budget (OMB) cleared the associated ICRs on April 19, 2013 and August 14, 2013, respectively. This document announces the approval of the ICRs.

DATES: The ICRs associated with the interim rule published in the **Federal Register** on April 25, 2011, at 76 FR 22785, were approved by OMB on April 19, 2013 under OMB Control Number 0584–0026 and August 14, 2013 under OMB Control Number 0584–0585.

FOR FURTHER INFORMATION CONTACT: William Wagoner, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1212, Alexandria, Virginia 22302, (703) 305–2837, or *William.wagoner@fns.usda.gov.*

Dated: September 30, 2013.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2013–25217 Filed 10–25–13; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 46

[Docket No. OCC–2012–0016]

Policy Statement on the Principles for Development and Distribution of Annual Stress Test Scenarios

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Final guidance.

SUMMARY: This final guidance sets forth the general processes and factors to be used by the OCC in developing and distributing the stress test scenarios for the annual stress test required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') as implemented by the Annual Stress Test final rule (Stress Test Rule) published on October 9, 2012. Under the Stress Test Rule national banks and federal savings associations with total consolidated assets of more than $10 billion (covered institutions) are required to conduct annual stress tests using a minimum of three scenarios (baseline, adverse and severely adverse) provided by the OCC. The Stress Test Rule specified that the OCC will provide the required scenarios to the covered institutions by November 15th of each year. On November 15, 2012, the OCC published interim guidance explaining how the OCC would develop the stress test scenarios.[1] The OCC is now adopting the interim guidance as final.

DATES: This final guidance is effective November 27, 2013.

FOR FURTHER INFORMATION CONTACT: Robert Scavotto, Deputy Director, International Analysis and Banking Condition (202) 649–5477, Richard Nisenson, Director, Industry and Regional Analysis (202) 649–5457, Henry Barkhausen, Attorney, or Ron Shimabukuro, Senior Counsel, Legislative and Regulatory Activities Division (202) 649–5490, Office of the Comptroller of the Currency, 400 7th St. SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

I. Background

Section 165(i)(2) of the Dodd-Frank Act requires certain financial companies, including national banks and federal savings associations with total consolidated assets of more than $10 billion (covered institutions), to conduct annual stress tests. The OCC published in the **Federal Register** on October 9, 2012, the final Stress Test Rule [2] implementing the requirements and setting out definitions and rules for scope of application, scenarios, reporting, and disclosure. Under the Stress Test Rule, covered institutions are required to conduct annual stress tests based on the annual stress test cycle set out in Table 1.

TABLE 1—PROCESS OVERVIEW OF ANNUAL STRESS TEST CYCLES FOR COVERED INSTITUTIONS

Key step	Over $50 billion	$10 to $50 billion
1. OCC distributes scenarios for annual stress tests	By November 15	By November 15.
2. Covered institutions conduct annual stress test and submit Annual Stress Test Report to the OCC and the Board.	By January 5	By March 31.
3. Covered institutions make required public disclosures	Between March 15 and March 31.	Between June 15 and June 30.

[1] 77 FR 68047 (November 15, 2012).

[2] 77 FR 61238 (October 9, 2012).

A key component of the annual stress test is the stress test scenarios. Scenarios are sets of conditions that affect the U.S. economy or the financial condition of covered institutions. Each scenario includes the values of the variables specified for each quarter over the stress test horizon. The variables specified for each scenario generally address economic activity, asset prices, and other measures of financial market conditions for the United States and key foreign countries. The OCC annually will determine scenarios that are appropriate for use for each annual stress test. The timeline in Table 1 provides that the OCC will distribute stress test scenarios to covered institutions by November 15th of each year. This document articulates the principles that the OCC will apply to develop and distribute those scenarios for covered institutions.

II. Summary of Comment Received

The OCC published interim guidance in the **Federal Register** on November 15, 2012, that explained the principles the OCC will apply to develop stress test scenarios. The interim guidance was effective immediately. The OCC solicited comment on all aspects of the interim guidance and received one comment on the interim guidance. A public interest group believed that stress test scenarios should factor in the possible loss of short-term funding. The OCC agrees with the commenter that short-term funding and liquidity in general are factors that need to be considered. In this regard the OCC notes that the final guidance, while focusing on the capital position of covered institutions, would permit the use of interagency scenarios that include contraction in short-term funding, if appropriate. Additionally, the interagency Supervisory Guidance on Stress Testing for Banking Organizations With More than $10 Billion in Total Consolidated Assets, which applies to all stress testing and not merely stress testing pursuant to the Stress Test Rule, specifically requires that stress tests take into account liquidity. (''[U]ses of a banking organization's stress testing framework should include . . . assessing liquidity adequacy and informing contingency funding plans.'') [3] Finally, the OCC is working with the Federal Reserve Board and the Federal Deposit Insurance Corporation on rules to implement the Basel III liquidity provisions.[4]

The commenter also believed that stress testing models should be made publicly available so that they can be subject to ''open source'' critique. The commenter believed that ''[t]here are no requirements that the federal regulators or the covered banks discuss the specification, statistical fit, or out-of-sample forecasting properties of the risk models they are using.'' The commenter requests disclosure of both supervisory models and the stress testing models used by covered institutions. The first part of the request is not applicable to the OCC because the OCC is not required by the Dodd-Frank Act to run supervisory models. The second part of the request would require an amendment to the Stress Test Rule and is outside the scope of this guidance, which addresses the process for developing the baseline, adverse, and severely adverse stress test scenarios. While the scenarios are key inputs for the company-run and supervisory stress test models, the scenarios are different from the models themselves. The OCC does, as part of the supervisory process, however, expect covered institutions to have a stress testing framework that incorporates validation or other type of independent review aimed at ensuring the integrity of stress testing processes and results.[5] If a banking organization engages a third-party vendor to support some or all of its stress testing activities, there should be appropriate controls in place to ensure that those externally developed systems and processes are sound, applied correctly, and appropriate for the banking organization's risks, activities, and exposures.[6]

III. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3506; 5 CFR Part 1320, Appendix A1), the OCC reviewed the final guidance. The OCC may not conduct or sponsor, and an organization is not required to respond to, an information collection unless the information collection displays a currently valid Office of Management and Budget (OMB) control number. The final guidance contains no new collections of information under the PRA beyond those contained in OMB Control No. 1557–0311, the collection covering the Stress Test Rule.

IV. Principles for Development and Distribution of Annual Stress Test Scenarios

The text of the guidance is as follows.

Principles for Development and Distribution of Annual Stress Test Scenarios

I. Introduction

Section 165(i)(2) of the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010 requires certain financial companies, including national banks and federal savings associations with total consolidated assets of more than $10 billion (covered institutions), to conduct annual stress tests. The Office of the Comptroller of the Currency (OCC) published in the **Federal Register** on October 9, 2012, a final rule (Stress Test Rule) implementing the requirements and setting out definitions and rules for scope of application, scenarios, reporting, and disclosure.[1] Under the Stress Test Rule, each year the OCC will distribute stress test scenarios to covered institutions. This document articulates the principles that the OCC will apply to develop and distribute those scenarios for covered institutions.

II. Stress Tests

As defined by the Stress Test Rule, a stress test is ''a process to assess the potential impact of stressful scenarios on the consolidated earnings, losses, and capital of a covered institution over the planning horizon, taking into account the covered institution's current condition, risks, exposures, strategies, and activities.'' [2]

Stress tests help covered institutions and the OCC determine whether those institutions have capital sufficient to absorb losses that could result from adverse economic conditions. The OCC views stress test results as one source of forward-looking information that can help identify downside risks and assess the potential impact of adverse outcomes on capital adequacy. Stress tests are not the only tool the OCC uses for these purposes; a complete assessment of a covered institution's capital position typically includes a review of its capital planning processes, the governance concerning those processes, and the adequacy of capital under established regulatory capital measures. The OCC expects the board of directors and senior management of each covered institution to consider the results of the annual stress test when

[3] 77 FR 29458, 29465 (May 17, 2012).

[4] Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action, 77 FR 52792, 52796, n.11 (Aug. 30, 2012).

[5] For validation of models and other quantitative tools used for stress testing, see OCC Bulletin 2011–12, ''Supervisory Guidance on Model Risk Management,'' April 4, 2011, available at *http://www.occ.gov/news-issuances/bulletins/2011/bulletin-2011-12a.pdf.*

[6] 77 FR 29458, 29471 (May 17, 2012).

[1] Annual Stress Test, 77 FR 61238 (October 9, 2012).

[2] 12 CFR 46.2 (Definition of Stress Test).

conducting capital planning, assessing capital adequacy, and evaluating risk management practices. The OCC also may use stress test results to determine whether additional analytical techniques and exercises are appropriate for a covered institution to employ in identifying, measuring, and monitoring risks to the financial soundness of the covered institution.

Under the Stress Test Rule, each covered institution is required to conduct an annual stress test using its financial data as of September 30 of each year, unless the OCC requires a different ''as of'' date for any or all categories of financial data. The stress test must assess the potential impact of specific scenarios on the regulatory capital of the covered institution and on certain related items over a forward-looking planning horizon, taking into account all relevant exposures and activities.[3] Under the Stress Test Rule, the planning horizon is at least nine quarters, consisting of the fourth quarter of the current calendar year plus all four quarters of each of the two subsequent calendar years.

III. Scenarios

Scenarios are sets of conditions that affect the U.S. economy or the financial condition of covered institutions.[4] The OCC annually will determine scenarios that are appropriate for use under the Stress Test Rule. In conducting the stress test under the Stress Test Rule, each covered institution must use the scenarios provided by the OCC.

Each scenario includes the values of the variables specified for each quarter over the stress test horizon. The OCC expects that covered institutions may not need to use all of the variables provided and may need to estimate relationships to identify other variables, such as those reflecting local economic conditions, from the values the OCC provides. The OCC will review the appropriateness of estimation processes and resulting estimates, or other modifications of variables, through its ongoing supervisory processes.

The variables specified for each scenario generally address economic activity, asset prices, and other measures of financial market conditions for the United States and key foreign countries. Variables that describe economic activity likely will include, but not be limited to, the growth rate of gross domestic product, the unemployment rate, and the inflation rate. The OCC anticipates that the path (which reflects the level and rate of change) of the unemployment rate during the planning horizon in particular will be a key variable indicating the severity of economic stress, as this variable provides a simple and widely noted gauge of the state of the U.S. economy. This point is discussed further in this statement in connection with severely adverse scenarios.

Other variables may represent asset prices and financial market conditions, including interest rates. The OCC expects to specify scenarios using a fairly stable core set of variables, although variables may be added or deleted as the U.S. and global economic environment evolves. The OCC will attempt to minimize additions, redefinitions, or re-specifications from year to year, recognizing that the use of new or modified variables for stress tests may require potentially costly systems changes at covered institutions.

The scenarios provided by the OCC reflect at least three sets of economic and financial conditions, described in the rule as baseline, adverse, and severely adverse. The baseline broadly corresponds to the set of conditions expected to prevail over the term of the stress tests. The adverse and severely adverse scenarios introduce hypothetical stress conditions intended to test the safety and soundness of covered institutions as well as their capital planning processes. The aim is to assess the ability of covered institutions to identify and measure the risks they face under adverse conditions, and to ensure that appropriate amounts of capital exist to support those risks. The OCC will evaluate both the adequacy of the projections and the processes used in the company-run stress tests. The OCC expects covered institutions to be able to maintain ready access to funding, continue operations, meet obligations to creditors and counterparties, and continue to serve as credit intermediaries under conditions that are significantly more adverse than expected.

The baseline scenario establishes a benchmark set of conditions that incorporates the most current views on the macroeconomic outlook. These views are based on information obtained from government agencies, other public sector organizations, and private sector forecasters as close to the date of the annual stress test as possible. The baseline may be based on one or more of the ''consensus'' forecasts produced by various organizations, although the OCC may choose to depart from the consensus if necessary to provide a more appropriate baseline for the stress tests.

The adverse scenario is a hypothetical set of conditions designed to simulate a moderate level of stress that covered companies could experience, such as a mild-to-moderate U.S. recession. The adverse scenario may also be used to investigate other risks, perhaps including operational risks, that the OCC believes should be better understood or more closely monitored.

The severely adverse scenario is a set of quite challenging economic and financial conditions, such as those that might be experienced in a relatively severe recession. Three examples of severe recessions from recent U.S. experience may illustrate the anticipated depth of the severely adverse scenario as it relates to the unemployment rate:

- The 1973–75 recession, during which the unemployment rate increased 4.1 percentage points, from 4.9 percent in 1973Q3 to 9.0 percent in 1975Q2 (one quarter after the recession ended).
- The back-to-back recessions in 1980 and 1981–82, during which the unemployment rate increased 4.7 percentage points, from 6.1 percent in 1979Q4 to 10.8 percent in 1982Q4 (the last quarter of the recession).
- The 2007–09 recession, during which the unemployment rate increased 5.3 percentage points, from 4.7 percent in 2007Q3 to 10.0 percent in 2009Q4 (two quarters after the recession ended).

Other variables under the adverse and severely adverse scenarios would be expected to follow paths consistent with the depth and duration of previous recessions and with models of macroeconomic activity. The severely adverse scenario also may reflect other risks that are especially salient and that might not be captured by past recessions, including elevated levels of systemic risk.

The scenarios distributed by the OCC for the stress tests cover at least nine quarters. In addition, the OCC will generally publish scenarios that cover one year beyond the planning horizon of the stress test, to allow for the estimation of loan losses for the year following the stress planning horizon; this additional specification allows covered institutions to determine adequate levels of loan loss reserves.

The OCC believes that as a general matter all covered institutions should use the same set of scenarios and planning horizon so that the OCC can better compare results across institutions. To that end, the OCC intends to provide one set of scenarios for use by all covered institutions. However, the OCC believes there may be

[3] Id. at 46.6(a).

[4] Id. at 46.2 (Definition of scenarios).

circumstances that would warrant the use of different or additional scenarios or a planning horizon of more than nine quarters. Thus, under the Stress Test Rule the OCC reserves the authority to require a covered institution to use different or additional scenarios and/or planning horizons the agency may deem appropriate. For example, a covered institution may conduct business activities or have risk exposures that would encounter stress under conditions that differ materially from those that would generate stress for other institutions. The OCC expects such situations to be rare and anticipates making every effort to distribute the same scenarios to all covered institutions.

In addition to the minimum three scenarios, the OCC may require a covered institution with significant trading activities to include factors related to trading and counterparty risk in its stress test. Typically, these factors might include additional shocks to specific market prices, interest rates, rate spreads, or other key market variables consistent with historical or hypothetical adverse market events.

IV. Development and Distribution

As one part of the process of developing scenarios, the OCC will gather information from outside entities and develop themes for the stress test scenarios, including the identification of potentially material vulnerabilities or salient risks to the financial system, and consider potential paths for individual variables. The outside entities may include academic experts, staffs of international organizations, foreign supervisors, financial institutions that regularly provide forecasts, and other private sector risk analysts that regularly conduct stress tests based on U.S. and global economic and financial scenarios. The OCC will use the information gathered in this manner to inform its consideration of potential risks and scenarios.

The OCC, the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (Agencies) expect to consult closely to develop scenarios for stress testing. Absent specific supervisory concerns, the OCC anticipates that the annual stress test scenarios distributed by the OCC will be the same as or nearly identical to the scenarios developed by the Board for the supervisory stress tests conducted by the Board under Section 165(i)(1). This would mean the same economic and financial variables following the same paths as used in the scenarios for the Board's supervisory stress tests.

Although the Agencies generally expect to consult closely on scenario development, they may have different views of risks that should be reflected in the stress test scenarios used by covered institutions for the annual stress test. The OCC may distribute scenarios to covered institutions that differ in certain respects from those distributed by the FDIC and the Board if necessary to better reflect specific OCC concerns. The OCC expects such situations to be extremely rare, however, and anticipates making every effort to avoid differences in the scenarios required by each agency.

The OCC anticipates that the stress test scenarios will be revised annually as appropriate to ensure that each scenario remains relevant under prevailing economic and industry conditions. These yearly revisions will enable the scenarios to capture evolving risks and vulnerabilities. The need to ensure that scenarios do not become outdated because of economic and financial developments makes a lengthy process of review and comment concerning scenarios prior to distribution each year impractical. However, the process of consultation with the Board and the FDIC, as well as the ongoing interaction of OCC staff with public and private sector experts to obtain views on salient risks and to obtain suggestions for the behavior of key economic variables, should ensure that the stress conditions reflected in the scenarios are well suited to their purpose.

The scenario development process culminates with the distribution of the scenarios to all covered institutions no later than November 15 of each year. The scenario descriptions provided to covered institutions will include values for economic and financial variables depicting the paths those variables follow under the scenarios. The OCC believes that distribution of the scenarios by November 15 aligns with similar processes at the FDIC and the Board.

Dated: October 21, 2013.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2013–25421 Filed 10–25–13; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0832; Directorate Identifier 2012–NM–047–AD; Amendment 39–17612; AD 2013–20–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A340–211 –212, –213, –311, –312, –313, –541, and –642 airplanes. This AD requires revising the maintenance program to incorporate certain maintenance requirements and airworthiness limitations. This AD was prompted by a determination that existing maintenance requirements are not adequate to address the unsafe condition. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of systems life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability of the airplane.

DATES: This AD becomes effective November 12, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of November 12, 2013.

We must receive comments on this AD by December 12, 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 AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.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 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0021, dated January 30, 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:

> The mandatory instructions and airworthiness limitations applicable to the Ageing Systems Maintenance (ASM) are specified in Airbus A340 [Airworthiness Limitations Section] ALS Part 4, which is approved by the European Aviation Safety Agency (EASA).
>
> The revision 02 of Airbus A340 ALS Part 4 introduces more restrictive maintenance requirements and/or airworthiness limitations. Failure to comply with the instructions of ALS Part 4 could result in an unsafe condition.
>
> This [EASA] AD requires the implementation of the maintenance requirements and/or airworthiness limitations as specified in Airbus A340 ALS Part 4 revision 02, approved on 12 October 2011. * * *

The unsafe condition is the aging effects of aircraft systems. Such aging effects could change the characteristics of systems life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued A340 Airworthiness Limitations Section (ALS), Part 4, Aging Systems Maintenance, Revision 02, dated October 12, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

Related Rulemaking

Certain maintenance requirements specified in A340 ALS, Part 4—Aging Systems Maintenance, Revision 02, dated October 12, 2011, are already required by other ADs. Therefore, accomplishing the actions required by this AD will terminate the requirements of the following ADs for Model A340 airplanes.

- AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003).
- AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004).
- AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004).
- AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004).
- AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007).
- AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)).
- AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).

FAA's Determination and Requirements of This 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 issuing this AD because we evaluated all pertinent information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

There are no products of this type currently registered in the United States. However, this rule is necessary to ensure that the described unsafe condition is addressed if any of these products are placed on the U.S. Register in the future.

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0832; Directorate Identifier 2012–NM–047–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

Costs of Compliance

We estimate that this AD affects 0 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Maintenance program revision.	2 work-hours × $85 per hour = $170 per revision	$0	$170 per revision	$0

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–20–06 Airbus: Amendment 39–17612. Docket No. FAA–2013–0832; Directorate Identifier 2012–NM–047–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective November 12, 2013.

(b) Affected ADs

This AD affects the ADs specified in paragraphs (b)(1) through (b)(7) of this AD:

(1) AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003);

(2) AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004);

(3) AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004);

(4) AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004);

(5) AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007);

(6) AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)); and

(7) AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).

(c) Applicability

This AD applies to Airbus Model A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by a determination that existing maintenance requirements are not adequate to address the unsafe condition. We are issuing this AD to address the aging effects of aircraft systems. Such aging effects could change the characteristics of systems life-limited components leading to an increased potential for failure, which, in isolation or in combination with one or more other specific failures or events, could result in failure of certain life limited parts, which could reduce the structural integrity or the controllability 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) Maintenance Program Revision

Within 6 months after the effective date of this AD, revise the maintenance program by incorporating A340 Airworthiness Limitations Section (ALS), Part 4—Aging Systems Maintenance, Revision 02, dated October 12, 2011. Comply with all applicable instructions and airworthiness limitations included in A340 ALS, Part 4—Aging Systems Maintenance, Revision 02, dated October 12, 2011. The initial compliance times for the actions are within the applicable compliance times specified in the Record of Revisions pages of A340 ALS, Part 4—Aging Systems Maintenance, Revision 02, dated October 12, 2011, or within 6 months after the effective date of this AD, whichever is later.

(h) Alternative Actions or Intervals

After accomplishing the revision required by paragraph (g) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(i) Terminating Action for Other ADs

Accomplishing the revision of the maintenance program and complying with all applicable instructions and airworthiness limitations required by paragraph (g) of this AD terminates the requirements of the ADs specified in paragraphs (i)(1) through (i)(7) of this AD for Model A340 airplanes only.

(1) AD 2003–14–11, Amendment 39–13230 (68 FR 41521, July 14, 2003).

(2) AD 2004–11–08, Amendment 39–13654 (69 FR 31874, June 8, 2004).

(3) AD 2004–13–25, Amendment 39–13707 (69 FR 41394, July 9, 2004).

(4) AD 2004–18–14, Amendment 39–13793 (69 FR 55326, September 14, 2004).

(5) AD 2007–05–12, Amendment 39–14973 (72 FR 10057, March 7, 2007).

(6) AD 2008–06–07, Amendment 39–15419 (73 FR 13103, March 12, 2008; corrected April 15, 2008 (73 FR 20367)).

(7) AD 2012–04–07, Amendment 39–16963 (77 FR 12989, March 5, 2012).

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International

Branch, ANM–116, Transport Airplane Directorate, 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: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; 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.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency (EASA) Airworthiness Directive 2012–0021, dated January 30, 2012, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0832.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (l)(3) and (l)(4) of this AD.

(l) Material Incorporated by Reference

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

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

(i) A340 Airworthiness Limitations Section (ALS), Part 4—Aging Systems Maintenance, Revision 02, dated October 12, 2011. The revision date is not identified on the title page of this document.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.*

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

(5) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on September 17, 2013.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–23899 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0539; Directorate Identifier 2012–NM–145–AD; Amendment 39–17616; AD 2013–20–10]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding airworthiness directive (AD) 2000–12–11, for certain Model A300 B4–600 and Model A300 B4–600R series airplanes. AD 2000–12–11 required repetitive inspections to detect cracks in the bolt holes inboard and outboard of rib 9 on the bottom booms of the front and rear wing spars, and repair if necessary. This new AD reduces the initial inspection compliance time and repetitive inspection interval. This AD was prompted by a fleet survey and an updated fatigue and damage tolerance analysis indicating a high risk for fatigue cracking on the front and rear spar bottom booms. We are issuing this AD to detect and correct fatigue cracks in the bolt holes of the wing spars, which could result in reduced structural integrity of a wing spar.

DATES: This AD becomes effective December 2, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 2, 2013.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0539;* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this 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.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–2125; fax: (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on July 3, 2013 (78 FR 40069), and proposed to supersede AD 2000–12–11, Amendment 39–11789 (65 FR 37853, June 19, 2000). The NPRM proposed to correct an unsafe condition for the specified products.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0138, dated July 26, 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:

> Full fatigue tests carried out by the manufacturer revealed crack initiation from the bolts holes at inboard and outboard of rib 9, on the front and rear spar bottom booms. Similar cracks at the same area were reported by A300–600 aeroplane operators.
>
> This condition, if not detected and corrected, could affect the structural integrity of the aeroplane.
>
> To address this unsafe condition, [Direction Générale de l'Aviation Civile] DGAC France issued AD 94–208–169(B)R2 (*http://ad.easa.europa.eu/blob/19942082tb_superseded.pdf/AD_F-1994-208-169R2_2*) [which corresponds to FAA AD 95–07–05, Amendment 39–9187 (60 FR 17990, April 10, 1995)] to require an ultrasonic inspection of holes inboard and outboard of rib 9 on the front and rear spar bottom booms on Left Hand and Right Hand wings.
>
> Since that [DGAC] AD was issued, a fleet survey and updated Fatigue and Damage

Tolerance analysis have been performed in order to substantiate the second A300–600 Extended Service Goal (ESG2) exercise. The results of these analyses have shown that the risk for these aeroplanes is higher than initially determined and that, consequently, the inspection threshold and interval must be reduced to allow timely detection of cracks and the accomplishment of an applicable corrective action [and related investigative action].

For the reasons explained above, this new [EASA] AD retains the requirements of DGAC France AD 94–208–169(B)R2, which is superseded, and requires the accomplishment instructions within the new thresholds and intervals specified in Revision 04 of Airbus Mandatory Service Bulletin (SB) A300–57–6037 [dated February 24, 2011].

The related investigative action includes doing inspections for cracking. The corrective actions include oversizing holes and installing new fasteners, and for certain conditions, contacting the FAA or EASA (or its delegated agent) for instructions. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0539-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 40069, July 3, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed—except for minor editorial changes and re-formatting of the estimates cost data. The estimated cost data has not been changed. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 40069, July 3, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 40069, July 3, 2013).

Costs of Compliance

We estimate that this AD affects 29 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection [new action]	18 work-hours × $85 per hour = $1,530 [per inspection cycle].	$0	$1,530 [per inspection cycle]	$44,370 [per inspection cycle].

We have received no definitive data that would enable us to provide cost estimates for the on-condition work-hours specified in this AD. The on-condition parts cost estimate is $2,874.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under 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 AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0539;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2000–12–11, Amendment 39–11789 (65 FR 37853, June 19, 2000), and adding the following new AD:

2013–20–10 Airbus: Amendment 39–17616. Docket No. FAA–2013–0539; Directorate Identifier 2012–NM–145–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective December 2, 2013.

(b) Affected ADs

This AD supersedes AD 2000–12–11, Amendment 39–11789 (65 FR 37853, June 19, 2000).

(c) Applicability

This AD applies to Airbus Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, and B4–622R airplanes; certificated in any category; all manufacturer serial numbers, except airplanes on which Airbus Modification 10161 has been incorporated in production.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by a fleet survey and an updated fatigue and damage tolerance analysis indicating a high risk for fatigue cracking on the front and rear spar bottom booms. We are issuing this AD to detect and correct fatigue cracks in the bolt holes of the wing spars, which could result in reduced structural integrity of a wing spar.

(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) Repetitive Inspections

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Perform an ultrasonic inspection to detect fatigue cracking of the bolt holes inboard and outboard of rib 9 on the bottom booms of the front and rear wing spars, in accordance with the Accomplishment Instruction of Airbus Mandatory Service Bulletin A300–57–6037, Revision 04, dated February 24, 2011, except as specified in paragraph (k) of this AD. Repeat the inspection thereafter at intervals not to exceed the applicable time specified in paragraph (h) of this AD.

(1) For normal range airplanes, at the later of the times in paragraphs (g)(1)(i) and (g)(1)(ii) of this AD.

(i) Within 14,100 flight cycles or 30,400 flight hours since airplane first flight or within 14,100 flight cycles or 30,400 flight hours since airplane modification done as specified in the Accomplishment Instructions of Airbus Service Bulletin A300–57–6039 (which is not incorporated by reference in this AD), whichever occurs first.

(ii) Within 1,600 flight cycles or 3,400 flight hours, whichever occurs first after the effective date of this AD.

(2) For short range airplanes, at the later of the times in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Within 15,200 flight cycles or 22,800 flight hours since airplane first flight, or since airplane modification done as specified in the Accomplishment Instructions of Airbus Service Bulletin A300–57–6039 (which is not incorporated by reference in this AD), whichever occurs first.

(ii) Within 1,700 flight cycles or 2,500 flight hours, whichever occurs first after the effective date of this AD.

(h) Repetitive Inspection Compliance Times

At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, repeat the inspection required by paragraph (g) of this AD.

(1) For normal range airplanes: Repeat the inspection thereafter at intervals not to exceed 3,900 flight cycles or 8,400 flight hours, whichever occurs first.

(2) For short range airplanes: Repeat the inspection thereafter at intervals not to exceed 4,200 flight cycles or 6,300 flight hours, whichever occurs first.

(i) Corrective Action for Cracking

If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight, repair the cracking including applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–57–6037, Revision 04, dated February 24, 2011, except as specified in paragraph (k) of this AD. Do related investigative and corrective actions before further flight. Thereafter, repeat the inspection required by paragraph (g) of this AD at intervals not to exceed the applicable time specified in paragraph (h) of this AD. Corrective actions required by this paragraph do not constitute terminating action for the repetitive inspections required by paragraph (h) of this AD.

(j) Definition of Short Range and Long Range Airplanes

For purposes of this AD, short range airplanes are those with an average flight time lower than 1.5 flight hours, and normal range airplanes are those with an average flight time equal to or higher than 1.5 flight hours.

(k) Exception to Service Information

Where the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–57–6037, Revision 04, dated February 24, 2011, specify contacting Airbus for an approved repair: Before further flight, contact either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent), for instructions and do those instructions.

(l) Credit for Previous Actions

This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using any of the service bulletins specified in paragraphs (l)(1) through (l)(4) of this AD.

(1) Airbus Mandatory Service Bulletin A300–57–6037, dated August 1, 1994, which was incorporated by reference in AD 2000–12–11, Amendment 39–11789 (65 FR 37853, June 19, 2000).

(2) Airbus Mandatory Service Bulletin A300–57–6037, Revision 01, dated August 31, 1995, which was incorporated by reference in AD 2000–12–11, Amendment 39–11789 (65 FR 37853, June 19, 2000).

(3) Airbus Mandatory Service Bulletin A300–57–6037, Revision 02, dated January 9, 2001, which is not incorporated by reference in this AD.

(4) Airbus Mandatory Service Bulletin A300–57–6037, Revision 03, dated January 11, 2002, which is not incorporated by reference in 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, Transport Airplane Directorate, 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 227–2125; 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) *AMOCs Approved Previously:* AMOCs approved previously in accordance with AD 2000–12–11, Amendment 39–11789 (65 FR 37853, June 19, 2000), are approved as AMOCs for the corresponding provisions of this AD.

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information EASA Airworthiness Directive 2012–0138, dated July 26, 2012, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0539-0002*.

(2) Service information identified in this AD that is not incorporated by reference may be obtained at the addresses specified in paragraphs (o)(4) and (o)(5) of this AD.

(o) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on December 2, 2013.

(i) Airbus Mandatory Service Bulletin A300–57–6037, Revision 04, dated February 24, 2011.

(ii) Reserved.

(4) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61

93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(5) You may view this 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.

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

Issued in Renton, Washington, on September 18, 2013.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–25295 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0465; Directorate Identifier 2012–NM–085–AD; Amendment 39–17617; AD 2013–20–11]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 series airplanes. This AD was prompted by a determination that oxygen generators installed on a certain batch of passenger emergency oxygen container assemblies might become detached by extreme pulling of the mask tube at the end of the oxygen supply causing a high temperature oxygen generator and mask to fall down. This AD requires modifying the passenger emergency oxygen container assembly. We are issuing this AD to prevent a high temperature oxygen generator and mask from falling down and possibly resulting in an ignition source in the passenger compartment, injury to passengers, and reduced availability of supplemental oxygen.

DATES: This AD becomes effective December 2, 2013.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 2, 2013.

ADDRESSES: You may examine the AD on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0465;* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on July 3, 2013 (78 FR 40074). The NPRM proposed to correct an unsafe condition for the specified products.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0055, dated April 3, 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:

It has been determined that oxygen generators, installed on a specific batch of Type 1 (22 minute) passenger emergency oxygen container assemblies, may become detached by extreme pulling of the mask tube at the end of oxygen supply. Investigations revealed that such detachment can be caused by the increase in temperature towards the end of the generator operation, which may weaken the plastic housing in the attachment area of the bracket.

This condition, if not corrected, could make the rivets slip through the plastic housing, causing a 'hot' oxygen generator and mask to fall down, possibly resulting in injury to passengers.

For the reasons described above, this [EASA] AD requires modification of the affected oxygen container assemblies. This [EASA] AD also prohibits the installation of the affected (unmodified) containers on any aeroplane as replacement parts.

The modification consists of adding a reinforcement plate at the rear outside of the container and adding two washers to the rivets at the inside of the container to prevent the generator from detaching. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0465-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 40074, July 3, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting this AD as proposed–except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 40074, July 3, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 40074, July 3, 2013).

Costs of Compliance

We estimate that this AD affects 4 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Modification	2 work-hours × $85 per hour = $170	$0	$170	$680

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

2. Is not a ''significant rule'' under 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 AD and placed it in the AD docket.

Examining the AD Docket

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0465-0002;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, 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.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2013–20–11 Airbus: Amendment 39–17617. Docket No. FAA–2013–0465; Directorate Identifier 2012–NM–085–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective December 2, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; all manufacturer serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 35, Oxygen.

(e) Reason

This AD was prompted by a determination that oxygen generators, installed on a certain batch of passenger emergency oxygen container assemblies, might become detached by extreme pulling of the mask tube at the end of the oxygen supply causing a high temperature oxygen generator and mask to fall down. We are issuing this AD to prevent a high temperature oxygen generator and mask from falling down and possibly resulting in an ignition source in the passenger compartment, injury to passengers, and reduced availability of supplemental oxygen.

(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) Oxygen Container Assembly Modification

Except as specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, within 5,000 flight cycles, or 7,500 flight hours, or 24 months, whichever occurs first, after the effective date of this AD: Modify each type 1 (22 minute) passenger emergency oxygen container assembly installed on an airplane, having a part number (P/N) listed in paragraph (g)(1)(i) of this AD and a serial number (S/N) listed in paragraph (g)(1)(ii) of this AD, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–35–1049, dated June 15, 2011; Airbus Service Bulletin A320–35–1053, dated June 15, 2011; Airbus Service Bulletin A320–35–1054, dated June 15, 2011; Airbus Service Bulletin A320–35–1055, dated June 15, 2011; Airbus Service Bulletin A320–35–1056, dated June 15, 2011; Airbus Service Bulletin A320–35–1057, dated June 15, 2011; or Airbus Service Bulletin A320–35–1058, dated June 15, 2011; as applicable.

(1) An oxygen container that has a part number listed in paragraph (g)(1)(i) of this AD and a serial number as listed in paragraph (g)(1)(ii) of this AD, and that has been modified using the instructions of B/E Aerospace Service Bulletin 1XC22–0100–35–006, is compliant with the modification requirement of paragraph (g) of this AD.

(i) Oxygen container part numbers listed in paragraphs (g)(1)(i)(A) through (g)(1)(i)(D) of this AD, where xxxxx stands for an alphanumerical value.

(A) 13C22Lxxxxx0100.

(B) 13C22Rxxxxx0100.

(C) 14C22Lxxxxx0100.

(D) 14C22Rxxxxx0100.

(ii) Oxygen container serial numbers listed in paragraphs (g)(1)(ii)(A) through (g)(1)(ii)(H) of this AD.

(A) ARBC–0182 to ARBC–9999, inclusive.

(B) ARBD–0000 to ARBD–9999, inclusive.

(C) ARBE–0000 to ARBE–9999, inclusive.

(D) BEBF–0000 to BEBF–9999, inclusive.

(E) BEBH–0000 to BEBH–9999, inclusive.

(F) BEBK–0000 to BEBK–9999, inclusive.

(G) BEBL–0000 to BEBL–9999, inclusive.

(H) BEBM–0000 to BEBM–0454, inclusive.

(2) Airplanes on which Airbus Modification 150704 has not been embodied in production are excluded from the requirements of paragraph (g) of this AD, unless an oxygen container with a part number listed in paragraph (g)(1)(i) of this AD and a serial number listed in paragraph (g)(1)(ii) of this AD is installed.

(3) Airplanes on which Airbus Modification 150704 has been embodied in production and that are not listed by model and manufacturer serial number in Airbus Service Bulletin A320–35–1049, dated June 15, 2011; Airbus Service Bulletin A320–35–1053, dated June 15, 2011; Airbus Service Bulletin A320–35–1054, dated June 15, 2011; Airbus Service Bulletin A320–35–1055, dated June 15, 2011; Airbus Service Bulletin A320–35–1056, dated June 15, 2011; Airbus Service Bulletin A320–35–1057, dated June

15, 2011; or Airbus Service Bulletin A320–35–1058, dated June 15, 2011; as applicable; are excluded from the requirements of paragraph (g) of this AD, unless an oxygen container with a part number listed in paragraph (g)(1)(i) of this AD and a serial number listed in paragraph (g)(1)(ii) of this AD is installed.

Note 1 to paragraph (g) of this AD: The oxygen container assemblies listed in paragraph (g)(1)(i) of this AD and paragraph (g)(1)(ii) of this AD are B/E Aerospace products with the mark ''B/E AEROSPACE'' on the identification plate.

(h) Parts Installation Limitation

As of the effective date of this AD, no person may install, on any airplane, an oxygen container with a part number listed in paragraph (g)(1)(i) of this AD, and serial number listed in paragraph (g)(1)(ii) of this AD, unless the oxygen container has been modified according to Airbus Service Bulletin A320–35–1049, dated June 15, 2011; Airbus Service Bulletin A320–35–1053, dated June 15, 2011; Airbus Service Bulletin A320–35–1054, dated June 15, 2011; Airbus Service Bulletin A320–35–1055, dated June 15, 2011; Airbus Service Bulletin A320–35–1056, dated June 15, 2011; Airbus Service Bulletin A320–35–1057, dated June 15, 2011; or Airbus Service Bulletin A320–35–1058, dated June 15, 2011; as applicable.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, 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: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; 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.

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information European Aviation Safety Agency Airworthiness Directive 2012–0055, dated April 3, 2012, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0465-0002.*

(k) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–35–1049, dated June 15, 2011.

(ii) Airbus Service Bulletin A320–35–1053, dated June 15, 2011.

(iii) Airbus Service Bulletin A320–35–1054, dated June 15, 2011.

(iv) Airbus Service Bulletin A320–35–1055, dated June 15, 2011.

(v) Airbus Service Bulletin A320–35–1056, dated June 15, 2011.

(vi) Airbus Service Bulletin A320–35–1057, dated June 15, 2011.

(vii) Airbus Service Bulletin A320–35–1058, dated June 15, 2011.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(4) You may review copies of the 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.

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

Issued in Renton, Washington, on September 17, 2013.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–23909 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0303; Directorate Identifier 2012–NM–220–AD; Amendment 39–17620; AD 2013–20–14]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain the Boeing Company Model 747–400 and –400F series airplanes. This AD was prompted by a report of cracks on airplanes prior to line number 1308 in the forward and aft inner chords of the station (STA) 2598 bulkhead, and the bulkhead upper and lower webs. This AD requires, as applicable, repetitive high frequency eddy current (HFEC) and low frequency eddy current (LFEC) inspections for cracks in the splice fitting, support frame, forward and aft inner chords, floor support, bulkhead upper web on the upper left and right side of the bulkhead, and the bulkhead lower web on the lower left side of the bulkhead and repair if necessary; and repetitive post-repair inspections and repair if necessary. We are issuing this AD to detect and correct cracks in the splice fitting, support frame, floor support, forward and aft inner chords, and the bulkhead upper and lower webs of the STA 2598 bulkhead, which could adversely affect the structural integrity of the airplane.

DATES:DATES: This AD is effective December 2, 2013.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of December 2, 2013.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on April 12, 2013 (78 FR 21854). The NPRM proposed to require, as applicable, repetitive HFEC and LFEC inspections for cracks in the splice fitting, support frame, forward and aft inner chords, floor support, bulkhead upper web on the upper left and right side of the bulkhead, and the bulkhead lower web on the lower left side of the bulkhead and repair if necessary; and repetitive post-repair inspections and repair if necessary.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 21854, April 12, 2013) and the FAA's response to each comment.

Request To Include the Lower Web in the Inspection of the Unrepaired Structure

Boeing requested that we revise paragraph (g) of the NPRM (78 FR 21854, April 12, 2013) to clarify that the inspection of the unrepaired structure includes the lower webs. Boeing stated that the inspections for the unrepaired structure include both the upper and lower bulkhead webs, but that paragraph (g)(2)(ii) of the NPRM (78 FR 21854, April 12, 2013) specifies only the upper web.

We agree with Boeing's comment. For appropriate service information, the NPRM (78 FR 21854, April 12, 2013) referred to Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012, which also describes procedures for inspecting the bulkhead lower web. We have clarified the inspection in paragraph (g)(2)(ii) of this AD by referring to Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012, for specific inspection procedures and locations.

Request To Revise the Unsafe Condition

Boeing requested that, for clarity, the unsafe condition be revised to more specifically identify the location of potential cracking (i.e., the body station 2598 bulkhead).

We agree with Boeing's request. We have revised the unsafe condition in the **SUMMARY** and paragraph (e) of this final rule to clarify the location of the bulkhead.

Request To Clarify the Discussion Section

Boeing requested clarification of the Discussion section in the NPRM (78 FR 21854, April 12, 2013). Boeing stated that the Discussion does not mention cracks found in the splice fitting and incorrectly refers to the ''cutout for the horizontal stabilizer rear spar.''

We agree that the commenter's proposed clarification provides a more accurate description of the report of cracks. However, the Discussion section is not carried over into the final rule; therefore, no change to this final rule is necessary in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 21854, April 12, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 21854, April 12, 2013).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Costs of Compliance

We estimate that this AD affects 11 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	28 work-hours × $85 per hour = $2,380 per inspection cycle.	$0	$2,380 per inspection cycle	$26,180 per inspection cycle.

We estimate the following costs to do any necessary repairs and post-repair inspections that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need this repair:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair	13 work-hours × $85 per hour = $1,105	$0	$1,105
Post-repair Inspection	12 work-hours × $85 per hour = $1,020	0	1,020

For any repairs that would be necessary based on the results of the post-repair inspection, we have not received definitive data that would enable us to provide cost estimates for that on-condition action.

Authority for This Rulemaking

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

section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–20–14 The Boeing Company: Amendment 39–17620; Docket No. FAA–2013–0303; Directorate Identifier 2012–NM–220–AD.

(a) Effective Date

This AD is effective December 2, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–400 and –400F series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracks on airplanes prior to line number 1308 in the forward and aft inner chords of the station (STA) 2598 bulkhead, and the bulkhead upper and lower webs. We are issuing this AD to detect and correct cracks in the splice fitting, support frame, floor support, forward and aft inner chords, and the bulkhead upper and lower webs of the STA 2598 bulkhead, which could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) High Frequency Eddy Current (HFEC) and Low Frequency Eddy Current (LFEC) Inspections

At the compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012; except as provided by paragraph (h)(2) of this AD: Do HFEC and LFEC inspections, as applicable, for cracks in the splice fitting, support frame, floor support, forward and aft inner chords, the bulkhead upper web on the upper left and right side of the bulkhead, and the bulkhead lower web on the lower left side of the bulkhead, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012.

(1) If no cracking is found, repeat the applicable inspections specified in paragraph (g) of this AD, thereafter, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012.

(2) If any cracking is found, do the actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Before further flight, do the applicable repair, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012; except as provided by paragraph (h)(1) of this AD.

(ii) At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012, do HFEC and LFEC inspections for cracks in the unrepaired structure, and do an HFEC inspection for cracks in the repaired structure; as specified in and in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012.

(A) If no cracking is found, repeat the applicable HFEC and LFEC inspections specified in paragraph (g)(2)(ii) of this AD, thereafter, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012.

(B) If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(h) Exceptions to the Service Information

(1) If any crack is found during any inspection required by this AD, and Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012, specifies to contact Boeing for appropriate action: Before further flight, repair the crack using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(2) Where Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) 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 (j) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov*.

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

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

(j) Related Information

For more information about this AD, contact Nathan Weigand, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6428; fax: 425–917–6590; email: *Nathan.P.Weigand@faa.gov*.

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–53A2815, dated November 8, 2012.

(ii) Reserved.

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

(4) 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.

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

Issued in Renton, Washington, on September 19, 2013.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–24042 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30923; Amdt. No. 3558]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 28, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 2013.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before

adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR part 97:

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on September 27, 2013.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 14 NOVEMBER 2013

Malvern, AR, Malvern Muni, RNAV (GPS) RWY 22, Orig-A
Daggett, CA, Barstow-Daggett, RNAV (GPS) RWY 26, Amdt 2A
Jacksonville, FL, Jacksonville Intl, RNAV (RNP) Y RWY 26, Amdt 1
Mount Sterling, KY, Mount Sterling-Montgomery County, NDB RWY 21, Amdt 2A
Ludington, MI, Mason County, RNAV (GPS) RWY 8, Orig-A
Duluth, MN, Duluth Intl, COPTER ILS OR LOC RWY 27, Amdt 2
Duluth, MN, Duluth Intl, ILS OR LOC RWY 9, ILS RWY 9 (SA CAT I), ILS RWY 9 (CAT II), Amdt 22
Duluth, MN, Duluth Intl, ILS OR LOC RWY 27, Amdt 10
Duluth, MN, Duluth Intl, VOR/DME OR TACAN RWY 21, Amdt 15
Duluth, MN, Duluth Intl, VOR OR TACAN RWY 3, Amdt 21
Mountain View, MO, Mountain View, RNAV (GPS) RWY 10, Orig-A
Mountain View, MO, Mountain View, RNAV (GPS) RWY 28, Orig-A
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Y RWY 16L, Amdt 1
Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Y RWY 16R, Amdt 1
Waverly, OH, Pike County, RNAV (GPS) RWY 7, Orig-A
Woodsfield, OH, Monroe County, RNAV (GPS) RWY 25, Orig
Woodsfield, OH, Monroe County, VOR/DME RWY 25, Amdt 7
Anderson, SC, Anderson Rgnl, RNAV (GPS) RWY 17, Amdt 1
Anderson, SC, Anderson Rgnl, RNAV (GPS) RWY 35, Amdt 1
Madison, WI, Dane County Rgnl-Truax Field, ILS OR LOC/DME RWY 18, Amdt 1C
Madison, WI, Dane County Rgnl-Truax Field, RNAV (GPS) RWY 14, Amdt 2B
Madison, WI, Dane County Rgnl-Truax Field, RNAV (GPS) RWY 18, Amdt 2B
Madison, WI, Dane County Rgnl-Truax Field, RNAV (GPS) RWY 32, Amdt 2B
Martinsburg, WV, Eastern WV Rgnl/Shepherd Fld, RNAV (GPS) RWY 8, Amdt 1
Martinsburg, WV, Eastern WV Rgnl/Shepherd Fld, VOR–A, Amdt 10

Effective 12 DECEMBER 2013

Fort Yukon, AK, Fort Yukon, DF RWY 22, Amdt 1, CANCELED
Fort Yukon, AK, Fort Yukon, RNAV (GPS) RWY 4, Amdt 1
Fort Yukon, AK, Fort Yukon, RNAV (GPS) RWY 22, Amdt 1
Fort Yukon, AK, Fort Yukon, VOR/DME OR TACAN RWY 22, Amdt 3
Fort Yukon, AK, Fort Yukon, VOR/DME OR TACAN–A, Amdt 1
Destin, FL, Destin-Fort Walton Beach, RNAV (GPS) RWY 14, Amdt 2
Carmi, IL, Carmi Muni, RNAV (GPS) RWY 36, Orig-A
Belleville, KS, Belleville Muni, NDB RWY 18, Amdt 5, CANCELED
Belleville, KS, Belleville Muni, NDB RWY 36, Amdt 5, CANCELED
Old Town, ME, Dewitt Fld,Old Town Muni, NDB RWY 22, Amdt 6A
Fort Leonard Wood, MO, Waynesville-St. Robert Rgnl Forney Fld, NDB/DME RWY 14, Amdt 1B, CANCELED
Laurel, MT, Laurel Muni, Takeoff Minimums and Obstacle DP, Amdt 3
Trenton, NJ, Trenton Mercer, RNAV (GPS) Z RWY 24, Amdt 1
The Dalles, OR, Columbia Gorge Rgnl/The Dalles Muni, COPTER LDA/DME RWY 25, Amdt 1
The Dalles, OR, Columbia Gorge Rgnl/The Dalles Muni, LDA/DME RWY 25, Amdt 1
The Dalles, OR, Columbia Gorge Rgnl/The Dalles Muni, RNAV (GPS)-A, Amdt 1
Gillette, WY, Gillette-Campbell County, Takeoff Minimums and Obstacle DP, Amdt 4A

[FR Doc. 2013–25185 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30924; Amdt. No. 3559]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 28, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 2013.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW, Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs are available online free of charge. Visit nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420)Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97:

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on September 27, 2013.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
11/14/13	VA	Martinsville	Blue Ridge	3/0372	9/18/13	RNAV (GPS) RWY 30, Amdt 2.
11/14/13	VA	Martinsville	Blue Ridge	3/0373	9/18/13	LOC RWY 30, Amdt 1B.
11/14/13	CA	San Jose	Norman Y. Mineta San Jose Intl.	3/0755	9/18/13	RNAV (GPS) RWY 11, Orig-B.
11/14/13	CA	San Jose	Norman Y. Mineta San Jose Intl.	3/0757	9/18/13	RNAV (GPS) RWY 29, Orig-C.

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
11/14/13	TX	Carrizo Springs	Dimmit County	3/1090	9/18/13	NDB RWY 31, Amdt 3A.
11/14/13	WI	Milwaukee	Lawrence J Timmerman	3/2382	9/18/13	Takeoff Minimums and (Obstacle) DP, Amdt 1A.
11/14/13	VA	Petersburg	Dinwiddie County	3/2539	9/18/13	VOR RWY 23, Amdt 6A.
11/14/13	VA	Petersburg	Dinwiddie County	3/2540	9/18/13	LOC/NDB RWY 5, Orig.
11/14/13	VA	Petersburg	Dinwiddie County	3/2541	9/18/13	RNAV (GPS) RWY 5, Amdt 1A.
11/14/13	VA	Petersburg	Dinwiddie County	3/2542	9/18/13	RNAV (GPS) RWY 23, Amdt 1A.
11/14/13	MI	Benton Harbor	Southwest Michigan Rgnl	3/2732	9/18/13	NDB RWY 28, Amdt 10A.
11/14/13	LA	Bastrop	Morehouse Memorial	3/2733	9/18/13	Takeoff Minimums and (Obstacle) DP, Orig.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4591	9/18/13	ILS OR LOC RWY 11, Amdt 2B.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4592	9/18/13	ILS OR LOC RWY 4L, ILS RWY 4L (SA CAT I), ILS RWY 4L (SA CAT II), Amdt 14.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4593	9/18/13	ILS OR LOC RWY 4R, ILS RWY 4R (CAT II), ILS RWY 4R (CAT III), Amdt 12C.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4594	9/18/13	ILS OR LOC RWY 22L, ILS RWY 22L (SA CAT I), ILS RWY 22L (CAT II), ILS RWY 22L (CAT III), Amdt 13.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4595	9/18/13	COPTER ILS/DME RWY 22L, Orig-A.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4598	9/18/13	ILS OR LOC RWY 22R, Amdt 5B.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4599	9/18/13	GLS RWY 4L, Orig-C.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4600	9/18/13	GLS RWY 4R, Orig-B.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4601	9/18/13	GLS RWY 11, Orig-A.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4602	9/18/13	VOR/DME RWY 22L, Orig-C.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4603	9/18/13	GLS RWY 22R, Orig-B.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4604	9/18/13	VOR/DME RWY 22R, Amdt 4C.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4605	9/18/13	COPTER ILS OR LOC/DME RWY 4L, Amdt 1D.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4606	9/18/13	VOR RWY 11, Amdt 2C.
11/14/13	NJ	Newark	Newark Liberty Intl	3/4608	9/18/13	GLS RWY 22L, Orig-B.
11/14/13	MD	Cumberland	Greater Cumberland Rgnl	3/5222	9/18/13	LOC/DME RWY 23, Amdt 6A.
11/14/13	MI	Ann Arbor	Ann Arbor Muni	3/8420	9/18/13	VOR RWY 24, Amdt 13C.
11/14/13	MI	Ann Arbor	Ann Arbor Muni	3/8421	9/18/13	RNAV (GPS) RWY 24, Amdt 2.

[FR Doc. 2013–25186 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30926; Amdt. No. 3561]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 28, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 2013.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800

Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs are available online free of charge. Visit nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420)Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (air).

Issued in Washington, DC, on October 11, 2013.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
11/14/13	FL	St Augustine	Northeast Florida Rgnl	3/5330	10/10/13	RNAV (GPS) RWY 13, Orig-A.
11/14/13	FL	St Augustine	Northeast Florida Rgnl	3/5331	10/10/13	RNAV (GPS) RWY 31, Amdt 1A.
11/14/13	FL	St Augustine	Northeast Florida Rgnl	3/5332	10/10/13	ILS OR LOC/DME RWY 31, Orig-A.
11/14/13	TX	Lufkin	Angelina County	3/6808	10/10/13	VOR RWY 33, Amdt 14A.
11/14/13	VA	Farmville	Farmville Rgnl	3/6811	10/10/13	RNAV (GPS) RWY 21, Orig-A.

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
11/14/13	SD	Rapid City	Rapid City Rgnl	3/6866	10/10/13	ILS OR LOC RWY 32, Amdt 19.
11/14/13	SD	Rapid City	Rapid City Rgnl	3/6875	10/10/13	VOR OR TACAN RWY 32, Amdt 24E.
11/14/13	SD	Rapid City	Rapid City Rgnl	3/6879	10/10/13	RNAV (GPS) RWY 32, Amdt 1A.
11/14/13	SD	Rapid City	Rapid City Rgnl	3/6882	10/10/13	RNAV (GPS) RWY 14, Amdt 2.
11/14/13	SD	Rapid City	Rapid City Rgnl	3/6883	10/10/13	VOR OR TACAN RWY 14, Orig-E.
11/14/13	IN	La Porte	La Porte Muni	3/7124	10/10/13	LOC/NDB RWY 2, Amdt 1B.
11/14/13	GA	Toccoa	Toccoa RG Letourneau Field.	3/8388	10/10/13	RNAV (GPS) RWY 20, Amdt 1.

[FR Doc. 2013–25191 Filed 10–25–13; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30925; Amdt. No. 3560]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 28, 2013. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 28, 2013.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability—All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit *http://www.nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Richard A. Dunham III, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or revoking SIAPS, Takeoff Minimums and/or ODPS. The complete regulators description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, in addition to their complex nature and the need for a special format make publication in the **Federal Register** expensive and impractical. Furthermore, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their depiction on charts printed by publishers of aeronautical materials. The advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA forms is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs and the effective dates of the, associated Takeoff Minimums and ODPs. This amendment also identifies the airport and its location, the procedure, and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPS and Takeoff Minimums and ODPS, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPS and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedures before adopting these SIAPS, Takeoff Minimums and ODPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC, on October 11, 2013.

John Duncan

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and/or Takeoff Minimums and/or Obstacle Departure Procedures effective at 0902 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 14 NOVEMBER 2013

Indianapolis, IN, Indianapolis Executive, VOR/DME RWY 36, Amdt 9A
Cape Girardeau, MO, Cape Girardeau Rgnl, VOR RWY 10, AMDT 3A
Fayetteville, NC, Fayetteville Rgnl/Grannis Field, RNAV (GPS) RWY 4, Amdt 3
Fayetteville, NC, Fayetteville Rgnl/Grannis Field, RNAV (GPS) RWY 22, Amdt 5

Effective 12 DECEMBER 2013

Red Bluff, CA, Red Bluff Muni, RNAV (GPS) RWY 15, Amdt 1
Red Bluff, CA, Red Bluff Muni, VOR/DME RWY 15, Amdt 8
Savanna, IL, Tri-Township, RNAV (GPS) RWY 13, Orig-A
Rocky Mount, NC, Rocky Mount-Wilson Rgnl, RNAV (GPS) RWY 4, Amdt 2
Rocky Mount, NC, Rocky Mount-Wilson Rgnl, RNAV (GPS) RWY 22, Amdt 2
Fremont, NE., Fremont Muni, RNAV (GPS) RWY 14, Amdt 2
Fremont, NE., Fremont Muni, RNAV (GPS) RWY 32, Orig
Fremont, NE., Fremont Muni, Takeoff Minimums and Obstacle DP, Amdt 6A
Fremont, NE., Fremont Muni, VOR/DME RWY 14, Amdt 3
Norwich, NY, Lt Warren Eaton, VOR/DME-A, Amdt 4, CANCELED
Oneonta, NY, Oneonta Muni, LOC RWY 24, Amdt 2B
Columbus, OH, Port Columbus Intl, ILS OR LOC RWY 10R, ILS RWY 10R (SA CAT I), ILS RWY 10R (SA CAT II), Amdt 9A
Memphis, TN, Memphis Intl, ILS OR LOC RWY 27, Amdt 4
Memphis, TN, Memphis Intl, RNAV (GPS) RWY 27, Amdt 2
Memphis, TN, Memphis Intl, Takeoff Minimums and Obstacle DP, Amdt 4
Coleman, TX, Coleman Muni, RNAV (GPS) RWY 33, Orig

[FR Doc. 2013–25190 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 23

RIN 3038–AE00

Swap Dealers and Major Swap Participants; Clerical or Ministerial Employees

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission is adopting an amendment to its regulations to clarify certain responsibilities of a swap dealer or major swap participant regarding its employees who solicit, accept or effect swaps in a clerical or ministerial capacity.

DATES: Effective November 27, 2013.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, or Barbara S. Gold, Associate Director, Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581. Telephone number: (202) 418–6700 and electronic mail: *ccummings@cftc.gov* or *bgold@cftc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) [1] was signed into law July 21, 2010. The Dodd-Frank Act amended the Commodity Exchange Act (CEA or Act) [2] to require the registration of swap dealers (SDs) and major swap participants (MSPs), and to establish a comprehensive new regulatory framework for swaps. One such amendment was new CEA section 4s(b)(6), which states that except to the extent otherwise specifically provided by rule, regulation, or order, it shall be unlawful for a swap dealer or a major swap participant to permit any person associated with a swap dealer or a major swap participant who is subject to a statutory disqualification to effect or be involved in effecting swaps on behalf of the swap dealer or major swap participant, if the swap dealer or major swap participant knew, or in the exercise of reasonable care should have known, of the statutory disqualification (''Prohibition'').

A related amendment that the Dodd-Frank Act made was to add a definition of ''associated person of a swap dealer or major swap participant'' in new CEA section 1a(4), which provides that the term ''associated person of a swap dealer or major swap participant'' means a person who is associated with a swap dealer or major swap participant as a partner, officer, employee, or agent

[1] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act can be accessed through the Commission's Web site, *http://www.cftc.gov*.

[2] 7 U.S.C. 1 *et seq.* The CEA also can be accessed through the Commission's Web site.

(or any person occupying a similar status or performing similar functions), in any capacity that involves: (i) The solicitation or acceptance of swaps; or (ii) the supervision of any person or persons so engaged. The definition contains an exclusion, however, stating that other than for purposes of CEA section 4s(b)(6), the term ''associated person of a swap dealer or major swap participant'' does not include any person associated with a swap dealer or major swap participant the functions of which are solely clerical or ministerial.

Thus, except to the extent that the Commodity Futures Trading Commission (Commission or CFTC) specifically provided by rule, regulation, or order, an SD or MSP would be subject to the prohibition against permitting a person associated with the SD or MSP (including a person employed in a clerical or ministerial capacity) to effect or be involved in effecting swaps if the associated person were subject to a statutory disqualification.

On January 19, 2012, the Commission published in the **Federal Register** regulations that provide for the registration of SDs and MSPs.[3] Among these new regulations were Regulation 1.3(aa)(6),[4] which amended the existing definition of ''associated person'' in the Commission's regulations to include associated persons of SDs and MSPs, and Regulation 23.22, which incorporated the prohibition set forth in CEA section 4s(b)(6). With respect to SDs or MSPs, Regulation 1.3(aa)(6) provides that the term ''associated person'' means any natural person who is associated with an SD or MSP as a partner, officer, employee, agent (or any natural person occupying a similar status or performing similar functions), in any capacity that involves the solicitation or acceptance of swaps (other than in a clerical or ministerial capacity); or the supervision of any person or persons so engaged. The exclusion in Regulation 1.3(aa)(6) from the definition of associated person of an SD or MSP for persons who act in a clerical or ministerial capacity is consistent with the definition (and exclusion for clerical or ministerial activity) in the other provisions in Regulation 1.3(aa) that define the term ''associated person'' in the context of other Commission registrants.[5]

[3] *See* 77 FR 2613 (Jan. 19, 2012).

[4] 17 CFR 1.3(aa)(6). The Commission's regulations also can be accessed through the Commission's Web site.

[5] *See also* CEA Section 4k(1), which excludes from associated person registration a person who, in a clerical or ministerial capacity, solicits or accept customer orders for a futures commission merchant or an introducing broker.

B. The Proposal

Regulation 23.22, by its terms, applies to an associated person of an SD or MSP as defined in section 1a(4) of the Act and Regulation 1.3(aa). Because Regulation 1.3(aa)(6) contains a general exclusion from the associated person definition for a person employed in a clerical or ministerial capacity, and the exclusion in CEA section 1a(4) must be read in conjunction with CEA section 4s(b)(6), in November 2012 the National Futures Association (NFA)[6] recommended that the Commission clarify that the prohibition in CEA section 4s(b)(6) does not bar association with an SD or MSP by employees who are employed in a clerical or ministerial capacity.

In light of NFA's recommendation, and in accordance with the language in CEA section 4s(b)(6) that qualifies the Prohibition (''Except to the extent otherwise specifically provided by rule, regulation, or order''), the Commission proposed to amend paragraph (a) of Regulation 23.22 (''Proposal'')[7] to clarify that the Prohibition does not apply to an individual employed by an SD or MSP in a clerical or ministerial capacity.[8]

II. Comments on the Proposal

The Commission received one comment letter on the Proposal. It stated that adoption of the Proposal would ''reduce regulatory burden and reduce the costs of determining whether a clerical or ministerial employee is statutorily disqualified'' and, further, that ''[t]he Proposed rule is reasonable and will improve regulatory efficiency.''[9]

III. The Final Regulation

In light of the foregoing, the Commission is adopting as proposed an amendment to paragraph (a) of Regulation 23.22 to clarify that the Prohibition does not apply to an individual employed by an SD or MSP in a clerical or ministerial capacity.

[6] Letter from Thomas W. Sexton, Senior Vice President and General Counsel, NFA, to Gary Barnett, Director of the Division of Swap Dealer and Intermediary Oversight, dated November 12, 2012. NFA is a registered futures association (and the sole association so registered) under CEA Section 17.

[7] 78 FR 20848 (Apr. 8, 2013).

[8] In this regard, the Commission noted in the Proposal that pursuant to the authority granted it in CEA section 4s(b)(6), it had previously adopted an exception from the Prohibition for a person already listed as a principal of, or already registered as an associated person of, another Commission registrant, notwithstanding a statutory disqualification. *See* Regulation 23.22(b), *proviso.*

[9] Comment letter from Chris Barnard at page 1 (June 3, 2013).

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[10] requires federal agencies, in promulgating regulations, to consider whether those regulations will have a significant economic impact on small entities and, if so, to provide a regulatory flexibility analysis respecting the impact.[11] The Commission previously has determined that SDs and MSPs are not ''small entities'' for RFA purposes.[12] Moreover, adoption of the amendment to Regulation 23.22(a) as proposed will not have a significant economic impact on any person who will be affected thereby, because it will not impose any additional operational requirements or otherwise direct or confine the activities of affected persons.

The Commission did not receive any comments regarding its RFA analysis in the Proposal. Accordingly, pursuant to 5 U.S.C. 605(b), the Chairman, on behalf of the Commission, hereby certifies that the regulation being published in this **Federal Register** release will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)[13] imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The regulation being published in this **Federal Register** release clarifies that the Prohibition does not apply where the person in question is employed in a clerical or ministerial capacity. As discussed in the Proposal, the amendment will not impose a ''burden'' or ''collection of information'' as those terms are defined in the PRA.[14]

The Commission did not receive any comments regarding its PRA analysis in the Proposal. Accordingly, for purposes of the PRA, the Chairman, on behalf of the Commission, certifies that the regulation being published in this **Federal Register** release will not impose any new reporting or recordkeeping requirements.

C. Cost-Benefit Considerations

CEA section 15(a) requires the Commission to consider the costs and benefits of its actions before issuing a

[10] 5 U.S.C. 601 *et seq.* (2006).

[11] By its terms, the RFA does not apply to ''individuals.'' *See* 48 FR 14933, 14954 n. 115 (Apr. 6, 1983).

[12] *See* 77 FR 2613, 2620 (Jan. 19, 2012).

[13] 44 U.S.C. 3501 *et seq.*

[14] 78 FR 20848, 20849 (Apr. 8, 2013).

rulemaking under the CEA. CEA section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. The Commission considers the costs and benefits resulting from its discretionary determinations with respect to the section 15(a) factors.

As is explained above, the amendment to Regulation 23.22(a) makes a clarifying change to the text of one of the Commission's regulations adopted to reflect changes made to the CEA by the Dodd-Frank Act, by specifying that the prohibition against an SD or MSP permitting a statutorily disqualified person to associate with it does not include a person employed in a clerical or ministerial capacity.

Costs. With respect to costs, the Commission believes that adoption of the amendment to Regulation 23.22(a) will not impose any costs. This is because the amendment clarifies that an SD or MSP need not consider whether CEA section 4s(b)(6) applies to employees performing clerical or ministerial duties. Thus the Commission does not believe that any new costs will be imposed.

Benefits. With respect to benefits, as discussed in the Proposal, the Commission believes that the amendment to Regulation 23.22(a) will benefit SDs and MSPs by reducing the search costs associated with determining whether a clerical or ministerial employee is statutorily disqualified. This, in turn, mitigates the existing cost of compliance with CEA section 4s(b)(6). As such, it is an ''other public interest consideration'' under CEA section 15(a), referred to above.

Public Comment. The Commission invited public comment on its cost-benefit considerations, but no such comments were received.

List of Subjects in 17 CFR Part 23

Associated persons, Commodity futures, Major swap participants, Ministerial or clerical employees, Registration, Statutory disqualification, Swap dealers, Swaps.

For the reasons presented above, the Commodity Futures Trading Commission hereby amends 17 CFR part 23 as follows:

PART 23—SWAP DEALERS AND MAJOR SWAP PARTICIPANTS

■ 1. The authority citation for part 23 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 6, 6a, 6b, 6b–1, 6c, 6p, 6r, 6s, 6t, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, and 21.

■ 2. Amend § 23.22 by revising the section heading and paragraph (a) to read as follows:

§ 23.22 Prohibition against statutory disqualification in the case of an associated person of a swap dealer or major swap participant.

(a) *Definition.* For purposes of this section, the term ''person'' means an ''associated person of a swap dealer or major swap participant'' as defined in section 1a(4) of the Act and § 1.3(aa)(6) of this chapter, but does not include an individual employed in a clerical or ministerial capacity.

* * * * *

Issued in Washington, DC, on October 22, 2013, by the Commission.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

Appendix to Swap Dealers and Major Swap Participants; Clerical or Ministerial Employees—Commission Voting Summary

Note: The following appendix will not appear in the Code of Federal Regulations.

Commission Voting Summary

On this matter, Chairman Gensler and Commissioners Chilton, O'Malia, and Wetjen voted in the affirmative; no Commissioner voted in the negative.

[FR Doc. 2013–25279 Filed 10–25–13; 8:45 am]

BILLING CODE 6351–01–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

22 CFR Part 233

Hashemite Kingdom of Jordan Loan Guarantees Issued Under the Further Continuing Appropriations Act, 2013—Standard Terms and Conditions

AGENCY: Agency for International Development (USAID).

ACTION: Final rule.

SUMMARY: This regulation prescribes the procedures and standard terms and conditions applicable to loan guarantees to be issued for the benefit of the Hashemite Kingdom of Jordan pursuant to the State, Foreign Operations, and Related Programs Appropriations Act of 2012 as applied to fiscal year 2013 funding by the Further Continuing Appropriations Act, 2013.

DATES: Effective October 25, 2013.

FOR FURTHER INFORMATION CONTACT: James P. Kelleher, Office of General Counsel, U.S. Agency for International Development, Washington, DC 20523–6601; tel. 202–712–1594, fax 202–216–3055.

SUPPLEMENTARY INFORMATION: Pursuant to the State, Foreign Operations, and Related Programs Appropriations Act of 2012 (Pub. L. 112–74) as applied to fiscal year 2013 funding by the Further Continuing Appropriations Act, 2013 (Pub. L. 113–6), the United States of America, acting through the U.S. Agency for International Development, may issue certain loan guarantees applicable to sums borrowed by the Hashemite Kingdom of Jordan (the ''Borrower''), not exceeding an aggregate total of U.S. $1.25 billion in principal amount. Upon issuance, the loan guarantees shall insure the Borrower's repayment of 100% of principal and interest due under such loans and the full faith and credit of the United States of America shall be pledged for the full payment and performance of such guarantee obligations.

This rulemaking document is not subject to rulemaking under 5 U.S.C. 553 or to regulatory review under Executive Order 12866 because it involves a foreign affairs function of the United States. The provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) do not apply.

List of Subjects in 22 CFR Part 233

Foreign aid, Foreign relations, Guaranteed loans, Loan programs-foreign relations.

Authority and Issuance

Accordingly, a new Part 233 is added to Title 22, Chapter II, of the Code of Federal Regulations, as follows:

PART 233—HASHEMITE KINGDOM OF JORDAN LOAN GUARANTEES ISSUED UNDER THE FURTHER CONTINUING APPROPRIATIONS ACT, 2013, DIV. F, PUB. L. 113–6—STANDARD TERMS AND CONDITIONS

Sec.

233.01 Purpose.
233.02 Definitions.
233.03 The Guarantee.
233.04 Guarantee eligibility.
233.05 Non-impairment of the Guarantee.
233.06 Transferability of Guarantee; Note Register.
233.07 Fiscal Agent obligations.
233.08 Event of Default; Application for Compensation; payment.
233.09 No acceleration of Eligible Notes.

233.10 Payment to USAID of excess amounts received by a Noteholder.
233.11 Subrogation of USAID.
233.12 Prosecution of claims.
233.13 Change in agreements.
233.14 Arbitration.
233.15 Notice.
233.16 Governing Law.
Appendix A to Part 233—Application for Compensation

Authority: Title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, Division I, Pub. L. 112–74, as applied to fiscal year 2013 funding by section 1706(j) of the Further Continuing Appropriations Act, 2013, Division F, Pub. L. 113–6.

§ 233.01 Purpose.

The purpose of the regulations in this part is to prescribe the procedures and standard terms and conditions applicable to loan guarantees issued for the benefit of the Borrower, pursuant to Title III of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012, (Div. I, Pub. L. 112–74) as applied to fiscal year 2013 funding by section 1706(j) of the Further Continuing Appropriations Act, 2013, (Div. F, Pub. L. 113–6). The loan guarantees will be issued as provided herein pursuant to the Loan Guarantee Agreement, dated August 14, 2013, between the United States of America and the Hashemite Kingdom of Jordan (the ''Loan Guarantee Agreement''). The loan guarantee will apply to sums borrowed during a period beginning on the date that the Loan Guarantee Agreement enters into force and ending thirty days after such date, not exceeding an aggregate total of one billion, two hundred and fifty million United States Dollars ($1,250,000,000) in principal amount. The loan guarantees shall insure the Borrower's repayment of 100% of principal and interest due under such loans. The full faith and credit of the United States of America is pledged for the full payment and performance of such guarantee obligations.

§ 233.02 Definitions.

Wherever used in the standard terms and conditions set out in this part:

Applicant means a Noteholder who files an Application for Compensation with USAID, either directly or through the Fiscal Agent acting on behalf of a Noteholder.

Application for Compensation means an executed application in the form of Appendix A to this part which a Noteholder, or the Fiscal Agent on behalf of a Noteholder, files with USAID pursuant to § 233.08.

Borrower means the Hashemite Kingdom of Jordan.

Business Day means any day other than a day on which banks in New York, NY are closed or authorized to be closed or a day which is observed as a federal holiday in Washington, DC, by the United States Government.

Date of Application means the date on which an Application for Compensation is actually received by USAID pursuant to § 233.15.

Defaulted Payment means, as of any date and in respect of any Eligible Note, any Interest Amount and/or Principal Amount not paid when due.

Eligible Note(s) means [a] Note[s] meeting the eligibility criteria set out in § 233.04.

Fiscal Agency Agreement means the agreement among USAID, the Borrower and the Fiscal Agent pursuant to which the Fiscal Agent agrees to provide fiscal agency services in respect of the Note[s], a copy of which Fiscal Agency Agreement shall be made available to Noteholders upon request to the Fiscal Agent.

Fiscal Agent means the bank or trust company or its duly appointed successor under the Fiscal Agency Agreement which has been appointed by the Borrower with the consent of USAID to perform certain fiscal agency services for specified Eligible Note[s] pursuant to the terms of the Fiscal Agency Agreement.

Further Guaranteed Payments means the amount of any loss suffered by a Noteholder by reason of the Borrower's failure to comply on a timely basis with any obligation it may have under an Eligible Note to indemnify and hold harmless a Noteholder from taxes or governmental charges or any expense arising out of taxes or any other governmental charges relating to the Eligible Note in the country of the Borrower.

Guarantee means the guarantee of USAID pursuant to this part 233 and the State, Foreign Operations, and Related Programs Appropriations Act of 2012 (Pub. L. 112–74) as applied to fiscal year 2013 funding by the Further Continuing Appropriations Act, 2013 (Pub. L. 113–6).

Guarantee Payment Date means a Business Day not more than three (3) Business Days after the related Date of Application.

Interest Amount means for any Eligible Note the amount of interest accrued on the Principal Amount of such Eligible Note at the applicable Interest Rate.

Interest Rate means the interest rate borne by an Eligible Note.

Loss of Investment means, in respect of any Eligible Note, an amount in Dollars equal to the total of the:

(1) Defaulted Payment unpaid as of the Date of Application,

(2) Further Guaranteed Payments unpaid as of the Date of Application, and

(3) Interest accrued and unpaid at the Interest Rate(s) specified in the Eligible Note(s) on the Defaulted Payment and Further Guaranteed Payments, in each case from the date of default with respect to such payment to and including the date on which full payment thereof is made to the Noteholder.

Note[s] means any debt securities issued by the Borrower.

Noteholder means the owner of an Eligible Note who is registered as such on the Note Register of Eligible Notes required to be maintained by the Fiscal Agent.

Person means any legal person, including any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

Principal Amount means the principal amount of any Eligible Notes issued by the Borrower. For purposes of determining the principal amount of any Eligible Notes issued by the Borrower, the principal amount of each Eligible Note shall be the stated principal amount thereof.

USAID means the United States Agency for International Development or its successor.

§ 233.03 The Guarantee.

Subject to the terms and conditions set out in this part, the United States of America, acting through USAID, guarantees to Noteholders the Borrower's repayment of 100 percent of principal and interest due on Eligible Notes. Under this Guarantee, USAID agrees to pay to any Noteholder compensation in Dollars equal to such Noteholder's Loss of Investment under its Eligible Note; provided, however, that no such payment shall be made to any Noteholder for any such loss arising out of fraud or misrepresentation for which such Noteholder is responsible or of which it had knowledge at the time it became such Noteholder. This Guarantee shall apply to each Eligible Note registered on the Note Register required to be maintained by the Fiscal Agent.

§ 233.04 Guarantee eligibility.

(a) *Eligible Notes only are guaranteed hereunder.* Notes in order to achieve Eligible Note status:

(1) Must be signed on behalf of the Borrower, manually or in facsimile, by

a duly authorized representative of the Borrower;

(2) Must contain a certificate of authentication manually executed by a Fiscal Agent whose appointment by the Borrower is consented to by USAID in the Fiscal Agency Agreement; and

(3) Shall be approved and authenticated by USAID by either:

(i) The affixing by USAID on the Notes of a guarantee legend incorporating these Standard Terms and Conditions signed on behalf of USAID by either a manual signature or a facsimile signature of an authorized representative of USAID or

(ii) The delivery by USAID to the Fiscal Agent of a guarantee certificate incorporating these Standard Terms and Conditions signed on behalf of USAID by either a manual signature or a facsimile signature of an authorized representative of USAID.

(b) The authorized USAID representatives for purposes of the regulations in this part whose signature(s) shall be binding on USAID shall include the USAID Chief and Deputy Chief Financial Officer, Assistant Administrator and Deputy, Bureau for Economic Growth, Education, and Environment, Director and Deputy Director, Office of Development Credit, and such other individual(s) designated in a certificate executed by an authorized USAID Representative and delivered to the Fiscal Agent. The certificate of authentication of the Fiscal Agent issued pursuant to the Fiscal Agency Agreement shall, when manually executed by the Fiscal Agent, be conclusive evidence binding on USAID that an Eligible Note has been duly executed on behalf of the Borrower and delivered.

§ 233.05 Non-impairment of the Guarantee.

The full faith and credit of the United States of America is pledged to the performance of this Guarantee. The Guarantee shall be unconditional, and shall not be affected or impaired by:

(a) Any defect in the authorization, execution, delivery or enforceability of any agreement or other document executed by a Noteholder, USAID, the Fiscal Agent or the Borrower in connection with the transactions contemplated by this Guarantee or

(b) The suspension or termination of the program pursuant to which USAID is authorized to guarantee the Eligible Notes. This non-impairment of the guarantee provision shall not, however, be operative with respect to any loss arising out of fraud or misrepresentation for which the claiming Noteholder is responsible or of which it had knowledge at the time it became a Noteholder.

§ 233.06 Transferability of Guarantee; Note Register.

A Noteholder may assign, transfer or pledge an Eligible Note to any Person. Any such assignment, transfer or pledge shall be effective on the date that the name of the new Noteholder is entered on the Note Register required to be maintained by the Fiscal Agent pursuant to the Fiscal Agency Agreement. USAID shall be entitled to treat the Persons in whose names the Eligible Notes are registered as the owners thereof for all purposes of this Guarantee and USAID shall not be affected by notice to the contrary.

§ 233.07 Fiscal Agent obligations.

Failure of the Fiscal Agent to perform any of its obligations pursuant to the Fiscal Agency Agreement shall not impair any Noteholder's rights under this Guarantee, but may be the subject of action for damages against the Fiscal Agent by USAID as a result of such failure or neglect. A Noteholder may appoint the Fiscal Agent to make demand for payment on its behalf under this Guarantee.

§ 233.08 Event of Default; Application for Compensation; payment.

At any time after an Event of Default, as this term is defined in an Eligible Note, any Noteholder hereunder, or the Fiscal Agent on behalf of a Noteholder hereunder, may file with USAID an Application for Compensation in the form provided in Appendix A to this part. USAID shall pay or cause to be paid to any such Applicant any compensation specified in such Application for Compensation that is due to the Applicant pursuant to the Guarantee as a Loss of Investment not later than the Guarantee Payment Date. In the event that USAID receives any other notice of an Event of Default, USAID may pay any compensation that is due to any Noteholder pursuant to a Guarantee, whether or not such Noteholder has filed with USAID an Application for Compensation in respect of such amount.

§ 233.09 No acceleration of Eligible Notes.

Eligible Notes shall not be subject to acceleration, in whole or in part, by USAID, the Noteholder or any other party. USAID shall not have the right to pay any amounts in respect of the Eligible Notes other than in accordance with the original payment terms of such Eligible Notes.

§ 233.10 Payment to USAID of excess amounts received by a Noteholder.

If a Noteholder shall, as a result of USAID paying compensation under this Guarantee, receive an excess payment, it shall refund the excess to USAID.

§ 233.11 Subrogation of USAID.

In the event of payment by USAID to a Noteholder under this Guarantee, USAID shall be subrogated to the extent of such payment to all of the rights of such Noteholder against the Borrower under the related Note.

§ 233.12 Prosecution of claims.

After payment by USAID to an Applicant hereunder, USAID shall have exclusive power to prosecute all claims related to rights to receive payments under the Eligible Notes to which it is thereby subrogated. If a Noteholder continues to have an interest in the outstanding Eligible Notes, such a Noteholder and USAID shall consult with each other with respect to their respective interests in such Eligible Notes and the manner of and responsibility for prosecuting claims.

§ 233.13 Change in agreements.

No Noteholder will consent to any change or waiver of any provision of any document contemplated by this Guarantee without the prior written consent of USAID.

§ 233.14 Arbitration.

Any controversy or claim between USAID and any Noteholder arising out of this Guarantee shall be settled by arbitration to be held in Washington, DC in accordance with the then prevailing rules of the American Arbitration Association, and judgment on the award rendered by the arbitrators may be entered in any court of competent jurisdiction.

§ 233.15 Notice.

Any communication to USAID pursuant to this Guarantee shall be in writing in the English language, shall refer to the Hashemite Kingdom of Jordan Loan Guarantee Number inscribed on the Eligible Note and shall be complete on the day it shall be actually received by USAID at the Office of Development Credit, Bureau for Economic Growth, Agriculture and Trade, United States Agency for International Development, Washington, DC 20523–0030. Other addresses may be substituted for the above upon the giving of notice of such substitution to each Noteholder by first class mail at the address set forth in the Note Register.

§ 233.16 Governing Law.

This Guarantee shall be governed by and construed in accordance with the laws of the United States of America governing contracts and commercial transactions of the United States Government.

Appendix A to Part 233—Application for Compensation United States Agency for International Development Washington, DC 20523

Ref: Guarantee dated as of _____, 20____:

Gentlemen: You are hereby advised that payment of $_____ (consisting of $_____ of principal, $_____of interest and $_____in Further Guaranteed Payments, as defined in § 233.02 of the Standard Terms and Conditions of the above-mentioned Guarantee) was due on _____, 20____, on $_____Principal Amount of Notes issued by Hashemite Kingdom of Jordan (the ''Borrower'') held by the undersigned. Of such amount $_____ was not received on such date and has not been received by the undersigned at the date hereof. In accordance with the terms and provisions of the above-mentioned Guarantee, the undersigned hereby applies, under § 233.08 of said Guarantee, for payment of $_____, representing $_____, the Principal Amount of the presently outstanding Note(s) of the Borrower held by the undersigned that was due and payable on_____ and that remains unpaid, and $_____, the Interest Amount on such Note(s) that was due and payable by the Borrower on _____ and that remains unpaid, and $_____ in Further Guaranteed Payments,[1] plus accrued and unpaid interest thereon from the date of default with respect to such payments to and including the date payment in full is made by you pursuant to said Guarantee, at the rate of ____% per annum, being the rate for such interest accrual specified in such Note. Such payment is to be made at [state payment instructions of Noteholder].

All capitalized terms herein that are not otherwise defined shall have the meanings assigned to such terms in the Standard Terms and Conditions of the above-mentioned Guarantee.

[Name of Applicant]

By:

Name:

Title:

Dated:

Dated: October 23, 2013.

James P. Kelleher

Attorney Advisor, Office of the General Counsel, U.S. Agency for International Development.

[FR Doc. 2013–25314 Filed 10–25–13; 8:45 am]

BILLING CODE P

[1] In the event the Application for Compensation relates to Further Guaranteed Payments, such Application must also contain a statement of the nature and circumstances of the related loss.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0852]

Drawbridge Operation Regulation; Back Bay of Biloxi, Between Biloxi and D'Iberville, MS

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the I–110 Bridge across the Back Bay of Biloxi, mile 3.0, between Biloxi and D'Iberville, Harrison County, Mississippi. The deviation is necessary to continue the rehabilitation and maintenance of the bascule span of the bridge. This deviation allows the bridge to remain closed to vessel traffic unless 24 hours notice is given.

DATES: This deviation is effective from November 1, 2013 through April 29, 2014.

ADDRESSES: The docket for this deviation, [USCG–2013–0852] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Wetherington, Coast Guard; telephone 504–671–2128, email *james.r.wetherington@uscg.mil*. If you have questions on viewing the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Mississippi Department of Transportation (MDOT), the bridge owner, requested a 24 hour notice be given to open the I–110 Bridge over the Back Bay of Biloxi, Mile 3.0, between Biloxi and D'Iberville, Harrison County, MS. The bridge has a horizontal clearance of 132 feet and a vertical clearance of 60 feet, above Mean Sea Level, in the closed-to-navigation position and an unlimited vertical clearance in the open-to-navigation position.

The bridge opens per 33 CFR 117.675(a). This regulation states that the I–110 Bridge opens on signal if at least 6-hours notice is given. The deviation will require a 24 hour notice to operate the bridge from November 1, 2013 through April 29, 2014. This schedule will allow the safe and continued rehabilitation and maintenance of the bridge.

This waterway is used by both commercial and recreational vessel traffic. No previous coordination was made with the waterway users though the closure dates were chosen to minimize the impact to these users.

Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will not be able to open for emergencies and there is no immediate alternate route for vessels to pass. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 30, 2013.

David M. Frank,

Bridge Administrator.

[FR Doc. 2013–25289 Filed 10–25–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0857]

Drawbridge Operation Regulation; Albemarle Sound to Sunset Beach, Atlantic Intracoastal Waterway (AICW), Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the S.R. 74 Bridge across the AICW, at mile 283.1, at Wrightsville Beach, NC. The deviation is necessary to facilitate a significant bridge rehabilitation project. This

temporary deviation allows the drawbridge to only open on the hour for all vessels during daytime hours.

DATES: This deviation is effective from October 28, 2013 through March 1, 2014, and has been enforced with actual notice since October 1, 2013.

ADDRESSES: The docket for this deviation, [USCG–2013–0857] is available at *http://www.regulations.gov*. Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Jim Rousseau, Bridge Administration Branch Fifth District, Coast Guard; telephone (757) 398–6557, email *James.L.Rousseau2@uscg.mil*. If you have questions on reviewing the docket, call Barbara Hairston, Program Manager, Docket Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION: The North Carolina Department of Transportation, who owns and operates the S.R. 74 Bridge, has requested a temporary deviation from the current operating regulations set out in 33 CFR 117.821(a)(6), which is effective until March 1, 2014 (see 78 FR 23849, Apr. 23,2013 Coast Guard.) This deviation is necessary to facilitate a significant rehabilitation project that has been delayed due to frequent additional openings for commercial vessels.

Under the current operating schedule, the draw for the S.R. 74 Bridge across the AICW, at mile 283.1, at Wrightsville Beach, NC shall open on signal for commercial vessels at all times and on signal for pleasure vessels except between 7 a.m. and 7 p.m., when it shall only open on the hour. For all vessels the draw need not open from 7 p.m. to 7 a.m., except with a two hour advance notice. The draw need not open for annual triathlon events that occur from September through November. The S.R. 74 Bridge has a temporary vertical clearance in the closed position of 18 feet above mean high water for ongoing maintenance.

Under this temporary deviation, the drawbridge need only open on the hour between 7 a.m. to 7 p.m. daily for all vessels, beginning at 7 a.m., on Tuesday, October 1, 2013 until and including to 7 p.m., on Sunday March 1, 2014. The bridge will operate under its current operating schedule at all other times. The Coast Guard has carefully reviewed bridge opening logs and coordinated the restrictions with commercial and recreational waterway users.

Vessels able to pass under the bridge in the closed position may do so at anytime and are advised to proceed with caution. The bridge will be able to open for emergencies. There is no immediate alternate route for vessels transiting this section of the AICW but vessels may pass before and after the closure each day. The Coast Guard will also inform additional waterway users through our Local and Broadcast Notices to Mariners of the closure periods for the bridge so that vessels can arrange their transits to minimize any impacts caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: September 25, 2013.

Waverly W. Gregory, Jr.,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2013–25294 Filed 10–25–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket no. FMCSA–2004–19608]

RIN 2126–AB65

Hours of Service of Drivers; Amendment of the 30-Minute Rest Break Requirement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule.

SUMMARY: The FMCSA amends its December 27, 2011, final rule entitled ''Hours of Service of Drivers'' to provide an exception from the 30-minute rest break requirement for short-haul drivers who are not required to prepare records of duty status (RODS). The Agency also removes regulatory text made obsolete by the passing of the July 1, 2013, compliance date for the final rule. This action responds to a decision of the United States Court of Appeals for the District of Columbia Circuit (the Court).

DATES: Effective October 28, 2013.

ADDRESSES: For access to the docket to read background documents, including those referenced in this document, go to:

- Regulations.gov, *http://www.regulations.gov,* at any time and insert FMCSA–2004–19608 in the ''Keyword'' box, and then click ''Search.''
- Docket Management Facility, Room W12–140, DOT Building, 1200 New Jersey Avenue SE., Washington, DC 20590. You may view the docket online by visiting the facility between 9 a.m. and 5 p.m. e.t., Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–4325.

SUPPLEMENTARY INFORMATION:

I. Legal Basis for Rulemaking

The legal basis for the December 27, 2011, final rule (76 FR 81134, at 81140) is fully addressed there; it is also applicable to this rule. This final rule is necessary because of the Court's vacatur of 49 CFR 395.3(a)(3)(ii) as it applies to short-haul drivers operating under 49 CFR 395.1(e)(1)–(2).

While the Administrative Procedure Act (APA) normally requires issuance of a notice of proposed rulemaking (NPRM) and an opportunity for public comment prior to publication of a final rule, the APA provides an exception when an agency ''for good cause finds . . . that notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(B). Because this final rule makes only the changes necessary to conform the hours-of-service (HOS) regulations to the Court's decision, FMCSA finds that notice and comment are both unnecessary and contrary to the public interest. For the same reason, the Agency finds good cause pursuant to 49 U.S.C. 553(d)(3) to make this rule effective upon publication.

II. Background Information

On December 27, 2011, FMCSA published a final rule amending its HOS regulations for drivers of property-carrying commercial motor vehicles (CMVs). The final rule included a new provision requiring drivers to take a rest break during the work day under certain circumstances. Drivers may drive a CMV only if a period of 8 hours or less has passed since the end of their last off-duty or sleeper-berth period of at least 30 minutes. FMCSA did not specify

when drivers must take the 30-minute break but the rule requires that they wait no longer than 8 hours after the last off-duty or sleeper-berth period of that length or longer to take the break. Drivers who already take shorter breaks during the work day could comply with the rule by taking one of the shorter breaks and extending it to 30 minutes. The new requirement took effect on July 1, 2013.

On August 2, 2013, the U.S. Court of Appeals for the District of Columbia Circuit issued its opinion on petitions for review of the 2011 HOS rule filed by the American Trucking Associations, Public Citizen, and others [*American Trucking Associations, Inc.,* v. *Federal Motor Carrier Safety Administration,* No. 12–1092 (D.C. Cir. Aug. 2, 2013)]. The Court upheld the 2011 HOS regulations in all respects except for the 30-minute break provision as it applies to short haul drivers. While the Court's mandate would not have issued until 52 days after entry of judgment (unless a party files a petition for rehearing, either by the panel or en banc, or moves to stay the mandate pending the filing of a petition for certiorari in the Supreme Court), the Agency ceased enforcement of the 30-minute rest break provision against short-haul operations effective August 5, 2013.

The Agency also requested that its State enforcement partners cease enforcement of the State versions of this provision beginning August 5, 2013, with the understanding that they would not be found in violation of the Motor Carrier Safety Assistance Program (MCSAP) regulations (49 CFR Part 350) for doing so.

III. Impact of Court's Decision

The Court vacated the rest-break requirement of 49 CFR 395.3(a)(3)(ii) with respect to any driver qualified to operate under either of the ''short haul'' exceptions outlined in 49 CFR 395.1(e)(1) or (2). An introductory clause excluding those drivers has been added to 49 CFR 395.3(a)(3)(ii). Specifically, the following drivers are no longer subject to the 30-minute break requirement:

- All drivers (whether they hold a commercial driver's license (CDL) or not) who operate within 100 air-miles of their normal work reporting location and satisfy the time limitations and recordkeeping requirements of § 395.1(e)(1).
- All non-CDL drivers who operate within a 150 air-mile radius of the location where the driver reports for duty and satisfy the time limitations and recordkeeping requirements of § 395.1(e)(2).

IV. Regulatory Analyses

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

FMCSA has determined that this action does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866, as supplemented by Executive Order 13563, or within the meaning of the Department of Transportation regulatory policies and procedures (44 FR 11034, Feb. 26, 1979). While the December 27, 2011, final rule was an economically significant regulatory action, this final rule, as explained above, is necessary to implement the Court's opinion vacating part of the December 2011 rule. The rule simply codifies the effect of the Court's decision.

Regulatory Flexibility Act

FMCSA is not required to prepare a final regulatory flexibility analysis for this final rule under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601, *et seq.,* because the Agency has not issued an NPRM prior to this action. This final rule also complies with the President's memorandum of January 18, 2011, entitled *Regulatory Flexibility, Small Business, and Job Creation* (76 FR 3827). As explained above, promulgation of this final rule is required by the Court's decision. Additionally, § 395.3(a)(3)(ii), as it applies to short-haul drivers, was vacated approximately one month after it took effect so very little of the costs and benefits of the break requirement for these drivers were ever realized.

Unfunded Mandates Reform Act of 1995

FMCSA is not required to prepare an assessment under the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531, *et seq.,* evaluating a discretionary regulatory action because the Agency has not issued an NPRM prior to this action. Further, as addressed above, promulgation of this final rule is required as a result of the Court's decision.

Paperwork Reduction Act

This rule includes no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). It neither increases nor decreases the hours for FMCSA's information collection burden for 49 CFR Part 395, as approved by OMB under Control Number 2126–0001.

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and determined under our environmental procedures Order 5610.1, issued March 1, 2004 (69 FR 9680), that the results of this analysis, and the supporting 2011 hours-of-service environmental assessment, show that this final rule will have no impact on the environment and associated areas FMCSA analyzes within NEPA documents. Thus, FMCSA finds no significant impact to the environment from this action and will not conduct an environmental impact statement.

FMCSA also analyzed this action under section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. Approval of this action is exempt from the CAA's general conformity requirement since it would result in either no emissions increase, or an increase in emissions that is clearly de minimis.

Executive Order 12372 (Intergovernmental Review of Federal Programs)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this action.

Executive Order 12630 (Constitutionally Protected Property Rights)

This final rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630.

Executive Order 12898 (Environmental Justice)

This final rule raises no environmental justice issues nor is there any collective environmental impact resulting from its promulgation.

Executive Order 12988 (Civil Justice Reform)

This final rule meets applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988 to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

This final rule does not pose an environmental risk to health or safety that may disproportionately affect children.

Executive Order 13132 (Federalism)

A rulemaking has implications for Federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on State or local governments. FMCSA analyzed this action in accordance with Executive Order 13132. This final rule does not preempt or modify any provision of State law, impose substantial direct unreimbursed compliance costs on any State, or diminish the power of any State to enforce its own laws. Accordingly, this rulemaking does not have Federalism implications.

Executive Order 13211 (Energy Supply, Distribution, or Use)

FMCSA analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. FMCSA determined that it is not a ''significant energy action'' under that Executive Order because it is not economically significant and is not likely to have an adverse effect on the supply, distribution, or use of energy.

List of Subjects in 49 CFR Part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, FMCSA amends 49 CFR chapter III as set forth below:

PART 395—HOURS OF SERVICE OF DRIVERS

■ 1. The authority citation for part 395 continues to read as follows:

Authority: 49 U.S.C. 504, 31133, 31136, 31137, and 31502; sec. 113, Pub. L. 103–311, 108 Stat. 1673, 1676; sec. 229, Pub. L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub. L. 109–59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub. L. 109–59, 119 Stat. 1144, 1744; sec. 108, Pub. L. 110–432, 122 Stat. 4860–4866; sec. 32934, Pub. L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.73.

■ 2. Revise § 395.3(a)(3)(ii), (c), and (d) to read as follows:

§ 395.3 Maximum driving time for property-carrying vehicles.

(a) * * *

(3) * * *

(ii) *Rest breaks.* Except for drivers who qualify for either of the short-haul exceptions in § 395.1(e)(1) or (2), driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes.

* * * * *

(c)(1) Any period of 7 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1:00 a.m. to 5:00 a.m.

(2) Any period of 8 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1:00 a.m. to 5:00 a.m.

(d) A driver may not take an off-duty period allowed by paragraph (c) of this section to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days until 168 or more consecutive hours have passed since the beginning of the last such off-duty period. When a driver takes more than one off-duty period of 34 or more consecutive hours within a period of 168 consecutive hours, he or she must indicate in the Remarks section of the record of duty status which such off-duty period is being used to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days.

Issued in Washington, DC, on October 22, 2013, under authority delegated in 49 CFR 1.87.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–25380 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345–2142–03]

RIN 0648–XC900

Snapper-Grouper Fishery of the South Atlantic; Reopening of the Commercial Harvest of Gray Triggerfish in the South Atlantic

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

ACTION: Temporary rule; reopening.

SUMMARY: NMFS reopens the 2013 commercial sector for gray triggerfish in the South Atlantic exclusive economic zone (EEZ). NMFS previously determined the commercial annual catch limit (ACL) for gray triggerfish had been reached, and closed the commercial sector for gray triggerfish at 12:01 a.m., local time, on July 7, 2013. However, updated landings estimates indicate the commercial ACL for gray triggerfish has not been reached at this time. Therefore, NMFS is reopening the commercial sector for gray triggerfish in the South Atlantic EEZ at 12:01 a.m., local time, on October 28, 2013, and it will close at 12:01 a.m., local time, on November 14, 2013. The intended effect of this temporary rule is to maximize harvest benefits for the commercial sector for gray triggerfish.

DATES: This temporary rule is effective 12:01 a.m., local time, October 28, 2013, until 12:01 a.m., local time, November 14, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, or email: *catherine.hayslip@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the South Atlantic Fishery Management Council (Council) manage South Atlantic snapper-grouper including gray triggerfish under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

NMFS determined that the commercial ACL for gray triggerfish was reached and published a temporary rule on July 1, 2013 (78 FR 39188), to close gray triggerfish on July 7, 2013. However, since that closure, the Science and Research Director (SRD) has received additional landings data and has determined that the ACL was not harvested prior to July 7, 2013. Therefore, in accordance with 50 CFR 622.8(c), NMFS is reopening the commercial sector for gray triggerfish in the South Atlantic EEZ beginning at 12:01 a.m., on October 28, 2013, and closing at 12:01 a.m., on November 14, 2013.

After the commercial sector closes, the bag limit specified in 50 CFR 622.187(b)(8), applies to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the sale or purchase of gray triggerfish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of gray triggerfish that were harvested, landed ashore, and sold prior

to 12:01 a.m., local time, November 14, 2013, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limit and sale and purchase provisions of the commercial closure for gray triggerfish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.193(q)(1)(i). The commercial sector for gray triggerfish will reopen on January 1, 2014, the beginning of the 2014 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and is exempt from review under Executive Order 12866.

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

This action responds to the best available scientific information, and pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and the opportunity for public comment on this temporary rule. Such procedures are unnecessary and contrary to the public interest because NMFS previously determined the commercial ACL for gray triggerfish would be reached by July 7, 2013, and therefore, closed the commercial sector for gray triggerfish in the South Atlantic at 12:01 a.m., local time, on July 7, 2013. However, updated landings estimates indicate the commercial ACL for gray triggerfish has not been reached at this time, and therefore additional harvest is available in order to achieve optimum yield. All that remains is to notify the public that additional harvest is available under the established ACL and, therefore, the commercial sector for gray triggerfish will reopen.

Additionally, reopening the commercial sector for gray triggerfish will likely result in revenue increases to commercial vessels. Fishermen will be able to keep the gray triggerfish that they are currently required to discard. Delaying the implementation of this rulemaking to provide prior notice and the opportunity for public comment would reduce the likelihood of reopening the commercial sector for gray triggerfish in the 2013 fishing year.

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

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

Dated: October 23, 2013.

Kelly Denit,

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

[FR Doc. 2013–25297 Filed 10–23–13; 11:15 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130104009–3416–02]

RIN 0648–XC921

Fisheries of the Northeastern United States; Bluefish Fishery; Quota Transfer

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of New Jersey is transferring a portion of its 2013 commercial bluefish quota to the State of New York. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective October 25, 2013, through December 31, 2013.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, 978–281–9224.

SUPPLEMENTARY INFORMATION: Regulations governing the bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.162.

The final rule implementing Amendment 1 to the Bluefish Fishery Management Plan, which was published on July 26, 2000 (65 FR 45844), provided a mechanism for bluefish quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.162(e). The Regional Administrator is required to consider the criteria in § 648.162(e)(1) in the evaluation of requests for quota transfers or combinations.

New Jersey has agreed to transfer 300,000 lb (136,078 kg) of its 2013 commercial quota to New York. This transfer was prompted by the diligent efforts of state officials in New York not to exceed the commercial bluefish quota. The Regional Administrator has determined that the criteria set forth in § 648.162(e)(1) have been met. The revised bluefish quotas for calendar year 2013 are: New Jersey, 1,044,713 lb (473,874 kg); and New York, 1,242,548 lb (563,610 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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

Dated: October 23, 2013.

James P. Burgess,

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

[FR Doc. 2013–25362 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 78, No. 208
Monday, October 28, 2013

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

DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

8 CFR Part 293

[DHS Docket No. ICEB–2013–0002]

RIN 1653–AA66

Change to Existing Regulation Concerning the Interest Rate Paid on Cash Deposited To Secure Immigration Bonds

AGENCY: U.S. Immigration and Customs Enforcement, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Homeland Security proposes to amend its regulations addressing the payment of interest on cash bond deposits to explicitly provide that the Department of the Treasury (Treasury) will set the interest rate. In the future, Treasury will notify the public of its interest rate determinations by publishing the rates on the Treasury Web site or via another mechanism. The current rate of interest paid on deposits securing cash bonds is 3 percent per annum. 8 U.S.C. 1363(a); 8 CFR 293.2. This action is consistent with the requirement of 8 U.S.C. 1363(a) that interest payments shall be ''at a rate determined by the Secretary of the Treasury, except that in no case shall the interest rate exceed 3 per centum per annum.''

DATES: Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before December 27, 2013 or reach the Mail or Hand Delivery/Courier address listed below by that date.

ADDRESSES: You may submit comments, identified by DHS Docket No. ICEB–2013–0002, by using any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Bonds Branch, c/o Don Benoit, Bonds Branch Supervisor, Burlington Finance Center, P.O. Box 5000, Williston, VT 05495.
- *Hand Delivery/Courier:* Don Benoit, Bonds Branch Supervisor, Burlington Finance Center, 166 Sycamore Street, Williston, VT 05495, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays. Contact telephone number (802) 288–7630.

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

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Don Benoit, Bonds Branch Supervisor, Burlington Finance Center, P.O. Box 5000, Williston, VT 05495–5000. Telephone: (802) 288–7630, email: *Donald.R.Benoit@ice.dhs.gov.*

SUPPLEMENTARY INFORMATION:

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List of Subjects

Amendments to the Regulations.

I. Public Participation and Request for Comments

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

A. Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (ICEB–2013–0002), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by mail or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov*, click on the ''submit a comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu select ''Proposed Rule'' and insert ''ICEB–2013–0002'' in the ''Keyword'' box. Click ''Search'' then click on the balloon shape in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the mailing address, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

B. Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov*, and insert ''ICEB–2013–0002'' in the ''Search'' box. Click on ''Open Docket Folder,'' and then click on ''View Comment'' or ''View All'' under the ''Comments'' section of the page. Individuals without internet access can make alternate arrangements for viewing comments and documents related to this rulemaking by contacting the Bonds Branch using the **FOR FURTHER INFORMATION CONTACT** information above. Please be aware that 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.).

C. Public Meeting

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

II. Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
ICE U.S. Immigration and Customs Enforcement
INA Immigration and Nationality Act of 1952, as amended
§ Section symbol
U.S.C. United States Code

III. Background

A. Immigration Bonds Secured by Cash

ICE may release certain aliens from detention during removal proceedings after a custody determination has been made pursuant to 8 CFR 236.1(c). As a condition of his/her release from custody, an alien may be required to post an immigration bond. Currently, about 91 percent of the immigration bonds issued each year is secured by cash. In FY 2012, there were a total of 56,501 immigration bonds posted. Of that, 51,451 were secured by cash, totaling almost $274.9 million; the remaining approximately 9 percent of the immigration bonds posted were surety bonds, totaling almost $39.4 million. (Fiscal Year 2012 Total, Cash Bonds and Surety Bonds—on file with the Bonds Branch, ICE Burlington Finance Center).

All types of immigration bonds (delivery bonds, voluntary departure bonds, order of supervision bonds, public charge bonds, maintenance of status bonds, and stowaway bonds) secured by cash deposits are included in this proposed rule. When a cash bond is posted, the bond obligor pledges an amount of money equal to the face amount of the bond as ''security for the performance and fulfillment of the obligations'' described in the bond form. ICE Form I–352, ¶ I (Rev. 03/08). ICE deposits cash pledged as security on immigration bonds in a fund maintained by Treasury known as the Immigration Bond Deposit Account. These funds are held ''in trust'' for the obligor and currently earn simple interest at the rate of 3 percent per annum. 8 U.S.C. 1363(a); 8 CFR part 293. By signing the pledge and power of attorney in the bond form, the obligor authorizes the United States to ''collect or to assign and transfer'' the amount of money deposited as security to satisfy any ''damages, demands, or deficiencies arising by reason of'' the bond's breach. *Id.* ¶ I. In other words, the obligor agrees that, in case of default of any of the bond's terms and conditions, the Government has the power to retain the cash deposited to satisfy any damages, demands, or deficiencies arising from the default. ICE Form I–352, ¶ I (Rev. 03/08). When the bond is breached, only the interest that has accrued on the cash deposit is returned to the obligor. When the bond's terms and conditions are satisfied, the bond is cancelled. In this situation, both the cash deposit for the face amount of the bond and the interest are sent to the obligor.

B. Payment of Interest on Cash Bond Deposits

In 1970, Congress added section 293 of the Immigration and Nationality Act (INA), as amended, to pay interest at a rate determined by the Secretary of the Treasury, not to exceed 3 per centum per annum, on cash received as security for immigration bonds. Public Law 91–313 (July 10, 1970) (codified at 8 U.S.C. 1363). Effective on the date of its publication in the **Federal Register**, July 23, 1971, the interest rate set by Treasury—3 per centum per annum—has been paid on cash bond deposits received after April 27, 1966. 36 FR 13677 (8 CFR part 293). Thus, since 1971, the Government has paid simple interest at the rate of 3 percent per year on cash deposited by bond obligors to secure immigration bonds.

C. Request for Comments

Under current law, Treasury has the sole authority to set the rate of interest that DHS will use to calculate the amount of interest paid in this context. Accordingly, DHS does not (indeed, cannot) propose any changes to the current interest rate paid to cash bond obligors.

As explained above, current 8 CFR 293.2 states that ''effective from date of deposit occurring after April 27, 1966, the interest rate shall be 3 per centum per annum.'' In this action, DHS proposes to modify this provision to explicitly state that Treasury will set the interest rate directly. Thus, DHS will utilize the rate set by Treasury in issuing interest payments, but will have no role in setting the rate.

Comments on matters committed by law to Treasury's sole discretion would be out-of-scope of this proposed rulemaking, however, commenters may have valuable input on the matters relevant to this rulemaking. DHS will consider all relevant comments and material received during the comment period and will respond to them in the final rule.

IV. Regulatory Analyses

A. Executive Orders 13563 and 12866: Regulatory Planning and Review

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget (OMB) has not designated this rule a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed the proposed rule.

The proposed rule, if finalized, would explicitly state that Treasury is authorized by statute to set the interest rate paid on cash deposited to secure immigration bonds, provided that the rate cannot exceed 3 percent per year and cannot be less than 0. In deciding to propose this rule, DHS considered whether DHS would implement any possible future changes to the current fixed interest rate of 3 percent per annum that may be made by Treasury, through informal rulemaking or other means. DHS has rejected this alternative. Because Congress authorized the Secretary of the Treasury to set the rate directly, the approach that DHS proposes here is a more efficient and cost-effective process.

This proposed rule does not propose any changes to the current interest rate paid to cash bond obligors; under current law, a change to the current interest rate paid cannot be made except under Treasury's sole authority. As this rulemaking does not propose any changes to the current fixed 3 percent per annum interest rate, this proposed rule does not impose any costs on bond obligors.

As noted above, under current law, Treasury has the sole authority to set the interest rate that DHS uses to determine the amount of interest paid for cash immigration bonds. The proposed rule would provide that Treasury will set the

interest rate directly and will publish the interest rate on the Treasury Web site or through another mechanism. This would save DHS resources by removing the intermediate step for DHS to implement Treasury's decision by informal rulemaking.

B. Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule does not impose any direct costs on small entities. Consequently, DHS certifies this proposed rule, if finalized, would not impose a significant economic impact on a substantial number of small entities.

C. The Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by 5 U.S.C. 804, for purposes of congressional review of agency rulemaking under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. This rule would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic or export markets.

D. Paperwork Reduction Act of 1995

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

E. Federalism

A rule has federalism implications under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments, 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 federalism implications.

F. Unfunded Mandates Reform Act of 1995

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. This proposed rule would not result in such an expenditure.

G. Private Property

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

H. Civil Justice Reform

Executive Order 12988 requires agencies to conduct reviews on civil justice and litigation impact issues before proposing legislation or issuing regulations. The order requires agencies to exert reasonable efforts to ensure that the regulation identifies clearly preemptive effects, effects on existing federal laws or regulations, identifies any retroactive effects of the regulation, and other matters. DHS has determined that this proposed rule meets the requirements of E.O. 12988 because it does not involve any retroactive effects, preemptive effects, or any other matters addressed in E.O. 12988.

I. Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and will not have a significant adverse effect on the supply, distribution, or use of energy.

J. Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

K. National Environmental Policy Act

U.S. Department of Homeland Security Management Directive (MD) 023–01 establishes procedures that the Department and its components use to comply with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321–4375, and the Council on Environmental Quality (CEQ) regulations for implementing NEPA, 40 CFR Parts 1500–1508. CEQ regulations allow federal agencies to establish categories of actions which do not individually or cumulatively have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1508.4. DHS MD 023–01 lists the Categorical Exclusions that the Department has found to have no such effect. MD 023–01 app. A tbl.1.

The proposed rule would amend 8 CFR Part 293 to change the interest rate for immigration bonds secured by cash from a fixed rate of 3 percent per year to a rate determined by the Secretary of the Treasury, provided that the rate does not exceed 3 percent per year and is not less than 0.

ICE has analyzed this proposed rule under MD 023–01. ICE has made a preliminary determination that this action is one of a category of actions which does not individually or cumulatively have a significant effect on the human environment. This proposed rule clearly fits within the two Categorical Exclusions found in MD 023–01, Appendix A, Table 1: A3(a): ''Promulgation of rules . . . of a strictly administrative and procedural nature''; and A3(d): ''Promulgation of rules . . . that interpret or amend an existing regulation without changing its environmental effect.'' This proposed rule is not part of a larger action. This proposed rule presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this proposed rule is categorically excluded from further NEPA review.

ICE seeks any comments or information that may lead to the discovery of any significant environmental effects from this proposed rule.

List of Subjects

8 CFR Part 293

Administrative practice and procedure, Aliens, Bonds, Immigration, Interest rate.

Amendments to the Regulations

For the reasons discussed in the preamble, DHS proposes to amend 8 CFR part 293 as follows:

PART 293—DEPOSIT OF AND INTEREST ON CASH RECEIVED TO SECURE IMMIGRATION BONDS

■ 1. Revise the authority citation for part 293 to read as follows:

Authority: 8 U.S.C. 1363.

■ 2. Revise § 293.1 to read as follows:

§ 293.1 Computation of Interest.

The Secretary of the Treasury determines the rate at which an immigration bond secured by cash shall bear interest, consistent with 8 CFR 293.2. Interest shall be computed from the deposit date to and including the refund date or breach date of the immigration bond. For purposes of this part, the deposit date shall be the date shown on the receipt for the cash received as security on an immigration bond. The refund date shall be the date upon which the interest is certified to the Treasury Department for payment. The breach date shall be the date the immigration bond was breached as shown on Form I–323—''Notice—Immigration Bond Breached.'' In counting the number of days for which interest shall be computed, the day on which the cash was deposited shall not be counted; however, the refund date or the breach date shall be counted.

■ 3. Revise § 293.2 to read as follows:

§ 293.2 Interest Rate.

Interest on cash deposited to secure immigration bonds will be at the rate as determined by the Secretary of the Treasury, but in no case will exceed 3 per centum per annum or be less than zero. The rate will be published by Treasury on the Treasury Web site or through another mechanism.

■ 4. Revise § 293.3 to read as follows:

§ 293.3 Time of Payment.

Interest shall be paid only at time of disposition of principal cash when the immigration bond has been cancelled or declared breached.

■ 5. Remove § 293.4.

Rand Beers,

Acting Secretary of Homeland Security.

[FR Doc. 2013–24750 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 130403324–3 376–01 RIN 0648–BC94]

Boundary Expansion of Thunder Bay National Marine Sanctuary

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Re-opening of public comment period.

SUMMARY: On June 14, 2013, NOAA published a proposed rule in the **Federal Register** to revise the regulations for the boundary of the Thunder Bay National Marine Sanctuary (78 FR 35776). On August 15, NOAA re-opened the comment period until October 18, 2013 (78 FR 49700). This notice re-opens the public comment period stated in the June 14, 2013 proposed rule until November 27, 2013.

DATES: NOAA will accept public comments on the proposed rule published at 78 FR 35776 (June 14, 2013) through November 27, 2013.

ADDRESSES: You may submit comments on this document, identified by NOAA–NOS–2012–0077, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NOS-2012-0077,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Thunder Bay National Marine Sanctuary, 500 W. Fletcher, Alpena, Michigan 49707, Attn: Jeff Gray, Superintendent.

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

FOR FURTHER INFORMATION CONTACT: Jeff Gray, Superintendent, Thunder Bay National Marine Sanctuary at 989–356–8805 ext. 12 or *jeff.gray@noaa.gov.*

SUPPLEMENTARY INFORMATION: On June 14, 2013, NOAA published a proposed rule in the **Federal Register** to revise the regulations for the boundary of the Thunder Bay National Marine Sanctuary (78 FR 35776). An accompanying draft environmental impact statement (DEIS) was also published (78 FR 35928). Public comments on the proposed rule and DEIS were solicited. Three public meetings on the proposed action were held on July 15–17, 2013 in Michigan. The public comment period was extended until October 18, 2013 (78 FR 49700) to gather more information on the applicability of U.S. Coast Guard and U.S. EPA regulations governing discharge of ballast water to the proposed expanded area. However, due to the government being closed for 16 days during the public comment period, NOAA is re-opening the comment period for 30 days.

While the public is free to comment on any issue related to the proposed action, NOAA is particularly interested in receiving input on the following topics:

1. Please explain current ballast management practices. Identify, with specificity, all areas where ballast management occurs and under what circumstances.

2. Please explain how the proposed boundary expansion is expected to impact existing ballast management practices.

Dated: October 18, 2013.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries.

[FR Doc. 2013–25138 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0710]

RIN 1625–AA09

Drawbridge Operation Regulation; Mantua Creek, Paulsboro, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the New Jersey State Route 44 lift bridge over the Mantua Creek, mile marker 1.7, at Paulsboro, NJ. Bridge tender logs from 2007–2013 indicates that the majority of the marine traffic transits Mantua Creek during the summer months. To better align the operating schedule to meet the needs of both land and marine traffic, the proposed change would reduce the number of months the bridge is required to open on signal during the early spring and fall of each year.

DATES: Comments and related material must reach the Coast Guard on or before December 27, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0710 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 Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6422, email *jessica.c.shea2@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
NJDOT New Jersey Department of Transportation
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–2013–0710), 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–2013–0710] 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–2013–0710 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 current operating schedule for the bridge is set out in 33 CFR 117.729(b), effective July 25, 1985. The current regulation states: The draw of the S.R. 44 bridge, mile 1.7, at Paulsboro, shall open on signal from March 1 through November 30 from 7 a.m. to 11 p.m., and shall open on signal at all other times upon four hours notice.

C. Basis and Purpose

The bridge owner, New Jersey Department of Transportation (NJDOT), requested a change in the operation regulation for the State Route 44 Bridge, at mile 1.7, across Mantua Creek at Paulsboro. NJDOT provided the Coast Guard with the bridge tender logs dating back to 2007 to illustrate the marine traffic patterns on Mantua Creek. Based on the information provided by the bridge tenders there have been very few requests requiring openings between March 1 and November 30 during the 7 a.m. to 11 p.m. time period.

The vertical clearance of the vertical-lift bridge is 5 feet above mean high water in the closed position and 64 above mean high water in the open position. In order to align the operating schedule with the observed marine traffic since 2007, the open on demand requirement for March 1 through April 30 and November 1 through November 30 is being revised such that the draw shall open with a 4 hour advance notice.

D. Discussion of Proposed Rule

The majority of vessels that use this waterway are recreational boats that travel during the summer and fall months of May through October. The

current operating schedule requires openings on signal from 7 a.m. to 11 p.m. between the months of March and November. Under the proposed rule, if vessels require an opening during any time of the year outside the summer and fall season or between the hours of 11 p.m. and 7 a.m., the bridge will open with a 4 hour advanced notice. The impact to vessels of the proposed change to the regulation is that vessels which require openings during March, April, or November will need to provide 4 hours advanced notice. Based on the average logged openings between 2007–2013 during the months of March, April, and November, the bridge tender logs indicate that fewer than 25 vessels annually will be required to provide 4 hours notice under the proposed change.

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. Fewer than 5 vessels per year based off of NJDOT bridge tender logs will be impacted by this change. This proposed regulatory change should not have an adverse effect on their transit because the bridge is able to open if the mariner provides at least 4 hours of advance notice.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed action will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule amends the months of the year that the draw opens on signal when it is documented that vessel traffic is low. Additionally, vessels may still request an opening with 4 hours advanced notice during the months of March, April, and November.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the 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 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 proposed 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 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. Revise § 117.729 paragraph (b) to read as follows:

§ 117.729 Mantua Creek.

* * * * *

(b) The draw of the S.R. 44 Bridge, mile 1.7, at Paulsboro, shall open on signal from May 1 through October 31 from 7 a.m. to 11 p.m., and shall open on signal at all other times upon four hours notice.

Dated: September 19, 2013.

Steven H. Ratti,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2013–25290 Filed 10–25–13; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2013–0711]

RIN 1625–AA09

Drawbridge Operation Regulation; Raccoon Creek, Bridgeport, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to modify the operating schedule that governs the U.S. Route 130 lift Bridge over Raccoon Creek at mile marker 1.8 in Bridgeport, NJ. Bridge tender logs from 2007–2013 indicates that the majority of the marine traffic transits Raccoon Creek during the summer months. To better align the operating schedule to meet the needs of both land and marine traffic, the proposed change would reduce the number of months the bridge is required to open on signal during the early spring and fall of each year.

DATES: Comments and related material must reach the Coast Guard on or before December 27, 2013.

ADDRESSES: You may submit comments identified by docket number USCG–2013–0711 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 Mrs. Jessica Shea, Fifth Coast Guard District Bridge Administration Division, Coast Guard; telephone 757–398–6422, email *jessica.c.shea2@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
NJDOT New Jersey Department of Transportation
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–2013–0711), 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–2013–0711 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–2013–0711 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 current operating schedule for the bridge is set out in 33 CFR 117.741(a), effective May 20, 2003. The current regulation states: (a) The draw of the Route 130 highway bridge, mile 1.8, at Bridgeport, shall open on signal:

(1) March 1 through November 30, from 7 a.m. to 11 p.m.

(2) At all other times, if at least four hours notice is given.

C. Basis and Purpose

The bridge owner, New Jersey Department of Transportation (NJDOT), requested a change in the operation regulation for the U.S. Route 130 highway bridge, at mile 1.8, across Raccoon Creek in Bridgeport, NJ. NJDOT provided the Coast Guard with the bridge tender logs dating back to 2007 to illustrate the marine traffic patterns on Raccoon Creek. Based on the information provided by the bridge tenders, there have been very few requests requiring openings between March 1 and November 30 during the 7 a.m. to 11 p.m. time period.

The vertical clearance of the vertical-lift bridge is 5 feet above mean high water in the closed position and 64 above mean high water in the open position. In order to align the operating schedule with the observed marine traffic since 2007, this proposed rule would change the open on demand requirement for March 1 through April 30 and November 1 through November 30 to require a 4 hour advance notice.

D. Discussion of Proposed Rule

The majority of vessels that use this waterway are recreational boats that travel during the summer and fall months of May through October. The current operating schedule requires openings on signal from 7 a.m. to 11 p.m. between the months of March and November. If vessels require an opening during any time of the year outside the summer and fall season or between the hours of 11 p.m. and 7 a.m., the bridge will open with a 4 hour advanced notice. The impact to vessels of the proposed change to the regulation is that vessels which require openings during March, April, or November will need to provide 4 hours advanced notice. Based on the average logged openings between 2007–2013 during the months of March, April, and November, the bridge tender logs indicate that fewer than 5 vessels annually will be required to provide 4 hours notice under the proposed change.

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. The impact to vessels of this regulation is that vessels which require openings during March, April, or November will need to provide 4 hours advanced notice. Based on the average logged openings during 2007–2013 during the months of March, April, and November, the bridge tender logs indicate that fewer than 30 vessels annually require openings in those months. This proposed regulatory change should not have an adverse effect on their transit because the bridge is able to open if the mariner provides at least 4 hours of advance notice.

2. Impact on Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered the impact of this proposed rule on small entities. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed action will not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule amends the months of the year when the draw must open on signal when it is documented that vessel traffic is low. Additionally, vessels may still request an opening with 4 hours advanced notice during the months of March, April, and November.

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

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the 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 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 proposed 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. Revise § 117.741 paragraph(a) to read as follows:

§ 117.741 Raccoon Creek

(a) The draw of the Route 130 highway bridge, mile 1.8, at Bridgeport, shall open on signal:

(1) May 1 through October 31 from 7 a.m. to 11 p.m.

(2) At all other times, if at least four hours notice is given.

* * * * *

Dated: September 19, 2013.

Steven H. Ratti,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 2013–25288 Filed 10–25–13; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 27

[WT Docket No. 12–357; Report No. 2991]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: In this document, a Petition for Reconsideration (Petition) has been filed in the Commission's Rulemaking proceeding by Caressa D. Bennet on behalf of Rural Wireless Association, Inc.

DATES: Oppositions to the Petition must be filed on or before November 12, 2013. Replies to an opposition must be filed on or before November 22, 2013.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Matthew Pearl, Wireless, Telecommunications Bureau, phone: (202) 418–2607, or (202) 418–7233.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's document, Report No. 2991, released September 20, 2013. The full text of Report No. 2991 is available for viewing and copying in Room CY–B402, 445 12th Street SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). The Commission will not send a copy of this *Notice* pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this *Notice* does not have an impact on any rules of particular applicability.

Subject: Service Rules for 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, published at 78 FR 50213, August 16, 2013, and published pursuant to 47 CFR 1.429(e). *See also* § 1.4(b)(1) of the Commission's rules.

Number of Petitions Filed: 1

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–25345 Filed 10–25–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket Nos. FWS–HQ–ES–2013–0073 and FWS–R2–ES–2013–0056; FXES11130900000C2–134–FF09E32000]

RINs 1018–AY00 and 1018–AY46

Endangered and Threatened Wildlife and Plants; Extending the Public Comment Periods and Rescheduling Public Hearings Pertaining to the Gray Wolf (Canis lupus) and the Mexican Wolf (Canis lupus baileyi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rules; extension of public comment periods, and announcement of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), recently published two proposed rules. One rule proposes to list the Mexican wolf (*Canis lupus baileyi*) as an endangered subspecies and to delist the gray wolf elsewhere, and the other proposes to revise the Nonessential Experimental Population of the Mexican Wolf. On September 5 and October 2, 2013, we announced public hearings on the proposed rules. The September 5 notices also extended the public comment period for the proposed rules to October 28, 2013. Following delays caused by the Federal Government lapse in appropriations, the Service is announcing rescheduled dates for the remainder of a series of public hearings on the proposed rules. To allow these hearings to take place within the public comment period on the proposed rules, we now extend the public comment period for the proposed rules to December 17, 2013. Comments previously submitted need not be resubmitted and will be fully considered in preparation of the final rules. We also announce the scheduling of a public information meeting and an additional public hearing in Pinetop, Arizona.

DATES: *Written Comments:* The public comment period on the proposal to list the Mexican wolf (*Canis lupus baileyi*) as an endangered subspecies and to delist the gray wolf elsewhere and the proposal to revise the nonessential experimental population of the Mexican wolf are extended to December 17, 2013. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. If you are submitting your comments by hard copy, please mail them by December 17, 2013, to ensure that we receive them in time to give them full consideration.

Public Information Meeting: We will hold a public information meeting on December 3, 2013, from 3:30 p.m. to 5 p.m., in Pinetop, AZ.

Public Hearings: We will hold public hearings on the following dates:

- November 19, 2013, from 6 p.m. to 8:30 p.m., in Denver, CO.
- November 20, 2013, from 6 p.m. to 9 p.m., in Albuquerque, NM.
- November 22, 2013, from 6 p.m. to 8:30 p.m., in Sacramento, CA.
- December 3, 2013, from 6 p.m. to 8:30 p.m., in Pinetop, AZ.

ADDRESSES: *Written Comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for the corresponding docket number for the rulemaking. Submissions of electronic comments on our proposal to list the Mexican wolf (*Canis lupus baileyi*) as an endangered subspecies and to delist the gray wolf elsewhere, which published in the **Federal Register** on June 13, 2013, should be submitted to Docket No. FWS–HQ–ES–2013–0073. Submissions of electronic comments on our Proposed Revision to the Nonessential Experimental Population of the Mexican Wolf, which also published in the **Federal Register** on June 13, 2013, should be submitted to Docket No. FWS–R2–ES–2013–0056. Please ensure you have found the correct document before submitting your comments. If your comments will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our comment review procedures. If you attach your comments as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [insert corresponding docket number]; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

(3) *At the Pinetop, Arizona public information meeting or the public hearings:* Written comments will be accepted by Service personnel at the Pinetop, Arizona public information meeting or any of the scheduled public hearings.

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

Public Information Meeting: We will hold the public information meeting at the Hon-Dah Conference Center, 777 Highway 260, Pinetop, AZ 85935 (3 miles outside of Pinetop at the Junction of Hwy 260 and Hwy 73); (928) 369–7625.

Public Hearings: Public hearings will be held at the following locations:

- Paramount Theatre, 1621 Glenarm Place, Denver, CO 80202; (303) 405–1245.
- Embassy Suites, Sandia Room, 1000 Woodward Place NE., Albuquerque, NM 87102; (505) 245–7100.
- Marriot Courtyard Sacramento Cal Expo, Golden State Ballroom, 1782 Tribute Road, Sacramento, CA 95815; (916) 929–7900.
- Hon-Dah Conference Center, 777 Highway 260, Pinetop, AZ 85935 (3 miles outside of Pinetop at the Junction of Hwy 260 and Hwy 73); (928) 369–7625.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposal to list the Mexican wolf (*Canis lupus baileyi*) as an endangered subspecies and to delist the gray wolf elsewhere, contact the Headquarters Office, Ecological Services; telephone (703) 358–2171; facsimile (703) 358–1735. Direct all questions or requests for additional information to: Gray Wolf Questions, U.S. Fish and Wildlife Service, Headquarters Office, Ecological Services, 4401 North Fairfax Drive, Room 420, Arlington, VA 22203. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

For information concerning the proposal to revise the nonessential experimental population of the Mexican wolf, contact the Mexican Wolf Recovery Program, U.S. Fish and Wildlife Service, New Mexico Ecological Services Office, 2105 Osuna Road NE., Albuquerque, NM 87133; telephone 505–761–4704; facsimile 505–346–2542. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay Service at 1–800–877–8337 for TTY assistance.

SUPPLEMENTARY INFORMATION:

Public Comments

To allow rescheduled public hearings to take place within the public comment period, we are extending the public comment period to December 17, 2013, on our proposal to list the Mexican wolf (*Canis lupus baileyi*) as an endangered

subspecies and to delist the gray wolf elsewhere, and on our proposed revision to the nonessential experimental population of the Mexican wolf. These proposals published in the **Federal Register** on June 13, 2013 (78 FR 35664 and 78 FR 35719). The proposals are available online at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2013–0073 and FWS–R2–ES–2013–0056 respectively and at *http://www.gpo.gov/fdsys/pkg/FR-2013-06-13/pdf/2013-13982.pdf#page=2* and *http://www.gpo.gov/fdsys/pkg/FR-2013-06-13/pdf/2013-13977.pdf respectively.*

For the types of information for which we are seeking public comments, please see the Public Comments or Information Requested section of the June 13, 2013, proposed rules (78 FR 35664 and 78 FR 35719).

Please note that submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**. Verbal testimony may also be presented during the public hearings (see **DATES** and **ADDRESSES** sections).

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information, such as your street address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as some of the supporting documentation we used in preparing the proposed rules, will be available for public inspection on *http://www.regulations.gov* at the corresponding docket number (see **ADDRESSES**), or by appointment, during normal business hours at the corresponding office location (see **FOR FURTHER INFORMATION CONTACT**).

We intend that any final actions resulting from the proposed rules will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, tribes, the scientific community, industry, or other interested parties concerning the proposed rules. We request that you make your comments as specific as possible and explain the basis for them. In addition, please include sufficient information with your comments to allow us to authenticate any scientific or commercial data you reference or provide.

Our final determinations concerning the proposed actions will take into consideration all written comments we receive during all comment periods, comments from peer reviewers, and comments received during the public hearings. The comments will be included in the public record for the corresponding rulemaking, and we will fully consider them in the preparation of our final determination.

If you previously submitted comments or information on the proposed rules, please do not resubmit them. We will incorporate them into the corresponding public record as part of this comment period, and will fully consider them in the preparation of our final determination.

Public Hearings

Following delays caused by the Federal Government lapse in appropriations, the Service is announcing rescheduled dates for the remainder of a series of public hearings on the proposed rules. We are also adding a public information meeting and an additional public hearing in Pinetop, AZ. In total, we are holding one public information meeting and four public hearings on the dates listed in the **DATES** section at the locations listed in the **ADDRESSES** section.

The November 19, 2013, public hearing in Denver, CO, and the November 22, 2013, public hearing in Sacramento, CA, will address the June 13, 2013 (78 FR 35664), proposal to list the Mexican wolf as an endangered subspecies and to delist the gray wolf elsewhere. The November 20, 2013, public hearing in Albuquerque, NM and the December 3, 2013, public hearing in Pinetop, AZ, will address both the June 13, 2013 (78 FR 35664), proposal to list the Mexican wolf as an endangered subspecies and to delist the gray wolf elsewhere, as well as the June 13, 2013 (78 FR 35719), proposed revision to the nonessential experimental population of the Mexican wolf. The December 3, 2013, public information meeting and public hearing in Pinetop, AZ, will focus on the June 13, 2013 (78 FR 35719), proposed revision to the nonessential experimental population of the Mexican wolf, but we will accept verbal testimony (formal, oral comments) or written comments regarding both of the June 13, 2013, proposals (78 FR 35664 and 78 FR 35719).

We are holding the public hearings to provide interested parties an opportunity to present verbal testimony (formal, oral comments) or written comments regarding the proposals. A public hearing is a forum for accepting formal verbal testimony. The public information meeting in Pinetop, Arizona will provide the opportunity for interaction with Service staff, who will be available to provide information and address questions on the proposed rule, however, verbal testimony will only be accepted at the public hearings. Anyone wishing to testify verbally at the public hearings for the record is encouraged to also provide a written copy of their statement to us at the hearings. In the event of a large attendance, the time allotted for verbal testimony may be limited. Speakers can sign up at the hearings if they desire to make a verbal statement. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us.

Persons with disabilities needing reasonable accommodations to participate in the Denver, CO, or Sacramento, CA, public hearings should contact the Headquarters Office (see **FOR FURTHER INFORMATION CONTACT**). Persons with disabilities needing reasonable accommodations to participate in the Albuquerque, NM, or Pinetop, AZ, public hearings should contact the Mexican Wolf Recovery Program (see **FOR FURTHER INFORMATION CONTACT**). Reasonable accommodation requests should be received at least 3 business days prior to the hearing to help ensure availability; at least 2 weeks prior notice is requested for American-sign-language or English-as-a-second-language interpreter needs.

Authors

The primary authors of this notice are the Ecological Services staff of the Headquarters Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 23, 2013.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–25390 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 78, No. 208
Monday, October 28, 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

Office of the Secretary

[0503–AA51]

Revocation of Statement of Policy on Public Participation in Rulemaking

AGENCY: Office of the Secretary, USDA.

ACTION: Revocation of Statement of Policy.

SUMMARY: The U.S. Department of Agriculture (USDA) is revoking the Statement of Policy titled ''Public Participation in Rulemaking,'' published in the **Federal Register** on July 24, 1971 (36 FR 13804), which required agencies in USDA to follow the Administrative Procedure Act's (APA) notice-and-comment rulemaking procedures in situations where the APA does not require it. The Statement of Policy implemented a 1969 recommendation by the Administrative Conference of the United States (ACUS), which urged Congress to amend the APA to remove the exemption from the notice-and-comment requirement for rulemakings relating to ''public property, loans, grants, benefits, or contracts,'' adding that agencies should follow the notice-and-comment procedures pending amendment of the APA. By revoking the 1971 Statement of Policy, USDA restores the discretion to use notice-and-comment procedures when appropriate, unless otherwise required by law, with regard to this class of rulemakings. This action also improves USDA's ability to implement programs efficiently.

DATES: *Effective date:* October 28, 2013.

FOR FURTHER INFORMATION CONTACT: Adam J. Hermann, General Law and Research Division, Office of the General Counsel, 3311–S, USDA, 1400 Independence Ave. SW., Washington, DC 20250; Voice: (202) 720–9425; Email: *RIN0503AA51@obpa.usda.gov.*

SUPPLEMENTARY INFORMATION: On June 3, 2013, USDA published for comment a notice (78 FR 33045) proposing to rescind a 1971 Statement of Policy, published in the **Federal Register** on July 24, 1971 (36 FR 13804), which required all USDA agencies to follow the public participation requirements of the APA (5 U.S.C. 553(b) and (c)) in rulemaking relating to public property, loans, grants, benefits, or contracts, even though the APA specifically exempts that class of rulemakings from such public participation requirements. The Statement of Policy further provided that any ''good cause'' finding under 5 U.S.C. 553(b)(B) of the APA would be used ''sparingly'' and ''only where there is a substantial basis therefor.'' The comment period closed on July 3, 2013. In response to the proposal, USDA received comments from two entities.

The first commenter, a member of the public, objected to a statement in the ''Summary'' section of the notice, which stated that revocation of the Statement of Policy ''would not result in USDA forgoing notice-and-comment rulemaking for all regulatory actions relating to public property, loans, grants, benefits, or contracts, rather the proposed change would grant USDA agencies the discretion to determine the appropriateness of notice-and-comment rulemaking for this class of rulemakings.'' The commenter asserted that ''appropriate'' is a subjective term and suggested that what an agency might view as an inappropriate situation for using notice-and-comment procedures might be viewed by the public as an appropriate situation. For the reasons discussed below, USDA is not making any changes in response to this comment.

USDA notes that this action merely restores to USDA agencies the discretion already afforded by the APA. The APA does not require the use of notice-and-comment procedures for rulemakings relating to public property, loans, grants, benefits, or contracts. If another statute requires the use of such procedures (for example, section 22 of the Office of Federal Procurement Policy Act, 41 U.S.C. 1707, which has specific notice-and-comment requirements for the issuance of agency procurement policies, regulations, procedures, and forms), USDA would use those procedures. Similarly, if a USDA agency determines that the benefit of affording the public a pre-implementation opportunity to comment on program rules is not outweighed by other considerations (for example, by the public benefit of awarding Federal assistance as soon as practicable), then the agency may use the discretion afforded by the APA to use notice-and-comment procedures even though not required by the APA.

The second commenter, the Humane Society of the United States (HSUS), urged USDA to continue to follow the APA's notice-and-comment procedures for regulatory actions relating to public property, loans, grants, benefits, or contracts, as required by the 1971 Statement of Policy. HSUS organized its comments into two broad categories: (1) Harm to the public; and (2) problems with the claimed bases for the proposed action. For the reasons discussed below, USDA is not making any changes in response to these comments.

With respect to the first category of comments, HSUS asserted that revocation of the 1971 Statement of Policy would lead to less informed rules that need not be responsive to public input, make it more difficult for the public to challenge rules under the APA, and substantially reduce accountability and transparency, citing to several Federal court decisions discussing the importance of notice-and-comment procedures. The commenter further noted that ''[t]his cuts to the heart of the APA's purpose and would deprive the public and courts of important information needed to ensure a properly functioning government.''

Because this action merely restores to USDA agencies the discretion already afforded by the APA, USDA does not agree with the commenter's arguments that revoking the Statement of Policy is somehow contrary to the purpose of the APA. By this action, USDA is merely implementing a policy of no longer requiring agencies to follow procedures that the APA itself does not require. USDA also reiterates its commitment to transparency and open government, as explained in the June 3, 2013 notice (78 FR 33045, 33046–33047).

HSUS also asserted that applying this new policy to activities of the Wildlife Services (WS) division of USDA's Animal and Plant Health Inspection Service (APHIS) is inappropriate in light of recent public and congressional scrutiny of APHIS/WS activities, as it would further reduce transparency and

accountability. The commenter made a similar assertion with respect to the meat purchasing activities of USDA's Agricultural Marketing Service (AMS).

In revoking the 1971 Statement of Policy, USDA is not identifying specific regulatory activities for which an agency will choose to forgo notice-and-comment rulemaking in the future. At the same time, USDA is not singling out certain agencies or activities to which the new policy will or will not apply. Consistent with the APA, all USDA agencies, including APHIS and AMS, will have the discretion to determine the appropriateness of using the APA notice-and-comment procedures for rulemakings relating to public property, loans, grants, benefits, or contracts, except where specifically required by law.

With respect to the second category of comments, HSUS questioned one of the bases identified in the June 3, 2013, notice for proposing to revoke the 1971 Statement of Policy. Specifically, USDA noted that the Statement of Policy had implemented a 1969 ACUS recommendation that Congress amend the APA to remove the exemption for rulemakings relating to public property, loans, grants, benefits, or contracts, and that agencies follow the APA's notice-and-comment procedures for such rulemakings pending amendment of the APA. USDA further noted that ''[t]the 1971 Statement of Policy was issued in anticipation of legislative action that would have amended the APA to remove the exemption for such matters, but in the more than 40 years that have passed since the ACUS recommendation was adopted, Congress has not acted to implement the recommendation. USDA ascribes significant weight to this fact.'' *See* 78 FR 33045. The commenter objected to the fact that the notice did not explain why revoking the Statement of Policy is appropriate now versus earlier, considering that ACUS has not changed its position.

The fact that USDA is revoking the Statement of Policy now is based on a number of considerations as detailed in the June 3 notice, including, but not limited to, congressional inaction on the ACUS recommendation. By not implementing the ACUS recommendation, despite having ample time to do so, Congress has effectively chosen to leave the APA exemption in place.

HSUS also objected to the fact that the June 3, 2013, notice did not address all rulemakings since the Statement of Policy was issued in 1971 in order to determine the value of notice-and-comment rulemaking, but rather included a ''cherry-picked handful of examples.'' According to the commenter, ''that the costs of following notice-and-comment procedures may outweigh the benefits in *some* instances does not support a full revocation of the Statement of Policy'' (emphasis in original). The commenter also noted the availability of the APA's so-called ''good cause'' exemption in 5 U.S.C. 553(b)(B), which permits agencies to forgo notice-and-comment procedures ''when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' The Statement of Policy preserved the ''good cause'' exemption but required that it be used ''sparingly,'' permitting its use ''only when there is a substantial basis therefor.'' *See* 36 FR 13804 (July 24, 1971).

The examples identified in the June 3, 2013, notice describe some recent situations where USDA has found that the use of notice-and-comment procedures prolonged program implementation without a corresponding benefit. *See* 78 FR 33045, 33046. The examples are not intended to be representative of the entire universe of regulatory actions for which USDA agencies might forgo notice-and-comment rulemaking, nor are they necessarily indicative of whether those agencies would forgo notice-and-comment rulemaking for those particular programs in the future. Again, USDA emphasizes that revocation of the 1971 Statement of Policy does not mean that USDA agencies will now be forgoing notice-and-comment rulemaking for all matters relating to public property, loans, grants, benefits, or contracts. Rather, agencies will no longer be required, as a matter of Departmental policy, to use notice-and-comment procedures for this class of rulemakings, except where otherwise required by law. Agencies will have the discretion to determine, on a case-by-case basis, when to afford the public an opportunity for notice and comment even where the APA does not require it. This action will allow USDA agencies to rely on the APA's ''public property, loans, grants, benefits, or contracts'' exemption in 5 U.S.C. 553(a)(2), rather than having to meet the requirements of the separate APA ''good cause'' exemption in 5 U.S.C. 553(b)(B), as narrowed by the ''sparingly'' and ''substantial basis'' qualifications in the Statement of Policy.

HSUS also objected to another basis identified in the June 3, 2013, notice for proposing to revoke the 1971 Statement of Policy. Specifically, USDA noted that revoking the Statement of Policy ''acknowledges the reality that the public participates in much of the formulation of agency policies on financial and transactional programs through means other than by following the daily publication of the **Federal Register**.'' USDA also reiterated its commitment ''to transparency and to providing timely information to the public'' by referring to a number of requirements applicable to Federal agencies to make certain information available to the public in prescribed formats. *See* 78 FR 33045, 33046–33047. The commenter suggested that revocation of the Statement of Policy would result in USDA no longer using the **Federal Register**, questioning whether USDA would make information on controversial topics available to the public.

USDA emphasizes that revocation of the Statement of Policy does not impact what constitutes a ''rule'' under the APA (*see* 5 U.S.C. 551(4)), nor does it affect the types of information that are required to be published in the **Federal Register** (*see* 5 U.S.C. 552(a)(1)). A final rule that did not go through notice-and-comment procedures will still be published in the **Federal Register** as required by the APA. Further, revocation of the Statement of Policy will not affect the requirements to make certain information available to the public in prescribed formats, such as Office of Management and Budget directives regarding announcements of funding opportunities. USDA remains firmly committed to informing the public of its activities.

Finally, HSUS asserted that other Web sites and online channels are generally not adequate substitutes for the APA's notice-and-comment procedures, noting that the APA, 5 U.S.C. 553(c), requires agencies to consider public comments on notice of proposed rulemaking. USDA agrees that the notice-and-comment process is a useful mechanism to foster informed decisionmaking. However, there have been, and likely will continue to be, situations where affording the public a pre-implementation opportunity to comment on a proposed rule is outweighed by other public benefits, such as issuing benefits or making payments to the public as soon as practicable. Revocation of the 1971 Statement of Policy allows agencies to consider the circumstances and make that determination.

Executive Order 12866

This action has been reviewed under Executive Order No. 12866 and has been determined not to be a ''significant

regulatory action.'' This action will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; nor will it materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; nor will it have an annual effect on the economy of $100 million or more; nor will it adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or Tribal governments or communities in a material way. Furthermore, it does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Regulatory Flexibility Act

USDA certifies that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96–534, as amended (5 U.S.C. 601 et seq.).

Paperwork Reduction Act

This action contains no information collections or recordkeeping requirements under the Paperwork Reduction Act, as amended, (44 U.S.C. 3501 et seq.).

Revocation of Statement of Policy on Public Participation in Rulemaking

USDA hereby revokes the Statement of Policy, published on July 24, 1971 (36 FR 13804), which required USDA to follow the public participation requirements of 5 U.S.C. 553(b) and (c) in rulemaking relating to public property, loans, grants, benefits, or contracts.

Done at Washington, DC, this 21st day of October, 2013.

Thomas J. Vilsack,

Secretary of Agriculture.

[FR Doc. 2013–25321 Filed 10–25–13; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF COMMERCE

[Docket No. 130730666–3877–02]

Privacy Act Altered System of Records

AGENCY: Department of Commerce.

ACTION: Notice; Commerce/Department-20, Biographical Files.

SUMMARY: The Department of Commerce (Commerce) publishes this notice to announce the effective date of a Privacy Act System of Records entitled Commerce/Department-20, Biographical Files. The notice of proposed amendment to this system of records was published in the **Federal Register** on September 4, 2013.

DATES: The system of records becomes effective on October 28, 2013.

ADDRESSES: For a copy of the system of records please mail requests to Lanetta Gray, U.S. Department of Commerce, Office of the General Counsel, Room 5875 HCHB, 1401 Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Lanetta Gray, Executive Officer, Office of the General Counsel, 202–482–4683.

SUPPLEMENTARY INFORMATION: On September 4, 2013, the Department of Commerce published a notice requesting comments on a proposed Privacy Act System of Records entitled Commerce/Department-20, Biographical Files (78 FR 171). In that notice, the Department announced its intent to amend that system of records to make certain changes, including retitling the system of records to COMMERCE/DEPARTMENT-20, Biographical Files and Social Networks. The amendment serves to modify the system of records by generally updating the purpose of the system, updating routine uses, and updating practices for electronically storing, retrieving, and safeguarding records in the System. No comments were received in response to the request for comments. By this notice, the Department is adopting the proposed system as final without changes effective October 28, 2013.

Dated: October 22, 2013.

Brenda Dolan,

Freedom of Information and Privacy Act Officer, U.S. Department of Commerce.

[FR Doc. 2013–25420 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–BW–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–89–2013]

Foreign-Trade Zone 3—San Francisco, California; Application for Subzone; Phillips 66 Company; Rodeo, California

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City and County of San Francisco, grantee of FTZ 3, requesting subzone status for the facility of Phillips 66 Company (Phillips 66), located in Rodeo, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on October 17, 2013.

The proposed subzone (507.35 acres) is located at 1380 San Pablo Avenue, Rodeo, California. A notification of proposed production activity has been submitted and will be published separately for public comment.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 9, 2013. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 23, 2013.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: October 17, 2013.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2013–25212 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–127–2013]

Approval of Subzone Status: Pillow Kingdom, Inc., Aurora, Colorado

On August 21, 2013, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the City and County of Denver, grantee of FTZ 123, requesting subzone status subject to the existing activation limit of FTZ 123, on behalf of Pillow Kingdom, Inc., in Aurora, Colorado.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (78 FR 52758–52759, 08–26–2013). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ

Board Executive Secretary (15 CFR 400.36(f)), the application to establish Subzone 123F is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13 and further subject to FTZ 123's 858-acre activation limit.

Dated: October 22, 2013.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2013–25354 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–91–2013]

Foreign-Trade Zone (FTZ) 8—Toledo, Ohio, Notification of Proposed Production Activity, Whirlpool Corporation, Subzone 8I, (Washing Machines), Clyde and Green Springs, Ohio

Whirlpool Corporation (Whirlpool) submitted a notification of proposed production activity to the FTZ Board for its facilities in Clyde and Green Springs, Ohio within Subzone 8I. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on October 17, 2013.

Whirlpool already has authority to produce standard and high capacity washing machines using certain imported components. The current request would add foreign-status components to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Whirlpool from customs duty payments on the foreign-status components used in export production. On its domestic sales, Whirlpool would be able to choose the duty rates during customs entry procedures that apply to washing machine seal and pump assemblies; washing machines; high-capacity washing machines; subassemblies of washing machines; transmission and camshafts for washing machines agitators; gears and gearing for speed changers related to washing machines; clutch assemblies for washing machines; gears and gearing for agitator/washing machine transmissions; motor/actuator assemblies for washing machines; switch/button assemblies for washing machines; control panels for washing machines; control housing assemblies for washing machines; wire harness assemblies for washing machines; laundry pedestals; and, laundry pedestal subassemblies (duty rate ranges from duty-free to 6.7%) for the foreign status inputs noted below and in the existing scope of authority. Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The additional components and materials sourced from abroad include: self-tapping screws, screws, bolts, washers, articles of steel, base metal mountings, housings for wax motors, appliance fans, water filters, various DC motors, various AC multi-phase motors, lamp sockets, halogen lamps, power cords, wire harnesses, carbon brush assemblies, pressure sensors and thermostats (duty rate ranges from duty-free to 8.6%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 9, 2013.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: October 23, 2013.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2013–25357 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy Policy Business Roundtable in Livermore, CA

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The U.S. Department of Commerce (DOC)'s International Trade Administration (ITA) is seeking representatives from 20 qualified U.S. companies to join Japanese industry counterparts for a U.S.-Japan Renewable Energy Policy Business Roundtable on Wednesday, December 11, 2013 in Livermore, California. Senior level officials from DOC, the U.S. Department of Energy (DOE), and Japanese Ministry of Economy, Trade and Industry (METI) will attend the Roundtable to provide policy updates, as well as to ensure that the exchange of views among the companies will be taken into consideration in the U.S-Japan Clean Energy Policy Dialogue (Dialogue) that will be held during the same week and in other bilateral meetings throughout the year.

The Roundtable supports ITA's commitments contained in the Renewable Energy and Energy Efficiency (RE&EE) Export Initiative, which aims to significantly increase U.S. RE&EE exports under the National Export Initiative.

DATES: The roundtable will be held on December 11, 2013.

Participants must apply no later than November 15, 2013.

FOR FURTHER INFORMATION CONTACT: Cora Dickson, Industry and Analysis, Office of Energy and Environmental Industries; Phone: 202–482–6083; Fax: 202–482–5665; Email: *Cora.Dickson@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background:

In December 2012, agencies of the Governments of the United States and Japan—DOE, DOC, and METI—convened the first bilateral Renewable Energy Policy Business Roundtable in Tokyo. Held in conjunction with the Dialogue, the Roundtable allowed the private sector to explore areas of mutual concern and share with government officials their experiences with the policy landscape of renewable energy and energy efficiency. Both governments agreed to hold a follow-up Roundtable in the United States. It should also be noted that the American Chamber of Commerce in Japan held a renewable energy financing workshop in February 2013 in Tokyo to further address issues highlighted by the Roundtable.

Goals of Participation:

- Gain a deeper understanding of the changing Japanese policy and regulatory landscape with respect to RE&EE;
- Interact with Japanese policymakers and private sector representatives active in the RE&EE sector;
- Provide perspectives on how to increase U.S.-Japan business partnerships in the RE&EE sector; and
- Enhance the bilateral Dialogue by identifying key policy issues and sharing best practices.

Roundtable Structure:

The Roundtable will be a daylong event. The morning plenary session will be held at the Lawrence Livermore National Laboratory, and the afternoon breakout sessions will be held at the Livermore Valley Open Campus.

- Lunch will be provided.
- Interpretation will be provided.
- All participants are invited to a reception hosted by METI in the evening immediately after the Roundtable.
- All participants are also invited to optional, no-host events in Livermore the evening of December 10 with the Japanese delegation.
- Lodging costs will not be covered, but accommodations for the Roundtable participants will be offered at a hotel in Livermore at a group rate.

Topics to be covered:

- Renewable energy financing
- Rooftop solar deployment
- Transmission capacity and storage
- Smart grid deployment
- Distributed generation
- Energy efficiency for residential and commercial buildings

Participation Requirements:

All parties interested in participating in the Roundtable must complete and submit an application package for consideration by ITA. All applicants will be evaluated based on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A minimum of 15 and maximum of 20 companies will be selected to participate in the Roundtable from the applicant pool. U.S. companies already doing business in Japan as well as U.S. companies seeking to enter the Japanese market for the first time may apply. Applications will be reviewed on a rolling basis in the order they are received.

Selected companies will be contacted with information about the final agenda and payment of the fees. Due to space limitations, only one participant per company can attend the Roundtable. Each participant may invite one (1) additional person to the Reception. Participants in the Roundtable are required to be pre-cleared for access to the facility. Additional clearance procedures are required for foreign visitors.

Fees:

After a company has been selected to participate in the Roundtable, a participation fee of $500 is required. The Roundtable and related events may be cancelled at any time by the Department of Commerce and all contributions refunded. If, for any reason, a participant cancels their participation prior to the Roundtable, the Department of Commerce, at its sole discretion, and upon its determination that it would be consistent with its authorities, may allow a partial refund of the contributed fee.

Exclusions & Expenses:

The Roundtable participation fee does not include any personal travel expenses such as lodging, most meals, incidentals, local ground transportation, and air transportation to/from the event location.

Conditions for Participation:

An applicant must send an email to *reee@trade.gov* with the following information.

- Name of Applicant
- Company Name
- Company Description
- Company Location
- Business Phone Number

In addition, the applicant must address how he/she satisfies the four selection criteria listed below:

(1) Whether the applicant represents a U.S. company that fits one of the following profiles:

- Companies that manufacture technology or provide services in the renewable energy sector (particularly solar);
- Developers of renewable energy projects with global experience;
- Local utilities who are willing to share their experience with domestic policies; and
- Companies active in the smart grid and energy efficiency industries.

(2) The applicant's interest in the Japanese RE&EE sector;

(3) The applicant's ability to identify and discuss policy issues relevant to U.S. competitiveness in the renewable energy or smart grid sectors;

(4) Consistency of the applicant's experiences and background with the stated scope of the event (see ''Topics to be Covered'').

Diversity of company size and location may also be considered during the selection process. Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeline for Recruitment and Applications

Recruitment for the Roundtable will begin immediately and conclude no later than November 15, 2013. The U.S. Department of Commerce will review applications and make selection decisions on a rolling basis beginning on or about October 28, 2013. Applications received after November 15, 2013 will be considered only if space and scheduling constraints permit.

Dated: October 23, 2013.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2013–25411 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC887

Fisheries of the Northeastern United States; Tilefish Fishery; 2014 Tilefish Fishing Quota Specification

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

ACTION: Notice.

SUMMARY: NMFS announces that the overall annual tilefish quota for the 2014 fishing year (November 1, 2013–October 31, 2014) will remain the same as it was in fishing year 2013. NMFS is required to notify the public of the overall annual quota levels for tilefish if the previous year's quota specifications remain unchanged.

FOR FURTHER INFORMATION CONTACT: Jason Berthiaume, Fishery Management Specialist, (978) 281–9177; fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: The tilefish regulations at § 648.292 specify that NMFS notify the public in the **Federal Register** of the overall annual quota levels for tilefish if the previous year's quota specifications remain unchanged. The tilefish total allowable landings (TAL) for the 2014 fishing year will remain the same as the fishing year 2013 TAL of 1.995 million lb (904,917 kg). Five percent of the TAL (99,750 lb (45,246 kg)) is allocated to incidental catch, leaving 1,895,250 lb (859,671 kg) allocated to Individual Fishing Quota (IFQ) holders.

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

Dated: October 23, 2013.

James P. Burgess,

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

[FR Doc. 2013–25409 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC931

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council's (Council) Scientific and Statistical Committee will hold a wreckfish assessment workshop November 12–14, 2013 in North Charleston, SC. See **SUPPLEMENTARY INFORMATION**.

DATES: The workshop will be held 1 p.m.–6 p.m., Tuesday, November 12, 2013; 9 a.m.–6 p.m., Wednesday, November 13, 2013; and 9 a.m.–4 p.m., Thursday, November 14, 2013.

ADDRESSES:

Meeting address: Hilton Garden Inn, 5265 International Boulevard, North Charleston, SC 29418; telephone: (800) 445–8667 or (843) 308–9330.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: This workshop is being held to discuss issues related to a wreckfish assessment being prepared for SSC and Council consideration. A subcommittee of SSC representatives will meet with the assessment analysts to consider input data, assessment configuration and sensitivity analyses. The outcome of the workshop will consist of guidance to the analysts on addressing data and analytical issues. Final results will be provided to the SSC for peer review at a later date. Topics of discussion include:

1. Assessment data, including landings, effort and biological characteristics of the catch;

2. Model approaches and configuration; and

3. Sensitivity runs and evaluation of uncertainties.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: October 23, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–25319 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC936

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Scallop Advisory Panel on November 13, 2013 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, November 13, 2013 at 9 a.m.

ADDRESSES: *Meeting Address:* The meeting will be held at the Omni Providence Hotel, 1 West Exchange Street, Providence, RI 02048; telephone: (401) 598–8000; fax: (401) 598–8200.

Council Address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The Advisory Panel will continue development of potential alternatives for FY2014 and FY2015 (default) specifications being considered in Framework 25. Specifications include days-at-sea allocations, access area allocations, individual fishing quota (IFQ) allocations for the general category fishery, a hard total allowable catch (TAC) for the Northern Gulf of Maine (NGOM) area and target TAC for vessels with a general category incidental catch permit. The Advisory Panel will also finalize other measures being considered: (1) Measures for unused 2012 and 2013 Closed Area I access area trips; and (2) accountability measures for Southern New England/Mid Atlantic (SNE/MA) windowpane flounder. The Advisors will make final recommendations for the Scallop Committee to consider for 2014 Council work priorities. Finally, there will be a presentation from the Northeast Regional Ocean Council (NROC) about regional ocean planning efforts, specifically fishing characterization maps that have been developed. Other issues may be discussed.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: October 23, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–25356 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC933

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold meetings.

DATES: The SSC meetings will be held on November 12–14, 2013.

ADDRESSES: The meetings will be held at the Caribbean Fishery Management Council Headquarters, located at 270 Muñoz Rivera Avenue, 4th Floor, Suite 401, San Juan, Puerto Rico 00918.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918, telephone (787) 766–5926.

SUPPLEMENTARY INFORMATION: The SSC will meet to discuss the items contained in the following agenda:

November 12, 2013—9 a.m. to 5 p.m.

—Call to order
—Adoption of Agenda
—ACL Overages: Are These Due to Reporting Artifact or Actual Catch?
—SEFSC/SERO Data Update
—Recent Years (2010–2012)
—Data Set (years 1999–2012 for USVI; 1980–2012 for Puerto Rico)
—Reporting Changes

November 13, 2013—9 a.m. to 5 p.m.

—Island-Based Management
—SEFSC Data Review of Non-Federally Managed Species
—Commercial
—Recreational
—TIP
—Other
—Species Identification and Determination of Data Availability
—Potential Actions for Island-Based FMPs
—Timeline and Strategy for Updating ACLs for all FMUs
—Red Hind ACL Adjustment, Consideration of Olsen/Nowlis Analyses as per CFMC Motion

November 14, 2013—9 a.m. to 5 p.m.

—Economic model for allocating time of the year for closures due to ACL ''overages''
—OFL to ACL Reduction Control Rule
—Use of Overfished Status in Addition to Overfishing Status
—Percent Reduction Values
—Other Business
—Adjourn Meeting

The SSC will convene on November 12, 2013, from 9 a.m. until 5 p.m., on November 13, 2013, from 9 a.m. to 5 p.m., and on November 14, 2013, from 9 a.m. to 5 p.m.

The meetings are open to the public, and will be conducted in English.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918, telephone (787) 766–5926, at least 5 days prior to the meeting date.

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

Dated: October 23, 2013.

Tracey L. Thompson,

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

[FR Doc. 2013–25328 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Innovative Spectrum Sharing Technology Day Event

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce; National Institute of Standards and Technology, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA) and the National Institute of Standards and Technology (NIST), with the support of the National Coordination Office of the Networking and Information Technology Research and Development (NITRD) program, will co-host the Innovative Spectrum Sharing Technology Day on November 5, 2013. The Technology Day will showcase advances in spectrum sharing and other innovations and initiatives aimed at satisfying the nation's surging demand for wireless services, devices and applications. The event will be open to the public and will provide policy-makers, researchers, industry stakeholders, and federal agency representatives the opportunity to witness live demonstrations of innovative wireless technologies and applications. President Obama, supported by the President's Council of Advisors on Science and Technology, has focused on the use of spectrum sharing technology innovations to enhance spectrum efficiency and to expedite commercial access to spectrum bands where technically and economically feasible.

DATES: The Innovative Spectrum Sharing Technology Day will be held on November 5, 2013, from 10 a.m. to 3 p.m. Eastern Standard Time.

ADDRESSES: The event will take place at the U.S. Department of Commerce, Herbert C. Hoover Building, Lobby and Auditorium, 1401 Constitution Avenue NW., Washington, DC (The entrance to the building is on 14th Street between Pennsylvania and Constitution Avenues NW.)

FOR FURTHER INFORMATION CONTACT: Wendy Wigen, NITRD at (703) 292–7921 or *wigen@nitrd.gov*. All media inquiries should be directed to Juliana Gruenwald, NTIA, at *jgruenwald@ntia.doc.gov* or (202) 482–2145, or Jennifer Huergo, NIST, at *jennifer.huergo@nist.gov* or (301) 975–6343.

SUPPLEMENTARY INFORMATION: NTIA, NIST and White House officials will kick off the morning session (10:00 a.m. to 12:00 p.m. Eastern Standard Time) with introductory remarks. This will be followed by a panel discussion focused on a variety of spectrum research and policy initiatives. The afternoon session (12:00 to 3:00 p.m. Eastern Standard Time) will feature demonstrations and exhibits by invited participants in the lobby of the Herbert C. Hoover Building. The event will be open to the public and press on a first-come, first-served basis, as space is limited. Due to security requirements and to facilitate entry to Commerce's Herbert C. Hoover Building, U.S. nationals must present valid, government-issued photo identification upon arrival. Foreign

nationals must contact Wendy Wigen, NITRD at (703) 292–7921 or *wigen@nitrd.gov* at least five (5) business days prior to the event in order to provide the necessary clearance information, and must present valid, government-issued photo identification upon arrival. Please allow additional time to process through security.

The event is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Wendy Wigen, NITRD at (703) 292–7921 or *wigen@nitrd.gov*, at least five (5) business days before the event. Additional information regarding the event will be available on the NTIA and NIST home pages at *www.ntia.doc.gov* and *www.nist.gov*.

Dated: October 23, 2013.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–25391 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Commerce Spectrum Management Advisory Committee Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a public meeting of the Commerce Spectrum Management Advisory Committee (Committee). The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on spectrum management policy matters.

DATES: The meeting will be held on December 13, 2013, from 1:00 p.m. to 4:00 p.m., Eastern Standard Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230. Public comments may be mailed to Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4099, Washington, DC 20230 or emailed to *BWashington@ntia.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Bruce M. Washington, Designated Federal Officer, at (202) 482–6415 or *BWashington@ntia.doc.gov;* and/or visit NTIA's Web site at *http://www.ntia.doc.gov/category/csmac.*

SUPPLEMENTARY INFORMATION:

Background: The Committee provides advice to the Assistant Secretary of Commerce for Communications and Information on needed reforms to domestic spectrum policies and management in order to: license radio frequencies in a way that maximizes their public benefits; keep wireless networks as open to innovation as possible; and make wireless services available to all Americans. *See* Charter at *http://www.ntia.doc.gov/other-publication/2013/csmac-2013-charter.* This Committee is subject to the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, and is consistent with the National Telecommunications and Information Administration Act, 47 U.S.C. 904(b). The Committee functions solely as an advisory body in compliance with the FACA. For more information about the Committee visit: *http://www.ntia.doc.gov/category/csmac.*

Matters To Be Considered: The Committee will receive reports on the progress of the following new subcommittees established to help the NTIA develop new or revised strategies for responding more efficiently and effectively to fundamental technological, operational, and other trends to continue advancement of delivering spectrum products, services, and solutions that will support the ever-increasing demand for spectrum:

1. Enforcement
2. Transitional Sharing
3. General Occupancy Measurements and Quantification of Federal Spectrum Use
4. Spectrum Management via Databases
5. Federal Access to Non-Federal Bands
6. Spectrum Sharing Cost Recovery Alternatives

NTIA will post a detailed agenda on its Web site, *http://www.ntia.doc.gov/category/csmac,* prior to the meeting. To the extent that the meeting time and agenda permit, any member of the public may speak to or otherwise address the Committee regarding the agenda items. *See Open Meeting and Public Participation Policy,* available at *http://www.ntia.doc.gov/category/csmac.*

Time and Date: The meeting will be held on December 13, 2013, from 1:00 p.m. to 4:00 p.m., Eastern Standard Time. The times and the agenda topics are subject to change. The meeting will be available via two-way audio link and may be webcast. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/category/csmac,* for the most up-to-date meeting agenda and access information.

Place: The meeting will be held at the U.S. Department of Commerce, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Washington, at (202) 482–6415 or *BWashington@ntia.doc.gov,* at least five (5) business days before the meeting.

Status: Interested parties are invited to attend and to submit written comments to the Committee at any time before or after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of a meeting must send them to NTIA's Washington, DC office at the above-listed address and comments must be received five (5) business days before the scheduled meeting date, to provide sufficient time for review. Comments received after this date will be distributed to the Committee, but may not be reviewed prior to the meeting. It would be helpful if paper submissions also include a compact disc (CD) in Word or PDF format. CDs should be labeled with the name and organizational affiliation of the filer. Alternatively, comments may be submitted electronically to *BWashington@ntia.doc.gov.* Comments provided via electronic mail also may be submitted in one or more of the formats specified above.

Records: NTIA maintains records of all Committee proceedings. Committee records are available for public inspection at NTIA's Washington, DC office at the address above. Documents including the Committee's charter, member list, agendas, minutes, and any reports are available on NTIA's Committee Web page at *http://www.ntia.doc.gov/category/csmac.*

Dated: October 23, 2013.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–25389 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Meeting To Discuss Lessons Learned From Commerce Spectrum Management Advisory Committee Working Group Process

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene a meeting on December 13, 2013 to discuss ''lessons learned'' from NTIA's Commerce Spectrum Management Advisory Committee (CSMAC or Committee) Working Group process.

DATES: The meeting will be held on December 13, 2013, from 9:00 a.m. to 11:00 a.m. Eastern Standard Time.

ADDRESSES: The meeting will be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230. Public input may be mailed to Commerce Spectrum Management Advisory Committee, National Telecommunications and Information Administration, 1401 Constitution Avenue NW., Room 4099, Washington, DC 20230 or emailed to *BWashington@ntia.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Bruce M. Washington at (202) 482–6415 or *BWashington@ntia.doc.gov;* and/or visit NTIA's Web site at *http://www.ntia.doc.gov/category/csmac.* Please direct media inquiries to NTIA's Office of Public Affairs at (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: In May 2012, the CSMAC created five (5) working groups to consider ways to facilitate the transition of the 1695–1710 MHz and 1755–1850 MHz bands.[1] The working groups were open to CSMAC members, federal agency representatives, and non-federal stakeholders even if they were not affiliated with the members on the full Committee. Each working group was co-chaired by an industry and an agency participant and each group included one or more CSMAC member liaisons. Staff from NTIA and the Federal Communications Commission also participated as observers.

The four working groups addressed the various federal operations within the two spectrum bands as follows:

- Working Group 1—1695–1710 MHz Meteorological-Satellite
- Working Group 2—Law Enforcement Video, Explosive Ordnance Disposal, and other short distance links;
- Working Group 3—Satellite Control and Electronic Warfare;
- Working Group 4—Tactical Radio Relay, Fixed Microwave, and ground-based software defined radios; and
- Working Group 5—Airborne Operations (Air Combat Training Systems, Unmanned Aerial Vehicles, Precision Guided Munitions, airborne software defined radios, and Aeronautical Telemetry)

From May 2012 to August 2013, the working groups organized themselves and developed work plans, convened face-to-face and teleconference meetings, drafted and edited reports, provided updates to the full CSMAC through the member liaisons, and delivered final reports and recommendations for consideration by the Committee. In a recent executive memorandum, President Obama stated that these discussions between agencies and nonfederal entities have ''produced an unprecedented level of information-sharing and collaboration to identify opportunities for agencies to relinquish or share spectrum.'' [2]

Matters To Be Considered: At this meeting, NTIA will facilitate a forum for the CSMAC Working Group participants to discuss lessons learned from the collaborative efforts within the five (5) working groups. NTIA will post an agenda for the meeting on its Web site, *http://www.ntia.doc.gov/category/csmac,* prior to the meeting. To the extent that the meeting time and agenda permit, any member of the public may speak to or otherwise address the forum regarding the agenda items. Although some CSMAC members will be participating, this meeting is not a meeting of the Committee under the Federal Advisory Committee Act. The CSMAC's next meeting will be held later the same day.

Time and Date: The meeting will be held on December 13, 2013 from 9:00 a.m. to 11:00 a.m., Eastern Standard Time. The times and the agenda topics are subject to change. The meeting will be available via two-way audio link. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/category/csmac,* for the most up-to-date meeting agenda and access information.

Place: The meeting will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue NW., Room 4830, Washington, DC 20230. The meeting will be open to the public and press on a first-come, first-served basis. Space is limited. The public meeting is physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Mr. Washington, at (202) 482–6415 or *BWashington@ntia.doc.gov,* at least five (5) business days before the meeting.

Status: Interested parties are invited to attend and to submit written comments to Mr. Washington before or after the meeting, subject to the following deadlines. Parties wishing to submit written comments for consideration by NTIA and the other participants in advance of a meeting must send them to NTIA's Washington, DC office at the above-listed address at least five (5) business days before the scheduled meeting date and will be posted on the NTIA Web site. The public comment period will end on December 16, 2013. It would be helpful if paper submissions also include a compact disc (CD) in Word or PDF format. CDs should be labeled with the name and organizational affiliation of the filer. Alternatively, comments may be submitted electronically to *BWashington@ntia.doc.gov.* Comments provided via electronic mail also may be submitted in the file formats specified above.

Records: NTIA will maintain a record of all meeting proceedings. A written transcript will be available for public inspection at NTIA's Washington, DC office at the address above or on NTIA's Web site at *http://www.ntia.doc.gov/category/csmac.*

Dated: October 23, 2013.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2013–25388 Filed 10–25–13; 8:45 am]

BILLING CODE 3510–60–P

COMMODITY FUTURES TRADING COMMISSION

Quantitative Messaging Research

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on a proposed collection of information by

[1] *See* CSMAC, *Framework for Work within CSMAC* (May 30, 2012), *available at http://www.ntia.doc.gov/files/ntia/meetings/framework_for_work_within_csmac_20120525.pdf.*

[2] Memorandum for Heads of Executive Departments and Agencies, *Expanding America's Leadership in Wireless Innovation* (June 14, 2013), 78 Fed. Reg. 37431, 37433 at § 2(a) (June 20, 2013), *available at http://www.whitehouse.gov/the-press-office/2013/06/14/presidential-memorandum-expanding-americas-leadership-wireless-innovatio.*

the agency. Under the Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information and to allow 30 days for public comment. The CFTC's Office of Consumer Outreach (OCO) develops campaigns to change consumer behaviors so that consumers can better avoid fraud as defined under the Commodities Exchange Act. The CFTC is posing survey questions to the public. This survey will include screening questions to identify the correct respondents and questions to determine optimal messages to help consumers identify, avoid, and report financial fraud as part of a consumer-facing anti-fraud campaign. This survey will follow qualitative message testing research (for which CFTC received fast-track OMB approval) and is necessary to identify, with statistical validation, which of these messages most effectively help consumers to identify, avoid, and report financial fraud.

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

ADDRESSES: You may submit comments, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CFTC, 725 17th Street NW., Washington, DC 20503, and by any of the following methods:

Agency Web site, via its Comments Online process: http://comments.cftc.gov. Follow the instructions for submitting comments through the Web site.

Mail: Send to Melissa D. Jurgens, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

Hand delivery/Courier: Same as Mail above.

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

Please submit your comments using only one method and identify that it is for the ''Quantitative Messaging Research.''

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Nisha Smalls, Consumer Education & Outreach Specialist, 202–418–5000, *consumers@cftc.gov,* Office of Consumer Outreach, Commodity Futures Trading Commission, Three Lafayette Centre, 1151 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they collect or sponsor. The collection of information is defined in 44 U.S.C. 3502(3) as the obtaining, causing to be obtained, soliciting of facts or opinions by or for an agency, regardless of form or format from ten or more persons. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The Commission is submitting this collection of information to OMB for approval and assigning of a collection number, pursuant to 5 CFR 1320.10.

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** for each proposed collection of information before submitting the collection to OMB for approval. Under OMB regulations, which implement provisions of the PRA, certain facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, 5 CFR 1320.3(h)(4), or facts or opinions obtained or solicited at or in connection with public hearings or meetings, 5 CFR 1320.3(h)(8), are excluded from the OMB approval process.

In 2010, the Dodd-Frank Act[2] expanded the Commission's authority to, among other matters related to regulatory oversight, establish funding of consumer education initiatives under its new Whistleblower authority.[3] Under this new authority, the Commission established an OCO to, among other efforts, survey the public regarding consumer education initiatives.[4] This notice announces a public survey. The survey will include screening questions to identify the correct respondents and questions to determine optimal messages to help consumers identify, avoid, and report financial fraud as part of a consumer-facing anti-fraud campaign. This survey will follow qualitative message testing research (for which CFTC received fast-track OMB approval) and is necessary to identify, with statistical validation, which of these messages most effectively help consumers to identify, avoid, and report financial fraud.

The OCO will use the information collected in the survey to develop effective methods to inform the public on how best to detect and report financial fraud. This will be done by creating a final summary report that combines key findings from both the survey as well as other qualitative research.

Findings from the summary report will be used to inform a directional document to be used by the OCO that will include recommendations on primary messages, support points, content, overall tone, phrasing and imagery of outreach efforts on financial fraud, as well as how to use these messages in various communications channels (e.g. online, print, radio, TV and collateral materials).

The survey will be administered using an online survey tool. The online modality approach will allow presentation of test material to participants in a more convenient and time-efficient manner than other collection methods such as mall intercepts. The online method also allows for a quicker turnaround for data collection. No other collection methods will be used.

The screening questions will take about 1 minute to complete. It is anticipated that 2,200 people will be screened. The survey will take 15 minutes. 1,100 people will take the 15 minute survey. Based on these

[1] 17 CFR 145.9.

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203,124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm.*

[3] *See* 7 U.S.C. 26.

[4] *See* 17 CFR 165.12.

assumptions, the total burden hours will be 330 hours. This estimate includes the time to prepare the survey and transmit it to the Commission. The Commission estimates the average burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN HOURS

	Annual	Frequency	Hours per	Total	
17 C.F.R.	2,200	1 response per respondent.	1 minute per response.	2,200	36.7 hours—$96.36 per burden hour.
17 C.F.R.	1,100	1 response per respondent.	15 minutes per response.	1,100	293.3 hours—$96.36 per burden hour.

Issued in Washington, DC, on October 23, 2013, by the Commission.

Melissa D. Jurgens,

Secretary of the Commission.

[FR Doc. 2013–25335 Filed 10–25–13; 8:45 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m., Wednesday, October 30, 2013.

PLACE: CFTC Headquarters Conference Center, Three Lafayette Centre, 1155 21st St. NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has scheduled this meeting to consider various rulemaking matters, including the approval of several final rules. The agenda for this meeting is available to the public and posted on the Commission's Web site at *http://www.cftc.gov.* In the event that the time, date, or place of the meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's Web site.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, Secretary of the Commission, 202–418–5516.

Melissa D. Jurgens,

Secretary of the Commission.

[FR Doc. 2013–25402 Filed 10–24–13; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:30 a.m., Tuesday, November 5, 2013.

PLACE: CFTC Headquarters Conference Center, Three Lafayette Centre, 1155 21st St. NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has scheduled this meeting to consider various rulemaking matters, including the issuance of several proposed rules. The agenda for this meeting is available to the public and posted on the Commission's Web site at *http://www.cftc.gov.* In the event that the time, date, or place of the meeting changes, an announcement of the change, along with the new time, date, or place of the meeting, will be posted on the Commission's Web site.

CONTACT PERSON FOR MORE INFORMATION: Melissa D. Jurgens, Secretary of the Commission, 202–418–5516.

Melissa D. Jurgens,

Secretary of the Commission.

[FR Doc. 2013–25410 Filed 10–24–13; 11:15 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Science and Technology Reinvention Laboratory Personnel Management Demonstration Project, Department of Navy, Office of Naval Research (ONR); Amendment and Corrections

AGENCY: Deputy Assistant Secretary of Defense for Civilian Personnel Policy, (DASD (CPP)), Department of Defense (DoD).

ACTION: Notice of Amendment and Administrative Corrections to the ONR Personnel Management Demonstration Project (75 FR 77380–77447, December 10, 2010).

SUMMARY: On December 10, 2010 (75 FR 77380–77447), DoD published a notice of approval of a personnel management demonstration project for eligible ONR employees. Within that notice, there were several typographical errors discovered. Additionally, after the publication of the notice and implementation of the demonstration project, ONR determined that for effective personnel management practices, amendments need to be made to provide better consistency in the use of the extended probationary periods for newly hired employees, and to more thoroughly cite the waivers to regulations required to apply these extended probationary periods. Amendments must also be made to better define minimally successful performance for assignments involving displacement, and to remove the requirement that advancements in certain Pay Bands need Executive Director's approval. This notice provides the final amendment to the demonstration project plans.

DATES: This amendment may be implemented beginning on the date of publication of this **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT:

Office of Naval Research: Ms. Margaret J. Mitchell, Director, Human Resources Office, Office of Naval Research, 875 North Randolph Street, Code 01HR, Arlington, VA 22203; email: *Margaret.J.Mitchell@navy.mil.*

Department of Defense: Mr. Todd Cole, Defense Civilian Personnel Advisory Services, Non-Traditional Personnel Programs (DCPAS–NTPP), Suite 05F16, 4800 Mark Center Drive, Alexandria, VA 22350–1100; email: *william.cole@cpms.osd.mil.*

SUPPLEMENTARY INFORMATION: On June 10, 2013, a notice of proposed amendments and administrative corrections (78 FR 34655–34656) was published for a 30-day comment period. No comments were received on or before July 10, 2013. This notice makes the amendments and administrative corrections to the demonstration project.

Modifications

1. On page 77390, section III.F. Extended Probationary Period, replace the section with: All current laws and regulations for the current probationary period are retained with the exception of new employees hired under the demonstration. Candidates hired into the Administrative Support (NC) career track will serve a one year probationary period; candidates hired into the Administrative Specialist and Professional (NO) career track will serve a two year probationary period; and candidates hired into the Science and Engineering Professional (NP) career track will serve a three year probationary period. Employees with

veterans' preference will maintain their rights under current law and regulation.

Reason for amendment: This change allows consistent application of the extended probationary period, and better aligns the probationary period with the time needed to demonstrate satisfactory performance within each individual career track.

2. On page 77402, figure number in footer on bottom of ''Eligibility Chart for Pay Increases'': Replace ''Figure 10. Eligibility Chart for Pay Increases'' with ''Figure 9. Eligibility Chart for Pay Increases''.

Reason for change: To correct typographical errors in the figure number.

3. On page 77403, Section IV.C.8.b. Advancements in Pay Band Which Must be Approved by the Executive Director, replace the section with: Advancement to (1) Pay Bands outside target pay bands or established position management criteria, and (2) Pay Band V of the S&E Professional Career Track require approval by the Executive Director without further delegation. Details regarding the process for nomination and consideration, format, selection criteria, and other aspects of this process will be addressed in the standard operating procedures and/or related instruction.

Reason for amendment: Removing the requirement of Executive Director approval for advancements in Pay Bands IV and V of the Administrative Specialist and Professional Career Track, and Pay Band IV of the S&E Career Track provides department heads and senior leadership a path to advance employees appropriately through the pay pool panel process. Since the determination of suitability for advancement rests with the department heads and other senior leadership (including the pay pool managers), this change simply places the authority to approve such decisions with those determining their appropriateness, while retaining the Pay Pool Review Authority's full authority and responsibility through the Pay Pool Panel review process.

4. On page 77416, right hand column, third block Part 351, subpart G, section 351.701—Assignment Involving Displacement, replace paragraph (a) with: Waive to allow minimally successful or equivalent to be defined as an employee who does not have a current written notice of unacceptable performance.

Reason for amendment: This change is to prevent any possible categorization of an employee as ''unacceptable'' in terms of RIF, when that employee is overcompensated as a result of coming off of maintained pay and does not receive any increase during the CCS payout, but whose performance was acceptable.

5. On page 77416, right hand column, third block, last line: Replace ''(e)(I)'' with ''(e)(1)''.

Reason for change: To correct typographical errors.

6. On page 77418, left hand column, second block: Replace ''Chapter 52, subpart I, section 5301—Pay Policy. Waive in entirety.'' with ''Chapter 53, subchapter I, section 5301—Pay Policy. Waive in entirety.''

Reason for change: To correct typographical errors.

7. On page 77418, left hand column, second block: Replace ''Chapter 53, subpart I, section 5303—Special Pay Authority. Waive in entirety.'' with ''Chapter 53, subchapter I, section 5305—Special Pay Authority. Waive in entirety.''

Reason for change: To correct typographical errors.

8. On page 77419, left hand column, third block: Replace ''Chapter 55, section 5455(d)—Hazardous Duty Differential'' with ''Chapter 55, section 5545(d)—Hazardous Duty Differential''

Reason for change: To correct typographical errors.

9. On page 77419, left hand column, last block (continues on top of page 77420) Appendix B: Required Waivers to Laws and Regulations chart replace all of the material in that block with: ''Chapter 75, sections 7501(1), 7511(a)(1)(A)(ii), and 7511(a)(1)(C)(ii); Adverse Actions—Definitions. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except for those with veterans' preference.''

Reason for amendment: This amendment allows ONR to fully utilize its flexibility of extended probationary periods by permitting terminations during these extended probationary periods.

10. On page 77420, right hand column, first block Appendix B: Required Waivers to Laws and Regulations chart, add this paragraph to the block (currently blank): ''Part 752, sections, 752.201 and 752.401: Principal statutory requirements and coverage. Waived to the extent necessary to allow extended probationary periods and to permit termination during the extended probationary period without using adverse action procedures for those individuals serving a probationary period under an initial appointment except those with veterans' preference.''

Reason for amendment: This amendment allows ONR to fully utilize its flexibility of extended probationary periods by permitting terminations during these extended probationary periods.

11. On page 77420, right hand column, second block: Delete the three references to ''Part 572'' and replace with ''Part 752''.

Reason for change: To correct typographical errors.

12. On page 77420, right hand column, second block: Replace ''subpart A'' with ''subpart D''.

Reason for change: To correct typographical errors.

13. On page 77420, right hand column, third block, first paragraph, delete ''subpart B'' and replace with ''subpart D''.

Reason for change: To correct typographical errors.

14. On page 77429, title (header data): Replace ''ELEMENT 2. PROGRAM EXECUTION AND LIASION'' with ''ELEMENT 2. PROGRAM EXECUTION AND LIAISON''.

Reason for change: To correct typographical errors.

Dated: October 23, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–25352 Filed 10–25–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Fall Plenary Meeting

AGENCY: Department of the Army, DoD.

ACTION: Meeting notice; cancellation.

SUMMARY: The notice of an open meeting scheduled for October 16, 2013 published in the **Federal Register** on October 2, 2013 (78 FR 60864) has been cancelled due to the Government Furlough and will be rescheduled at a later date. Due to the lapse of appropriations, the Department of Defense cancelled the meeting of the U.S. Army Science Board on October 16, 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.

FOR FURTHER INFORMATION CONTACT: The Committee's Designated Federal Officer COL William McLagan, (703) 545–8652, *william.m.mclagan.mil@mail.mil* or Carolyn German, (703) 545–8654, *carolyn.t.german.civ@mail.mil* .

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–25404 Filed 10–25–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery

AGENCY: Department of the Army, DoD.

ACTION: Notice of cancelled open committee meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.140 through 160), the Department of the Army announces cancellation of the following committee meeting:

Name of Committee: Advisory Committee on Arlington National Cemetery.

Date of Cancelled Meeting: Thursday, October 3, 2013.

Time of Cancelled Meeting: 9:30 a.m.–3:30 p.m.

Place of Cancelled Meeting: Women in Military Service for America Memorial, Conference Room, Arlington National Cemetery, Arlington, VA.

Reason for Cancellation: Due to the lapse of appropriations, the Department of Defense cancelled the meeting of the Advisory Committee on Arlington National Cemetery on October 3, 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.

FOR FURTHER INFORMATION CONTACT: Ms. Renea C. Yates; Designated Federal Officer; *renea.c.yates.civ@mail.mil* or 703–614–1248.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2013–25406 Filed 10–25–13; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Board of Visitors, Marine Corps University; Notice of Federal Advisory Committee Meeting; Correction

AGENCY: Department of the Navy, DoD.

ACTION: Notice; correction.

SUMMARY: On Wednesday, September 11, 2013 (FR Doc. 2013–22138), the Department of the Navy published in the **Federal Register**, a notice to announce the semi-annual meeting of the Board of Visitors, Marine Corps University on Friday, October 4, 2013, from 8:30 a.m. to 3:30 p.m. (Open Session). Due to the extended government shutdown, the meeting time and location has been changed. This notice corrects the meeting time and location.

ADDRESSES: The meeting location has been moved to the Marine Corps University, 2076 South St., Breckinridge Hall, Room 186, Quantico, VA 22134

FOR FURTHER INFORMATION CONTACT: Members of the public wishing to attend the meeting should contact Dr. Kim Florich, Alternate Designated Federal Officer, 2076 South St., Breckinridge Hall, Room 186, Quantico, VA 22134; telephone: 703–432–4682; email: *kimberly.florich@usmc.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to Federal statute and regulations (5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165) and the availability of space, the meeting is open to the public from November 14, 2013 1:00 p.m. to 3:45 p.m. and November 15, 2013 from 8:00 a.m. to 1:30 p.m. Seating is on a first-come basis.

Meeting Announcement: Due to the lapse of appropriations, the Department of Defense cancelled the meeting of the Board of Visitors Marine Corps University on October 4, 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 21, 2013.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–25330 Filed 10–25–13; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0111]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Student Assistance General Provisions—Subpart K—Cash Management

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before November 27, 2013.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0111 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103,Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Kate Mullan, 202–401–0563 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the

following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Subpart K—Cash Management.

OMB Control Number: 1845–0049.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: Private Sector, Individuals or households, State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 308,445.

Total Estimated Number of Annual Burden Hours: 29,516.

Abstract: This is a request for the revision of the information collection for the regulations that govern the application for and approval by the Secretary of assessments by a private test publisher or State that are used to measure a student's skills and abilities to determine eligibility for assistance through the Title IV student financial assistance programs authorized under the Higher Education Act of 1965, as amended, when a student does not have a high school diploma or its recognized equivalent. As of July 1, 2012, the new law eliminated all but the completion of a homeschool program as an eligibility alternative previously available. Due to these changes, there is a decreasing pool of student applicants who would be eligible to take a Department approved ability to benefit exam to determine Title IV student aid eligibility.

Dated: October 23, 2013.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–25299 Filed 10–25–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–388]

Application To Export Electric Energy; TEC Energy Inc.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: TEC Energy Inc. (TEC) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act (FPA).

DATES: Comments, protests, or motions to intervene must be submitted on or before November 27, 2013.

ADDRESSES: Comments, protests, or motions to intervene should be addressed to: Michael Rodrigue, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Michael.Rodrigue@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Michael Rodrigue (Program Office) at 202–586–2942, or by email at *Michael.Rodrigue@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On September 13, 2013, DOE received an application from TEC for authority to transmit electric energy from the United States to Canada for five years as a power marketer using existing international transmission facilities. TEC does not own any electric transmission facilities nor does it hold a franchised service area. TEC states that it will make all of the necessary commercial arrangements and will obtain any and all of the required regulatory approvals.

The electric energy that TEC proposes to export to Canada would be surplus energy purchased from electric utilities and other entities within the United States. The existing international transmission facilities to be utilized by TEC have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the TEC application to export electric energy to Canada should be clearly marked with OE Docket No. EA–388. An additional copy is to be provided directly to Etienne Lapointe, Chief Financial Officer, TEC Energy Inc., 112 Place Terroux, St-Lambert, Quebec, Canada J4R2W2 and Legalinc Corporate Services Inc, 35–15 84th Street, 2H, Jackson Heights, NY 11372. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on October 22, 2013.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2013–25343 Filed 10–25–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[OE Docket No. EA–345–A]

Application To Export Electric Energy; New Brunswick Energy Marketing Corporation (f/k/a New Brunswick Power Generation Corp.)

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of Application.

SUMMARY: New Brunswick Energy Marketing Corporation (NBEMC), formerly known as New Brunswick Power Generation Corporation, has applied to renew its authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before November 27, 2013.

ADDRESSES: Comments, protests, or motions to intervene should be addressed to: Lamont Jackson, Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Lamont.Jackson@hq.doe.gov,* or by facsimile to 202–586–8008.

FOR FURTHER INFORMATION CONTACT: Lamont Jackson (Program Office) at 202–586–0808, or by email to *Lamont.Jackson@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On December 5, 2008, DOE issued Order No. EA–345, which authorized NBEMC, under its former name New Brunswick Power Generation Corporation, to transmit electric energy from the United States to Canada as a power marketer for a five-year term using existing international transmission facilities. That authority expires on December 5, 2013. On October 5, 2013, NBEMC filed an application with DOE for renewal of the export authority contained in Order No. EA–345 for an additional five-year term.

NBEMC, a Canadian corporation, is a power marketer in New Brunswick Province, Canada. The principal business of NBEMC, as directed by statute, is the import and export of energy to and from the Province of New Brunswick. NBEMC states that it does not own, operate, or control any physical assets such as electric generating or transmission facilities, and it does not have a franchised service area. The electric energy that NBEMC proposes to export to Canada would be surplus energy purchased from electric utilities and other suppliers within the United States. The existing international transmission facilities to be utilized by NBEMC have previously been authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments on the NBEMC application to export electric energy to Canada should be clearly marked with OE Docket No. EA–345–A. An additional copy is to be provided directly to NB Energy Marketing Corporation, Attn: Secretary and General Counsel, P.O. Box 2040, Fredericton, New Brunswick E3B 5G4 and Steven Hudson, P.O. Box 1058, 45 Memorial Circle, Augusta, Maine 04332. A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program Web site at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on October 22, 2013.

Brian Mills,

Director, Permitting and Siting, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2013–25344 Filed 10–25–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board Chairs

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) Chairs. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Tuesday, November 5, 2013—8:00 a.m.–5:00 p.m.; Wednesday, November 6, 2013—8:00 a.m.–5:00 p.m.

ADDRESSES: Deer Creek Lodge and Conference Center, P.O. Box 125, 22300 State Park Road 20, Mt. Sterling, OH 43143.

FOR FURTHER INFORMATION CONTACT: Catherine Alexander, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Phone: (202) 586–7711.

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 Topics:

Tuesday, November 5, 2013

- EM Program Update
- EM SSAB Chairs' Round Robin: Topics, Achievements, and Accomplishments
- EM Headquarters Budget Update
- EM Headquarters Waste Disposition Strategies
- Public Comment Period

Wednesday November 6, 2013

- DOE Headquarters News and Views
- Educational Session: Life after EM Mission is Complete

Public Participation: The EM SSAB Chairs welcome the attendance of the public at their 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 Catherine Alexander by COB Friday, November 1, 2013, at the phone number listed above. Written statements may be filed either before or after the meeting with the Designated Federal Officer, Catherine Alexander, at the address or telephone listed above. Individuals who wish to make oral statements pertaining to agenda items should also contact Catherine Alexander by phone or email (*catherine.alexander@em.doe.gov*). Requests must be received by COB Friday, November 1, 2013. Reasonable provision will be made to accommodate requests for comment in the agenda. The 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 comment will be provided a maximum of five minutes to present their comments. This notice is being published less than 15 days prior to the meeting date due to

extraordinary circumstances resulting from the lapse in Federal appropriations in October 2013 and the resulting postponement of the EM SSAB Chairs' meeting, which originally was scheduled for October 16–17, 2013. Rescheduling for the dates of November 5–6, 2013, is necessary in order to accommodate participation by senior management and to avoid conflicts with the scheduled committee meetings of this federal advisory board. The EM SSAB Chairs have not had a face-to-face meeting in over a year, and these meetings constitute the full board meetings of the EM SSAB, fulfilling Federal Advisory Committee Act (FACA) requirements. Arrangements and meeting costs agreed upon for the postponed meeting will be extended by the vendors if the meeting is held within this timeframe. A later date at this Ohio venue is inadvisable due to inclement weather concerns.

Minutes: Minutes will be available by writing or calling Catherine Alexander at the address or phone number listed above. Minutes will also be available at the following Web site: *http://www.em.doe.gov/stakepages/ssabchairs.aspx.*

Issued at Washington, DC on October 24, 2013.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2013–25550 Filed 10–24–13; 4:15 pm]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2006–0895; FRL–9901–94–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Engine Emission Defect Information Reports and Voluntary Emission Recall Reports (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), Engine Emission Defect Information Reports and Voluntary Emission Recall Reports (EPA ICR Number 0282.16, OMB Control Number 2060–0048) 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 request for approval of a new collection. Public comments were previously requested via the **Federal Register** (78 FR 29751) on May 21, 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 27, 2013.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2006–0895, to (1) EPA 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: Nydia Reyes-Morales, Office of Transportation and Air Quality, Mail Code 6405J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–343–9264; fax number: 202–343–2804; email address: *reyes-morales.nydia@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: Under the provisions of the Clean Air Act (CAA), the Administrator is required to promulgate regulations to control air pollutant emissions from motor vehicles and nonroad engines, as defined in the CAA. Per Sections 207(c)(1) and 213 of the CAA, when a substantial number of properly maintained and used engines produced by a manufacturer do not conform to emission standards, the manufacturer is required to recall the engines. Engine manufacturers are required to submit Defect Information Reports (DIRs) if emission-related defects are found on engines of the same model year that may cause the engines' emissions to exceed the standards. EPA uses these reports to target potentially nonconforming classes of engines for future testing, to monitor compliance with applicable regulations and to order a recall, if necessary. Manufacturers can also initiate a recall voluntarily by submitting a Voluntary Emission Recall Report (VERR). VERRs and VERR updates allow EPA to determine whether the manufacturer conducting the recall is acting in accordance with the CAA and to examine and monitor the effectiveness of the recall campaign.

Forms: The forms associated with this ICR are available in the docket (EPA–HQ–OAR–2006–0895).

Respondents/affected entities: Manufacturers of heavy-duty highway and nonroad engines.

Respondent's obligation to respond: Mandatory under 40 CFR parts 85, 89, 90, 91, 92, 94, 1035, 1039, 1042, 1045, 1048, 1051, 1054, 1068.

Estimated number of respondents: 40 (total).

Frequency of response: Quarterly.

Total estimated burden: 15,084 hours (per year). Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* $1,042,252 (per year), includes $9,800 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is decrease of 11,479 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to a significant decrease in the estimated number of respondents. This decrease is due to adjustments EPA has made to its estimates.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2013–25296 Filed 10–25–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2011–0308; FRL–8869–3]

Extension of Review Periods Under the Toxic Substances Control Act; Certain Chemicals and Microorganisms; Premanufacture, Significant New Use, and Exemption Notices; Delay in Processing Due to Lack of Authorized Funding

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Due to the federal government shutdown related to the lack of authorized funding (i.e., a Fiscal Year 2014 Appropriations Bill or a Continuing Resolution), EPA is extending the review periods for all Premanufacture Notices (PMNs), Significant New Use Notices (SNUNs), Microbial Commercial Activity Notices (MCANs), and exemption notices submitted to the Agency under section 5 of the Toxic Substances Control Act (TSCA), received by EPA on or before October 1, 2013, and for which the review period had not expired as of October 1, 2013. Additionally, EPA did not receive notifications with respect to such submissions on or after October 1, 2013, and before the date on which the shutdown terminated on October 16, 2013, and the affected operations resumed on October 17, 2013. Also, during the shutdown, submissions made through e-PMN/CDX or other methods were not processed by EPA. Consequently, the review period for any TSCA section 5 notice submitted during the shutdown did not begin until operations resumed on October 17, 2013.

DATES: The duration of this extension period is equivalent to the duration of the shutdown, i.e., 16 days (equivalent to the number of days accruing from October 1, 2013 to October 16, 2013).

FOR FURTHER INFORMATION CONTACT: Greg Schweer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8469; email address: *schweer.greg@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this document apply to me?

You may be affected by this document if you are, or may in the future be, a manufacturer, importer, or processor of a chemical substance that requires submission of a PMN, MCAN, SNUN, or exemption notice under section 5 of TSCA (15 U.S.C. 2604) and applicable EPA regulations. Potentially affected entities may include:

- Manufacturers, importers, or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

The North American Industrial Classification System (NAICS) codes listed are not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them.

To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR 721.5. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get additional information?

Information about the TSCA section 5 requirements can be found at *http://www.epa.gov/oppt/newchems/.*

C. What is the agency's authority for taking this action?

Under TSCA section 5(c), 15 U.S.C. 2604(c), EPA has authority for good cause to unilaterally extend the notice review period for PMNs, MCANs, and SNUNs, thereby extending the period before manufacturing or processing the subject chemical substances may begin. (See also 40 CFR 720.75(c) for PMNs and SNUNs, and 40 CFR 725.56 for MCANs.) TSCA section 26(c), 15 U.S.C. 2625(c), authorizes EPA to take action with respect to a category of chemical substances; in this case, the category is all chemical substances that are the subject of the specified notices and exemption applications received before October 1, 2013, for which the notice review period would otherwise expire on or after October 1, 2013. Under TSCA section 5(c), extensions of the review period for an individual TSCA section 5 notice shall not total more than 90 days. Because the extension described in this **Federal Register** notice (i.e., 16 days) is less than 90 days, EPA reserves the right under TSCA section 5(c) to issue, for good cause, future additional extensions for individual cases up to a total of 90 days.

TSCA section 5(h), 15 U.S.C. 2604(h), authorizes EPA to exempt manufacturers and/or processors of chemical substances from all or part of the requirements of section 5 if EPA determines that the proposed manufacture, processing, distribution in commerce, use, or disposal of such chemical substance will not present an unreasonable risk to health or the environment. Pursuant to this and other authorities, EPA has concluded that the additional time specified in this notice is required to evaluate the exemption applications described in Unit II.A., and determine whether the chemical substances that are the subject of these exemption applications will not present an unreasonable risk.

II. Extension of Review Periods

A. Which TSCA review periods are affected?

Section 5 of TSCA and 40 CFR part 720 require any person who intends to manufacture (defined by statute to include import) a new chemical substance (i.e., a chemical not on the TSCA section 8(b) Inventory) to notify EPA at least 90 days before commencing non-exempt commercial manufacture in the form of a PMN. At least 90 days advance notice for manufacture of new microorganisms is required under 40 CFR part 725, in the form of an MCAN. Under section 5 of TSCA and 40 CFR part 721, any person intending to manufacture or process a chemical substance for a significant new use, as designated by EPA in a SNUR, must also give EPA at least 90 days advance notice in the form of a SNUN. SNURs for microorganisms appear at 40 CFR part 725, subpart M.

There are a number of exemptions from the above-described 90-day PMN, MCAN, and SNUN notice requirements. Several of these exemptions require submitting to EPA a written notice or application, which is subject to a review period shorter than 90 days. For example, pursuant to TSCA section 5(h)(1), EPA has promulgated a Test Market Exemption (TME) from the PMN, MCAN, and SNUN 90-day notice requirements. The TME from the PMN requirement appears at 40 CFR 720.38; the TME from the MCAN requirement is codified in 40 CFR part 725, subpart F (40 CFR 725.300 through 725.370); and the TME from the SNUN requirement appears at 40 CFR 721.45(a). Under TSCA section 5(h)(4), EPA promulgated at 40 CFR 723.50 a Low Volume Exemption (LVE) and a Low Release/Low Exposure (LOREX) Exemption from the PMN requirement. The regulations at 40 CFR part 725 pertaining to genetically engineered microorganisms provide several exemptions from the 90-day MCAN requirement, including the TSCA Experimental Release Application (TERA) at 40 CFR part 725, subpart E,

and the Tier I and Tier II Exemptions at 40 CFR part 725, subpart G.

B. What action is the agency taking?

Effective October 1, 2013, due to the lack of authorized funding (i.e., a Fiscal Year 2014 Appropriations Bill or a Continuing Resolution), certain EPA functions were suspended. During the shutdown, no review work was performed on the TSCA section 5 notifications received by EPA on or before October 1, 2013, and for which the review period had not yet expired as of October 1, 2013. Because of the shutdown, EPA is now extending, pursuant to TSCA sections 5(c) and 26(c) and 40 CFR 720.75(c), the review periods of all TSCA section 5 notifications received on or before October 1, 2013, and for which the review period has not yet expired as of October 1, 2013.

There is a possibility that the chemical substances submitted for review in these TSCA section 5 notifications may need to be regulated by EPA under TSCA. The Agency requires an extension of the review periods to complete its risk assessment, to examine its regulatory options, and to prepare the necessary documents, should regulatory action be required. Therefore, EPA has determined that good cause exists to extend, under TSCA section 5(c), the review period for each such TSCA section 5 notification.

The duration of this extension period is equivalent to the duration of the shutdown, i.e., equivalent to the number of days accruing from October 1, 2013, and the date on which this shutdown terminated on October 16, 2013, and EPA operations resumed on October 17, 2013, or a total of 16 days. Under TSCA section 5(c), the total extensions of the review period for an individual PMN shall in no event exceed 90 days. Thus, since the extension described in this notice is for less than 90 days, EPA reserves the right to issue additional extensions under TSCA section 5(c) in the future for good cause up to a total of 90 days.

Because of these circumstances, EPA is taking the following actions and is requesting the assistance of notifiers as described in this unit:

Category 1—TSCA section 5 notices and exemptions submitted to EPA on or after October 1, 2013, and before the date on which the affected operations resumed on October 17, 2013. During the shutdown, submissions made through e-PMN/CDX or other methods were not processed. Consequently, the review period for any TSCA section 5 notice submitted during the shutdown did not begin until operations resumed on October 17, 2013.

Category 2—TSCA section 5 exemption notices scheduled to expire on or after October 1, 2013. For any exemption notices that have not been granted by EPA and for which the review period was scheduled to expire on or after October 1, 2013, EPA is hereby extending the notice review period by 16 days (the number of days equivalent to the duration of the shutdown). This additional time is required to ensure there is sufficient opportunity to determine that the chemical substances that are the subject of the exemption applications will not present an unreasonable risk.

Category 3—TSCA section 5 PMNs, MCANs, and SNUNs scheduled to expire on or after October 1, 2013. For any PMN, MCAN, or SNUN for which the review period was scheduled to expire on or after October 1, 2013, EPA is hereby extending the notice review period by 16 days (the number of days equivalent to the duration of the shutdown).

C. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before the Agency can impose binding requirements like those contained in a rule, the Agency must submit a rule report, which includes a copy of the document, to each House of the Congress and to the Comptroller General of the United States. Although this document is not a rule, it is binding in the sense that the suspension of the review periods announced in this document are binding. EPA has submitted a report to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this document in the **Federal Register**.

List of Subjects

Environmental protection, Chemicals, Microbial Commercial Activity Notices, Microorganisms, Premanufacture Notices, Significant New Use Notices, Test Marketing Exemptions.

Dated: October 21, 2013.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–25386 Filed 10–25–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0490; FRL–9902–06]

FIFRA Scientific Advisory Panel; Notice of Cancellation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency is issuing this notice to cancel the 3-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review scientific uncertainties associated with corn rootworm resistance monitoring for Bt corn Plant Incorporated Protectants (PIPs) scheduled for October 30—November 1, 2013. The meeting was announced in the **Federal Register** on August 9, 2013. The meeting will be rescheduled.

FOR FURTHER INFORMATION CONTACT: Fred Jenkins, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–3327; fax number: (202) 564–8382; email address: *jenkins.fred@epa.gov.*

SUPPLEMENTARY INFORMATION: The meeting was announced in the **Federal Register** on August 9, 2013 (78 FR 48672, FRL–9394–3). This meeting will be rescheduled in the near future and announced in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 23, 2013.

David Dix,

Director, Office of Science Coordination and Policy.

[FR Doc. 2013–25572 Filed 10–24–13; 4:15 pm]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0485; FRL–9902–08]

FIFRA Scientific Advisory Panel; Notice of Cancellation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Agency is issuing this notice to cancel the 1-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel (FIFRA SAP) to consider and review RNAi Technology as a Pesticide:

Problem Formulation for Human Health and Ecological Risk Assessment scheduled for October 29, 2013. The meeting was announced in the **Federal Register** of August 15, 2013. The meeting will be rescheduled.

FOR FURTHER INFORMATION CONTACT: Sharlene Matten, DFO, Office of Science Coordination and Policy (7201M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: 202–564–0130; fax number: 202–564–8382; email address: *Matten.sharlene@epa.gov.*

SUPPLEMENTARY INFORMATION: The meeting was announced in the **Federal Register** of August 15, 2013 (78 FR 49750) (FRL–9393–3). The meeting will be rescheduled in the near future. EPA will announce the rescheduled meeting in the **Federal Register**.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: October 23, 2013.

David Dix,

Director, Office of Science Coordination and Policy.

[FR Doc. 2013–25568 Filed 10–24–13; 4:15 pm]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). 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 burden for 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 OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 27, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, via fax at 202–395–5167 or via Internet at *Nicholas_A._Fraser@omb.eop.gov* and to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov*. To submit your PRA comments by email send them to: *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1079.

Title: Section 15.240, Radio Frequency Identification Equipment.

Type of Review: Extension of currently approved.

Form No.: N/A

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 10 respondents; 20 responses.

Estimated Time Per Response: 2 hour.

Frequency of Response: On occasion reporting requirements and recordkeeping requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. sections 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 200 hours.

Total Estimated Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this expiring information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the three year clearance. The Commission is requesting an extension (no change in reporting and/or recordkeeping requirements) of this information collection.

Section 15.240 requires each grantee of certification for Radio Frequency Identification (RFID) Equipment to register the location of the equipment/devices its markets with the Commission. The information that the grantee must supply to the Commission when registering the device(s) shall include the name, address and other pertinent contact information of users, the geographic coordinates of the operating location, and the FCC identification number(s) of the equipment. The improved RFID equipment could benefit commercial shippers and have significant homeland security benefits by enabling the entire contents of shipping containers to be easily and immediately identified, and by allowing a determination of whether tampering with their contents has occurred during shipping.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–25347 Filed 10–25–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission; Comments Requested

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. 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 burden for 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 OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before December 24, 2013. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Judith B. Herman, Federal Communications Commission, via the Internet at *Judith-b.herman@fcc.gov*. To submit your PRA comments by email send them to: *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of Managing Director, (202) 418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1188.

Title: Connect America Challenge Process and Certifications.

Form Number: FCC Form 505.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents and Responses: 178 respondents; 178 responses.

Estimated Time per Response: 3 hours to 20 hours.

Frequency of Response: On occasion and annual reporting requirements and third party disclosure requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. sections 151, 154(i), 154(j), 201(b), 214, 218–220, 254, and 1302 of the Communications Act of 1934, as amended.

Total Annual Burden: 1,793 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. However, respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 CFR 0.459 of the Commission's rules. We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed by the Commission to do so.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) for approval of a revision. The Commission is reporting a 533 hour increase in burden which is due to additional reporting requirements.

New requirements being proposed in this information collection for which OMB approval is sought are the Geocoded Information for Phase I Two- and Three-Year Milestone Reports; Broadband Initiatives Program/ Broadband Technology Opportunities Program Annual Milestone Reports; Phase I Investment Annual Milestone Reports; Changes in Phase I Deployments; and Connect America Phase II State-Level Commitment Elections.

The Commission adopted two rulemakings that revised this collection. They are DA 13–1113 and FCC 13–73. Finally, the Commission has made some minor edits to the FCC Form 505 and its instructions.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–25346 Filed 10–25–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection 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 27, 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 Number: 3060–0667.

Title: Section 76.630, Compatibility with Consumer Electronics Equipment; Section 76.1621, Equipment Compatibility Offer; Section 76.1622, Consumer Education of Equipment Compatibility.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 8,250 respondents; 66,501 responses.

Estimated Time per Response: .017 hours–3 hours.

Frequency of Response: Recordkeeping and third party disclosure requirements; On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 4(i) and Section 632 of the Communications Act of 1934, as amended.

Total Annual Burden: 17,353 hours.

Total Annual Cost: $1,355.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: 47 CFR Section 76.630(a) states a cable system operator shall not scramble or otherwise encrypt signals carried on the basic service tier. This requirement is subject to certain exemptions explained below. Requests for waivers of this prohibition, which are allowed under 47 CFR 76.630(a)(2), must demonstrate either a substantial problem with theft of basic tier service or a strong need to scramble basic signals for other reasons. As part of this showing, cable operators are required to notify subscribers by mail of waiver requests. The notice to subscribers must be mailed no later than thirty calendar days from the date the request waiver was filed with the Commission, and cable operators must inform the Commission in writing, as soon as possible, of that notification date. The notification to subscribers must state:

On (date of waiver request was filed with the Commission), (cable operator's name) filed with the Federal Communications Commission a request for waiver of the rule prohibiting scrambling of channels on the basic tier of service. The request for waiver states (a brief summary of the waiver request). A copy of the request for waiver is on file for public inspection at (the address of the cable operator's local place of business).

Individuals who wish to comment on this request for waiver should mail comments to the Federal Communications Commission by no later than 30 days from (the date the notification was mailed to subscribers). Those comments should be addressed to the: Federal Communications Commission, Media Bureau, Washington, DC 20554, and should include the name of the cable operator to whom the comments are applicable. Individuals should also send a copy of their comments to (the cable operator at its local place of business). Cable operators may file comments in reply no later than 7 days from the date subscriber comments must be filed.

47 CFR 76.1621 states a cable system operators that use scrambling, encryption or similar technologies in conjunction with cable system terminal devices, as defined in § 15.3(e) of this chapter, that may affect subscribers' reception of signals shall offer to supply each subscriber with special equipment that will enable the simultaneous reception of multiple signals. The equipment offered shall include a single terminal device with dual descramblers/decoders and/or timers and bypass switches. Other equipment, such as two independent set-top terminal devices may be offered at the same time that the single terminal device with dual tuners/descramblers is offered. For purposes of this rule, two set-top devices linked by a control system that provides functionality equivalent to that of a single device with dual descramblers is considered to be the same as a terminal device with dual descramblers/decoders.

(a) The offer of special equipment shall be made to new subscribers at the time they subscribe and to all subscribers at least once each year (i.e., in subscriber billings or pre-printed information on the bill).

(b) Such special equipment shall, at a minimum, have the capability:

(1) To allow simultaneous reception of any two scrambled or encrypted signals and to provide for tuning to alternative channels on a pre-programmed schedule; and

(2) To allow direct reception of all other signals that do not need to be processed through descrambling or decryption circuitry (this capability can generally be provided through a separate by-pass switch or through internal by-pass circuitry in a cable system terminal device).

(c) Cable system operators shall determine the specific equipment needed by individual subscribers on a case-by-case basis, in consultation with the subscriber. Cable system operators are required to make a good faith effort to provide subscribers with the amount and types of special equipment needed to resolve their individual compatibility problems.

(d) Cable operators shall provide such equipment at the request of individual subscribers and may charge for purchase or lease of the equipment and its installation in accordance with the provisions of the rate regulation rules for customer premises equipment used to receive the basic service tier, as set forth in § 76.923. Notwithstanding the required annual offering, cable operators shall respond to subscriber requests for special equipment for reception of multiple signals that are made at any time.

Information Collection Requirement Which Requires OMB Approval

In October 2012, the Commission loosened its prohibition on encryption of the basic service tier. This rule change allows all-digital cable operators to encrypt, subject to certain consumer protection measures. 77 FR 67290 (Nov. 9, 2012); 47 CFR 76.630(a)(1). Encryption of all-digital cable service will allow cable operators to activate and/or deactivate cable service remotely, thus relieving many consumers of the need to wait at home to receive a cable technician when they sign up for or cancel cable service, or expand service to an existing cable connection in their home.

In addition, encryption will reduce service theft by ensuring that only paying subscribers have decryption equipment. Encryption could reduce cable rates and reduce the theft that often degrades the quality of cable service received by paying subscribers. Encryption also will reduce the number of service calls necessary for manual installations and disconnections, which may have beneficial effects on vehicle traffic and the environment.

Because this rule change allows cable operators to encrypt the basic service tier without filing a request for waiver, we expect that the number of requests for waiver will decrease significantly.

These Requirements Remain Unchanged Since Last Approved by OMB

47 CFR 76.1622 states that Cable system operators shall provide a consumer education program on compatibility matters to their subscribers in writing, as follows:

(a) The consumer information program shall be provided to subscribers at the time they first subscribe and at least once a year thereafter. Cable operators may choose the time and means by which they comply with the annual consumer information requirement. This requirement may be satisfied by a once-a-year mailing to all subscribers. The information may be included in one of the cable system's regular subscriber billings.

(b) The consumer information program shall include the following information:

(1) Cable system operators shall inform their subscribers that some models of TV receivers and videocassette recorders may not be able to receive all of the channels offered by the cable system when connected directly to the cable system. In conjunction with this information, cable system operators shall briefly explain, the types of channel compatibility problems that could occur if subscribers connected their equipment directly to the cable system and offer suggestions for resolving those problems. Such suggestions could include, for example, the use of a cable system terminal device such as a set-top channel converter. Cable system operators shall also indicate that channel compatibility problems associated with reception of programming that is not scrambled or

encrypted programming could be resolved through use of simple converter devices without descrambling or decryption capabilities that can be obtained from either the cable system or a third party retail vendor.

(2) In cases where service is received through a cable system terminal device, cable system operators shall indicate that subscribers may not be able to use special features and functions of their TV receivers and videocassette recorders, including features that allow the subscriber to: View a program on one channel while simultaneously recording a program on another channel; record two or more consecutive programs that appear on different channels; and, use advanced picture generation and display features such as ''Picture-in-Picture,'' channel review and other functions that necessitate channel selection by the consumer device.

(3) In cases where cable system operators offer remote control capability with cable system terminal devices and other customer premises equipment that is provided to subscribers, they shall advise their subscribers that remote control units that are compatible with that equipment may be obtained from other sources, such as retail outlets. Cable system operators shall also provide a representative list of the models of remote control units currently available from retailers that are compatible with the customer premises equipment they employ. Cable system operators are required to make a good faith effort in compiling this list and will not be liable for inadvertent omissions. This list shall be current as of no more than six months before the date the consumer education program is distributed to subscribers. Cable operators are also required to encourage subscribers to contact the cable operator to inquire about whether a particular remote control unit the subscriber might be considering for purchase would be compatible with the subscriber's customer premises equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–25348 Filed 10–25–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

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 27, 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.: 3060–0626.

Title: Section 90.483, Permissible Methods and Requirements of Interconnecting Private and Public Systems of Communications.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business of other for-profit entities.

Respondents: 100 responses.

Number of Respondents and Responses: 100 respondents; 100 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirements; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. sections 154(i), 161, 303(g), 303(r), 332(c)(7).

Total Annual Burden: 100 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Needs and Uses: When a frequency is shared by more than one system, automatic monitoring equipment must be installed at the base station to prevent activation of the transmitter when signals of co-channel stations are present and activation would interfere with communications in progress. Licensees may operate without the monitoring equipment if they have obtained the consent of all co-channel licensees located within a 120 kilometer (75 mile) radius of the interconnected base station transmitter. A statement must be submitted to the Commission indicating that all co-channel licensees have consented to operate without the monitoring equipment. This information is necessary to ensure that licensees comply with the Commission's technical and operational rules, and to prevent activation of the transmitter when signals of co-channel stations are present and could possibly interfere with communications in process.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–25349 Filed 10–25–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collections Renewal; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On August 22, 2013, (78 FR 52194), the FDIC requested comment for 60 days on a proposal to renew the following information collections: Interagency Guidance on Asset Securitization, 3064–0137, and The Interagency Statement on Sound Practices Concerning Complex Structured Finance Transactions, 3064–0148. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

DATES: Comments must be submitted on or before November 27, 2013.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html*
- *Email: comments@fdic.gov* Include the name of the collection in the subject line of the message.
- *Mail:* Gary A. Kuiper (202.898.3877), Counsel, Room NYA–5046, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gary A. Kuiper, at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently-approved collections of information:

1. Title: Interagency Guidance on Asset Securitization.

OMB Number: 3064–0137.

Form Number: None.

Frequency of Response: On occasion.

Affected Public: Insured State Nonmember Banks.

Estimated Number of Respondents: 22

Estimated Time per Response: 7.5 hours.

Total estimated annual burden: 164 hours

General Description of Collection: The Interagency Guidance on Asset Securitization Activities informs bankers and examiners of safe and sound practices regarding asset securitization. The information collections contained in the Interagency Guidance are needed by institutions to manage their asset securitization activities in a safe and sound manner. Bank managements use this information as the basis for the safe and sound operation of their asset securitization activities and to ensure that they minimize operational risk in these activities.

2. The Interagency Statement on Sound Practices Concerning Complex Structured Finance Transactions

OMB Number: 3064–0148.

Form Number: None.

Frequency of Response: Annual.

Affected Public: Insured State Nonmember Banks.

Estimated Number of Respondents: 6

Estimated Time per Response: 25 hours.

Total estimated annual burden: 150 hours.

General Description of Collection: The Interagency Statement on Sound Practices Concerning Complex Structured Finance Transactions describes the types of internal controls and risk management procedures that the Agencies believe are particularly effective in assisting financial institutions to identify and address the reputational, legal, and other risks associated with complex structured finance transactions.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 23rd day of October, 2013.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2013–25341 Filed 10–25–13; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Requirements and Registration for ''System for Locating People Using Electricity Dependent Medical Equipment During Public Health Emergencies Ideation Challenge''

Authority: 15 U.S.C. 3719.

AGENCY: Office of the Assistant Secretary for Preparedness and Response, Department of Health and Human Services (HHS).

Award Approving Official: Dr. Nicole Lurie, Assistant Secretary for Preparedness and Response.

ACTION: Notice.

SUMMARY: *The deadline for all submissions to the ''System for Locating People Using Electricity Dependent Medical Equipment During Public Health Emergencies'' Ideation Challenge is extended from October 20 2013, to October 31, 2013 at 11:59 p.m.* The ''System for Locating People Using Electricity Dependent Medical Equipment During Public Health Emergencies'' Ideation Challenge seeks ideas to establish a system for monitoring the location and status of life-sustaining durable medical equipment (DME) during a prolonged power outage or disaster situation. This information would be used by a network of family and friends, formal caregivers, emergency responders and others responding to a disaster to better assist individuals who are dependent on DME. The current Challenge focuses on obtaining information about DME; however, this is part of a larger effort to ensure that these people get the necessary help as quickly as possible. Submissions can be existing applications, or applications developed specifically for this challenge. The statutory authority for this challenge competition is Section 105 of the America COMPETES Reauthorization Act of 2010 (Pub. L. 111–358).

DATES: Submissions will be accepted until October 31, 2013 at 11:59 p.m.

FOR FURTHER INFORMATION CONTACT: Adam DeVore, (202) 401–2361.

SUPPLEMENTARY INFORMATION: *Subject of Challenge Competition:* The Office of the Assistant Secretary for Preparedness and Response (ASPR), in collaboration with the Federal Emergency Management Agency (FEMA), seeks ideas for a system for monitoring the location and status of life-sustaining durable medical equipment (DME) during a prolonged power outage or disaster situation. Many in-home patients require the daily use of a piece of electrically powered DME. During a disaster or other event that leads to a prolonged power outage, these patients often end up at shelters or emergency rooms looking for sources of power or alternate ways to manage their medical needs. For example, during recent natural disasters and weather related emergencies, many people who were dependent on electricity and battery-powered DME—such as oxygen concentrators and ventilators—and who typically care for themselves at home, were forced to evacuate their homes and go to a shelter or health care facility to power and re-supply their equipment. This not only has the potential to adversely impact the health outcomes for individuals who rely on DME, but it also stresses the local health care system and reduces a community's resilience and capability to rapidly recover from an emergency. During an emergency, communities could better meet the needs of individuals who rely on DME if they had access to real-time, remotely transmittable information about the locations and remaining battery life of life-sustaining medical devices. In addition, this information could be beneficial to an individual, their caregivers, and family members on a routine basis during non-emergent events.

ASPR has identified a need for a reliable system available to identify, locate, and assist these individuals in a timely fashion. This information would be used by a network of family and friends, formal caregivers, emergency responders, and others responding to a disaster to better assist individuals who are dependent on DME. Currently, there is no reliable system to simultaneously and rapidly identify the locations of individuals who rely on DME, to understand the power status of their life-sustaining devices. Developing and integrating a system that automatically monitors and transmits the status and location of a device will provide caregivers and responders with actionable information to support emergency planning and response operations, such as deploying a charged, replacement battery or prioritizing power restoration.

ASPR is committed to developing a comprehensive action plan to provide emergency aid to people in need. Proposals should be detailed and implementable. The current Challenge focuses on obtaining information about DME; however, this is part of a larger effort to ensure that these people get the necessary help as quickly as possible. This is an Ideation Challenge with a guaranteed award for at least one submitted solution.

Eligibility Rules for Participating in the Competition

To be eligible to win a prize under this challenge, an individual or entity—

(1) Shall have registered to participate in the competition under the rules promulgated by the Office of Assistant Secretary for Preparedness and Response;

(2) Shall have complied with all the requirements under this section;

(3) In the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States;

(4) May not be a Federal entity or Federal employee acting within the scope of their employment;

(5) Shall not be an HHS employee working on their applications or submissions during assigned duty hours; and

(6) Shall not be in the reporting chain of Dr. Nicole Lurie, Assistant Secretary for Preparedness and Response.

Federal grantees may not use federal funds to develop COMPETES Act challenge applications unless consistent with the purpose of their grant award. Federal contractors may not use federal funds from a contract to develop COMPETES Act challenge applications or to fund efforts in support of a COMPETES Act challenge submission.

An individual or entity shall not be deemed ineligible because the individual or entity used federal facilities or consulted with federal employees during a competition if the facilities and employees are made available to all individuals and entities participating in the competition on an equitable basis.

Registered participants shall be required to agree to assume any and all risks and waive claims against the federal government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether the injury, death, damage, or loss arises through negligence or otherwise, and to indemnify the federal government against third party claims for damages arising from or related to competition activities.

Participants shall be required to obtain liability insurance or demonstrate financial responsibility for claims by—

(1) A third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the federal government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the federal government against third party claims for damages arising from or related to competition activities; and

(2) The federal government for damage or loss to government property resulting from such an activity.

Registration Process for Participants

To register for this challenge participants may do any of the following:

(1) Access the www.challenge.gov Web site, search for the ''System for Locating People Using Electricity Dependent Medical Equipment During Public Health Emergencies Ideation Challenge,'' and follow the link to the registration page; or

(2) Access the InnoCentive challenge Web site at *www.innocentive.com/ar/challenge/9933433.*

All participants are required to consent to the rules upon or before submitting an entry.

Amount of the Prize

This is an Ideation Challenge, which has the following features:

- There is a guaranteed award. The awards will be paid to the best submission(s) as solely determined by the judge. The total payout will be $10,000, with at least one award being no smaller than $5,000 and no award being smaller than $1,000.
- Additional Award: In addition to the direct monetary awards, some of the winner(s) of this Challenge may be invited (at the ASPR's sole discretion) to a unique opportunity to present their idea to high-profile thought leaders at an upcoming event in Atlanta, GA, USA on April 1–4, 2014. This opportunity includes a $1,000 stipend to defray the cost of travel and accommodations.

• Awards may be subject to federal income taxes and HHS will comply with IRS withholding and reporting requirements, where applicable.

Basis Upon Which Winner Will Be Selected

Winning solution proposals to this Challenge will at a minimum meet the following Requirements:

(1) System is capable of capturing essential data from durable medical equipment (DME), including, but not limited to:

• Loss of external power;
• Power level and status of internal battery, including remaining battery life time, if appropriate;
• Unique identifier of the DME or at minimum, brand and model;
• GPS location;
• Current time/date;
• Device diagnostic information to determine operational status of DME; and
• User identifying information.

(2) System is capable of securely sending all captured data over various spectrums:

• Send information over medical body area network (MBAN);
• Robustly transmit over at least two communication methods/technologies; e.g. Ethernet, Wi-Fi, Mobile (CDMA, GSM, LTE), Amateur Radio, ZigBee;
• Ability to switch between/rollover spectrum/technologies depending on resource availability;
• Ability to send data automatically or upon manual command (e.g. at specified intervals of time, on-demand, or when triggered by external events);
• No interference with the operation of the DME;
• Securely transmit ''read only'' data collected from DME; and
• Data need to be distributed to a predetermined list of responders in a format defined by ASPR.

(3) System is accessible to all in-home patients with DME:

• Easy to install and set up user defined characteristics;
• Simple registration process; and
• Simple to use, particularly for elderly or frail individuals.

A solution may include the use of a device(s). If this is the case, these additional specifications must be met:

(1) Low-power consumption transmitter

• Ideally be constructed of readily available open source components;
• Consumes low level of standby power;
• If integrated into DME, consumes minimal power with no impact upon DME performance; and
• Alternatively, has its own power source separate from the DME.

ASPR is currently working to develop a piece of open source hardware capable of executing these functionalities. While the hardware is near completion, coding software is still needed and additional methods (e.g., mobile and social media apps) are required to establish the infrastructure needed to support information transmission using multiple channels. Hence, ASPR is interested in additional types of hardware, a combination of hardware and software, or a non-technical solution.

Include in your submission a detailed description of the system (process and/or device) that will be used under routine and emergency conditions to:

• Uniquely identify DME;
• Report the current power status of the device, to include remaining battery time;
• Report the location of the device;
• Determine the operational status of DME; and
• Identify a way to contact the DME user.

Be sure to include the rationale for the solution and specific ideas to address the following questions.

• How would people obtain the system?
• How could they register?
• How will data be transferred to recipients?

The solution most likely includes a device, but ASPR is interested in a versatile submission that would benefit people from all socioeconomic backgrounds.

Submitted proposals along with all relevant supporting data should include the information described in the Detailed Description of the Challenge.

Submitted proposals should not include any personal identifying information the participants do not want to make public, or any information the participant may consider as their intellectual property that they do not want to share.

After the Challenge deadline, a review panel of technical advisers will complete the review process and make a decision with regards to the winning solution(s). All participants that submit a proposal will be notified about the status of their submissions; however, no detailed evaluation of individual submissions will be provided.

Additional Information

Ownership of intellectual property is determined by the following:

• Each entrant retains title and full ownership in and to their submission. Entrants expressly reserve all intellectual property rights not expressly granted under the challenge agreement. By participating in the challenge, each entrant hereby irrevocably grants to sponsor and administrator a perpetual, non-exclusive, royalty free, worldwide license and right to reproduce, publicly perform, publicly display, and use the submission to the extent necessary to administer the challenge, and to publicly perform and publicly display the submission, including, without limitation, for advertising and promotional purposes relating to the challenge.

About ASPR

ASPR leads HHS in preparing the nation to respond to and recover from adverse health effects of emergencies, supporting communities' ability to withstand adversity, strengthening health and response systems, and enhancing national health security. To learn more about ASPR and preparedness, response, and recovery from the health impacts of disasters, visit the HHS public health and medical emergency Web site, *www.phe.gov.*

Dated: October 22, 2013.

Nicole Lurie,

Assistant Secretary for Preparedness and Response.

[FR Doc. 2013–25280 Filed 10–25–13; 8:45 am]

BILLING CODE 4150–37–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1147]

Agency Information Collection Activities; Proposed Collection; Comment Request; Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of our guidance

document entitled, ''Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition.''

DATES: Submit either electronic or written comments on the collection of information by December 27, 2013.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition (CFSAN) (OMB Control Number 0910–0541)—Extension

As an integral part of its decision making process, we are obligated under the National Environmental Policy Act of 1969 (NEPA) to consider the environmental impact of our actions, including allowing notifications for food contact substances to become effective and approving food additive petitions, color additive petitions, Generally Recognized As Safe affirmation petitions, requests for exemption from regulation as a food additive, and actions on certain food labeling citizen petitions, nutrient content claims petitions, and health claims petitions. In 1997, we amended our regulations in part 25 (21 CFR part 25) to provide for categorical exclusions for additional classes of actions that do not individually or cumulatively have a significant effect on the human environment (62 FR 40570, July 29, 1997). As a result of that rulemaking, we no longer routinely require submission of information about the manufacturing and production of our regulated articles. We also have eliminated the previously required Environmental Assessment (EA) and abbreviated EA formats from the amended regulations. Instead, we have provided guidance that contains sample formats to help industry submit a claim of categorical exclusion or an EA to CFSAN. The guidance document entitled, ''Preparing a Claim of Categorical Exclusion or an Environmental Assessment for Submission to the Center for Food Safety and Applied Nutrition'' identifies, interprets, and clarifies existing requirements imposed by statute and regulation, consistent with the Council on Environmental Quality regulations (40 CFR 1507.3). It consists of recommendations that do not themselves create requirements; rather, they are explanatory guidance for our own procedures in order to ensure full compliance with the purposes and provisions of NEPA.

The guidance provides information to assist in the preparation of claims of categorical exclusion and EAs for submission to CFSAN. The following questions are covered in this guidance: (1) What types of industry-initiated actions are subject to a claim of categorical exclusion? (2) What must a claim of categorical exclusion include by regulation? (3) What is an EA? (4) When is an EA required by regulation and what format should be used? (5) What are extraordinary circumstances? and (6) What suggestions does CFSAN have for preparing an EA?

Although CFSAN encourages industry to use the EA formats described in the guidance because standardized documentation submitted by industry increases the efficiency of the review process, alternative approaches may be used if these approaches satisfy the requirements of the applicable statutes and regulations. We are requesting the extension of OMB approval for the information collection provisions in the guidance.

Description of Respondents: The likely respondents include businesses engaged in the manufacture or sale of food, food ingredients, and substances used in materials that come into contact with food.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Part 25; Environmental impact considerations	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
§ 25.32(i)	42	1	42	1	42
§ 25.32(o)	1	1	1	1	1
§ 25.32(q)	2	1	2	1	2
Total					45

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The above estimates for respondents and numbers of responses are based on the annualized numbers of petitions and notifications qualifying for § 25.32(i) and (q) that the Agency has received in the past 3 years. Please note that, in the past 3 years, there have been no submissions that requested an action that would have been subject to the categorical exclusion in § 25.32(o). To avoid counting this burden as zero, we have estimated the burden for this categorical exclusion at one respondent making one submission a year for a total of one annual submission.

To calculate the estimate for the hours per response values, we assumed that the information requested in this guidance for each of these three categorical exclusions is readily available to the submitter. For the information requested for the exclusion in § 25.32(i), we expect that submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for attachment to the claim for categorical exclusion. We believe that this effort should take no longer than 1 hour per submission. For the information requested for the exclusions in § 25.32(o) and (q), the submitters will almost always merely need to copy existing documentation and attach it to the claim for categorical exclusion. We believe that collecting this information should also take no longer than 1 hour per submission.

Dated: October 22, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–25300 Filed 10–25–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0804]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Premarket Notification

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 27, 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 0910–0120. 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.

Premarket Notification—(OMB Control Number 0910–0120)—Extension

Section 510(k) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360(k)) and the implementing regulation under part 807 (21 CFR part 807, subpart E) requires a person who intends to market a medical device to submit a premarket notification submission to FDA at least 90 days before proposing to begin the introduction, or delivery for introduction into interstate commerce, for commercial distribution of a device intended for human use. Based on the information provided in the notification, FDA must determine whether the new device is substantially equivalent to a legally marketed device, as defined in § 807.92(a)(3). If the device is determined to be not substantially equivalent to a legally marketed device, it must have an approved premarket approval application (PMA), product development protocol, humanitarian device exemption (HDE), petition for Evaluation of Automatic Class III Designation (de novo), or be reclassified into class I or class II before being marketed. FDA makes the final decision of whether a device is substantially equivalent or not equivalent.

Section 807.81 states when a premarket notification is required. A premarket notification is required to be submitted by a person who is:

(1) Introducing a device to the market for the first time;

(2) introducing a device into commercial distribution for the first time by a person who is required to register; and

(3) introducing or reintroducing a device which is significantly changed or modified in design, components, method of manufacturer, or the intended use that could affect the safety and effectiveness of the device.

Form FDA 3514, a summary cover sheet form, assists respondents in categorizing administrative 510(k) information for submission to FDA. This form also assists respondents in categorizing information for other FDA medical device programs such as PMAs, investigational device exemptions, and HDEs. Under § 807.87(h), each 510(k) submitter must include in the 510(k) either a summary of the information in the 510(k) as required by § 807.92 (510(k) summary) or a statement certifying that the submitter will make available upon request the information in the 510(k) with certain exceptions as per § 807.93 (510(k) statement). If the 510(k) submitter includes a 510(k) statement in the 510(k) submission, § 807.93 requires that the official correspondent of the firm make available within 30 days of a request all information included in the submitted premarket notification on safety and effectiveness. This information will be provided to any person within 30 days of a request if the device described in the 510(k) submission is determined to be substantially equivalent. The information provided will be a duplicate of the 510(k) submission including any safety and effectiveness information, but excluding all patient identifiers and trade secret and commercial confidential information.

Section 204 of the Food and Drug Administration Modernization Act (FDAMA) (Pub. L. 105–115) amended section 514 of the FD&C Act (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device premarket review submissions including premarket notifications or other requirements. FDA has published and updated the list of recognized standards regularly since enactment of FDAMA and has allowed 510(k) submitters to certify conformance to recognized standards to meet the requirements of § 807.87. Form FDA 3654, the 510(k) Standards Data Form, standardizes the format for submitting information on consensus standards that a 510(k) submitter chooses to use as a portion of their premarket notification submission (Form FDA 3654 is not for declarations of conformance to a recognized standard). FDA believes that use of this form will simplify the 510(k)

preparation and review process for 510(k).

Under § 807.90, submitters may request information on their 510(k) review status 90 days after the initial login date of the 510(k). Thereafter, the submitter may request status reports every 30 days following the initial status request. To obtain a 510(k) status report, the submitter should complete the status request form, Form FDA 3541, and fax it to the Center for Devices and Radiological Health office identified on the form.

The most likely respondents to this information collection will be specification developers and medical device manufacturers.

In the **Federal Register** of July 23, 2013 (78 FR 44130), 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]

Activity/21 CFR part/Section/Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
510(k) submission (807 subpart E)	3,900	1	3,900	79	308,100
Summary cover sheet (807.87) and FDA 3514	1,956	1	1,956	0.5 (30 minutes)	978
Status request (807.90(a)(3)) and FDA 3541	218	1	218	0.25 (15 minutes)	55
Standards (807.87(d) and (f)); FDA 3654	2,700	1	2,700	10	27,000
510(k) summary and statement (807.92 and 807.93).	225	10	2,250	10	22,500
Total					358,633

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 22, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–25298 Filed 10–25–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment; Notice of Meeting

In accordance with section l0(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following virtual committee meeting.

Name: CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment

Dates and Times: November 13, 2013, 10:00 a.m.–4:30 p.m. November 14, 2013, 10:00 a.m.–12:30 p.m.

Place: This meeting is accessible via audio conference call and Adobe Connect Pro.

Status: This meeting is open to the public. The available lines will accommodate approximately 300 people.

Purpose: This Committee is charged with advising the Director, CDC, and the Administrator, HRSA, regarding activities related to prevention and control of HIV/AIDS, Viral Hepatitis and other STDs, the support of health care services to persons living with HIV/AIDS, and education of health professionals and the public about HIV/AIDS, Viral Hepatitis, and other STDs.

Agenda: Agenda items include: (1) Affordable Care Act (ACA) Updates; (2) Clinical Workforce Issues; and (3) CHAC Workgroup Updates. Agenda items are subject to change as priorities dictate. To register for this event, please go to the following link: *https://hrsa.connectsolutions.com/advisorychac/event/registration.html.*

After you register, you should receive a confirmation email with a URL link for access to this event. You will also need to enter your Adobe Connect user name and password. If you've never used Adobe Connect, get a quick overview: *http://www.adobe.com/go/connectpro_overview.*

The public can join the meeting by:

1. (Audio Portion) Calling the Toll free Phone Number 1–888–324–9564 and providing the Participant Pass Code 4805129, and

2. (Visual Portion) Connecting to the Advisory Committee Adobe Connect Pro Meeting using the following URL: *https://hrsa.connectsolutions.com/advisorychac/event/login.html* (copy and paste the link into your browser if it does not work directly).

Participants should call and connect 15 minutes prior to the meeting in order for logistics to be set up. Call (301) 443–9684 or send an email to *sgordon@hrsa.gov* if you are having trouble registering for this meeting; or call (301) 443–2843 or send an email to *lfores@hrsa.gov* if you are having trouble connecting to the meeting site.

Public Comment: Persons who desire to make an oral statement may request it at the time of the public comment period. Public participation and ability to comment will be limited to space and time as it permits.

FOR FURTHER INFORMATION CONTACT: Shelley B Gordon, Health Resources and Services Administration, HIV/AIDS Bureau, 5600 Fishers Lane, Rockville, Maryland 20857, telephone at (301) 443–9684.

Dated: October 21, 2013.

Bahar Niakan,

Director, Division of Policy and Information Coordination.

[FR Doc. 2013–25231 Filed 10–25–13; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health 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 Environmental Health Sciences Special Emphasis Panel; Conferences on Environmental Health.

Date: November 5, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, 530 Davis Drive, Keystone Building, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training Nat. Institute of Environmental Health Sciences P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709 (919) 541–0670, *worth@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Training and Career Grant Applications.

Date: November 15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Rall Building 101, Conference Room B, 111 T. W. Alexander Drive Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training Nat. Institute of Environmental Health Sciences P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 919/541–0670, *worth@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25245 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; 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 Human Genome Research Institute Initial Review Group; Genome Research Review Committee, CEGS—Initiative to Maximize Research Education in Genomics.

Date: November 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott, Washingtonian Ctr., A–C, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Officer, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301 402–0838.

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Inherited Disease Research Access Committee.

Date: November 14, 2013.

Time: 11:30 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5635 Fishers Lane, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Camilla E. Day, Ph.D., Scientific Review Officer, CIDR, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4075, Bethesda, MD 20892, 301–402–8837, *camilla.day@nih.gov.*

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; DAP (Diversity Action Plan).

Date: November 18, 2013.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 4th Floor Conference Room, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, NHGRI, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 22, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25242 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed 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 Cancer Institute Special Emphasis Panel; Career and Training Development.

Date: December 4, 2013.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NCI Shady Grove, Room 7W110, 9609 Medical Center Drive, Rockville, MD 20850, (Telephone Conference Call).

Contact Person: Robert Bird, Ph.D., Chief, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W110, MSC 9750, Bethesda, MD 20892–8328, 240–276–6344, *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group; Subcommittee A—Cancer Centers.

Date: December 5–6, 2013.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sonya Roberson, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center, Room 7W116, Bethesda, MD 20892, 240–276–6347, *robersos@mail.nih.gov.*

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/irg/irg.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399,

Cancer Control, National Institutes of Health, HHS)

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25239 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, October 22, 2013, 10:00 a.m. to October 22, 2013, 06:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on September 30, 2013, 78 FR 59945.

This meeting, originally scheduled on October 22, 2013, will be held on November 19, 2013 from 10:00 a.m. to 6:00 p.m. The meeting is closed to the public.

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25252 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurological Sciences and Disorders C, October 17, 2013, 08:00 a.m. to October 18, 2013, 05:00 p.m., Mayflower Park Hotel, 405 Olive Way, Seattle, WA, 98101 which was published in the **Federal Register** on September 25, 2013, 78FRN59041.

The meeting date has been changed to December 3, 2013, to December 4, 2013. The meeting location has been changed to the Embassy Suites Alexandria–Old Town, 1900 Diagonal Rd., Alexandria, VA 22314. The meeting is closed to the public.

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25226 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, NIAMS Small Grant Program for New Investigators (R03).

Date: November 5–6, 2013.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 824, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Charles N Rafferty, Ph.D., Chief Scientific Review Branch, National Institute of Arthritis and Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–594–5019, *charles.rafferty@nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Core Centers for Musculoskeletal Biology and Medicine P30 Review Panel.

Date: November 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Wardman Park Hotel, Room 2660, Woodley Park Road NW., Washington, DC 20008.

Contact Person: Xincheng Zheng, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis and Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–594–4953, *xincheng.zheng@nih.gov.*

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Wellstone Muscular Dystrophy Cooperative Research Center Review.

Date: November 14–15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Kan Ma, Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis and Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–4838 *mak2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25246 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, November 07, 2013, 8:00 a.m. to November 07, 2013, 6:00 p.m., Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD, 20852 which was published in the **Federal Register** on August 28, 2013, 78FR53154.

The meeting notice is amended to change the meeting location to the Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Blvd., Gaithersburg, MD 20878. The date and time of the meeting remains the same. The meeting is closed to the public.

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25253 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Respiratory Sciences.

Date: November 14–15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Yuanna Cheng, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7814, Bethesda, MD 20892, 301–435–1195, *Chengy5@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of Cardiovascular and Respiratory Systems.

Date: November 14–15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Dallas Downtown, 1015 Elm Street, Dallas, TX 75202.

Contact Person: Abdelouahab Aitouche, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4222, MSC 7812, Bethesda, MD 20892, 301–435–2365, *aitouchea@csr.nih.gov*.

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: November 14–15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Diagnostics, Food Safety, Sterilization/Disinfection and Bioremediation.

Date: November 14–15, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington DC/Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Gagan Pandya, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, RM 3200, MSC 7808, Bethesda, MD 20892, 301–435–1167, *pandyaga@mai.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Chemistry, Biochemistry, and Biophysics.

Date: November 14–15, 2013.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Michael Eissenstat, Ph.D., Scientific Review Officer, BCMB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–1722, *eissenstatma@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Microbiology and Infectious Diseases AREA Review.

Date: November 14, 2013.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street NW., Washington, DC 20037.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Oncology.

Date: November 14, 2013.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PA–12–139: Pilot and Feasibility Clinical Research Studies in Digestive Diseases and Nutrition.

Date: November 14, 2013.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Peter J Perrin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0682, *perrinp@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Complex Genetics

Date: November 15, 2013.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ronald Adkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301–435–4511, *ronald.adkins@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 22, 2013

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25241 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, October 16, 2013, 01:00 p.m. to October 16, 2013, 04:00 p.m., National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD, 20852 which was published in the **Federal Register** on September 17, 2013, 78 FR 57167.

This meeting will be held on December 3, 2013 from 11:00 a.m. to 2:00 p.m. The location remains the same. The meeting is closed to the public.

Dated: *October 22, 2013.*

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25232 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 17, 2013, 08:00 a.m. to October 18, 2013, 05:00 p.m., Renaissance Washington DC Dupont, 1143 New Hampshire Avenue NW., Washington, DC, 20037 which was published in the **Federal Register** on September 20, 2013, 78 FR 57867.

The meeting will be held at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting will start on November 25, 2013 at 08:00 a.m. and end on November 26, 2013 at 05:00 p.m. The meeting is closed to the public.

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25240 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Diagnostics and Treatments (CDT).

Date: November 4–5, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott, 1221 22nd Street NW., Washington, DC 20037.

Contact Person: Zhang-Zhi Hu, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6186, MSC 7804, Bethesda, MD 20892, (301) 594–2414, *huzhuang@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Physiology and Pathobiology of Musculoskeletal, Oral and Skin Systems.

Date: November 4, 2013.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Anshumali Chaudhari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210, *chaudhaa@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risk, Prevention and Health Behavior.

Date: November 4–5, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Martha M Faraday, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, 301–435–3575, *faradaym@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Health Behavior.

Date: November 4, 2013.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Weijia Ni, Ph.D., Chief, Risk, Prevention and Health Behavior IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 237–9918, *niw@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell, Computational and Molecular Biology.

Date: November 5, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–435–1024, *allen.richon@nih.hhs.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; DTCS BRP Review.

Date: November 5, 2013.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Khalid Masood, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: November 5, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301–435–1170, *luow@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–OD–13–004: Lasker Clinical Research Scholars Program (SI2).

Date: November 5, 2013.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Syed M Quadri, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6210, MSC 7804, Bethesda, MD 20892, 301–435–1211, *quadris@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine;

93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 22, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25225 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, October 16, 2013, 10:00 a.m. to October 16, 2013, 03:00 p.m., National Cancer Institute Shady Grove, West Tower, 9609 Medical Center Drive, Room 1W030, Rockville, MD, 20850 which was published in the **Federal Register** on August 16, 2013, 78FR50065.

Due to the absence of either an FY 2014 appropriation or Continuing Resolution for the Department of Health and Human Services, the SEP meeting is rescheduled for November 4, 2013 from 10:00 a.m. to 2:00 p.m. and the meeting location remains the same, however, the meeting room has changed to 6W032. The meeting is closed to the public.

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25236 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 17, 2013, 09:00 a.m. to October 17, 2013, 03:00 p.m., Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on September 20, 2013, 78 FR 57867.

The meeting will be held by teleconference at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting will be held on November 12, 2013 from 02:00 p.m. to 03:30 p.m. The meeting is closed to the public.

Dated: October 22, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25221 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Interventions Committee for Disorders Involving Children and Their Families, October 11, 2013, 08:30 a.m. to October 11, 2013, 05:00 p.m., Melrose Hotel, 2430 Pennsylvania Ave. NW., Washington, DC, 20037 which was published in the **Federal Register** on September 04, 2013, 78 FR 54477.

Due to the Government shutdown, this meeting will now be held on November 4, 2013, as a telephone conference meeting at the Neuroscience Center. The meeting is closed to the public.

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25229 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Communication Disorders Review Committee, October 03, 2013, 08:00 a.m. to October 04, 2013, 05:00 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015 which was published in the **Federal Register** on September 16, 2013, 78 FR 56902.

This meeting will be held on December 5, 2013 from at 8:00 a.m. to 6:00 p.m. The location remains the same. The meeting is closed to the public.

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25234 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 18, 2013, 08:00 a.m. to October 18, 2013, 05:00 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on September 24, 2013, 78 FR 58547.

The meeting will be held at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting will start on November 12, 2013 at 08:00 a.m. and end on November 13, 2013 at 05:00 p.m. The meeting is closed to the public.

Dated: October 21, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25248 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR/STTR HDM Informatics.

Date: October 30, 2013.

Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Tomas Drgon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, 301–435–1017, *tdrgon@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR/STTR HDM Informatics.
Date: October 30, 2013.
Time: 9:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Melinda Jenkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Protein Architecture and Enzymatic Catalysis.
Date: October 30–31, 2013.
Time: 11:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Bukhtiar H Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, 301–806–7314, *shahb@csr.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.
(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 22, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25223 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Interventions Committee for Adult Disorders, October 08, 2013, 08:30 a.m. to October 09, 2013, 05:00 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on September 04, 2013, 78 FRN 54477.

Due to the Government shutdown, this meeting will now be held on November 6–7, 2013, as a telephone conference meeting at the Neuroscience Center. The meeting is closed to the public.

Dated: October 22, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25243 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neurological Sciences and Disorders A, October 24, 2013, 08:30 a.m. to October 25, 2013, 06:00 p.m., The Renaissance Arlington Capital View, 2800 South Potomac Ave, Arlington, VA, 22202 which was published in the **Federal Register** on September 25, 2013, 78FRN59041.

The meeting date has been changed to November 19, 2013, to November 20, 2013. The time and meeting location remain the same. The meeting is closed to the public.

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25227 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel, NIMH HIV/AIDS Review.
Date: November 18, 2013.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: David W. Miller, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive BLVD, Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–9734, *millerda@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, PsychENCODE.
Date: November 20, 2013.
Time: 9:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Vinod Charles, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9606, Bethesda, MD 20892–9606, 301–443–1606, *charlesvi@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Services Conflicts.
Date: November 25, 2013.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Marina Broitman, Ph.D., Scientific Review Officer, Division of

Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6153, MSC 9608, Bethesda, MD 20892–9608, 301–402–8152, *mbroitma@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25230 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, October 16, 2013, 04:00 p.m. to October 17, 2013, 05:00 p.m., Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD, 20852 which was published in the **Federal Register** on September 11, 2013, 78 FR 55750.

Due to the absence of either an FY 2014 appropriation or Continuing Resolution for the Department of Health and Human Services, the Provocative Questions—Group B: Tumor Development or Recurrence meeting is rescheduled for Oct. 31–Nov. 1, 2013 from 4:00 p.m. to 5:00 p.m. Additionally, the meeting location has changed to the Hilton Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852. The meeting is closed to the public.

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25238 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, October 17, 2013, 05:00 p.m. to October 18, 2013, 06:00 p.m., Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD, 20852 which was published in the **Federal Register** on September 23, 2013, 78FR58323.

Due to the absence of either an FY 2014 appropriation or Continuing Resolution for the Department of Health and Human Services, the SEP meeting is rescheduled for November 12–13, 2013. The meeting times and location remain the same. The meeting is closed to the public.

Dated: *October 22, 2013.*

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25237 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; NRSA Institutional Research Training (T32).

Date: November 18, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

Contact Person: Aileen Schulte, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6140, MSC 9608, Bethesda, MD 20892–9608, 301–443–1225, *aschulte@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Silvio O. Conte Centers for Basic or Translational Mental Health Research.

Date: November 18, 2013.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

Contact Person: Megan Kinnane, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6148, MSC 9609, Rockville, MD 20852–9609, 301–402–6807, *libbeym@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: October 22, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25220 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Assessment of Toxic and Carcinogenic Effects from Exposure to Compounds.

Date: November 21, 2013.

Time: 9:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Environmental Health Sciences, 530 Davis Drive, Conference Room 1001, Keystone Building, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: RoseAnne M. McGee, Associate Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training Nat.

Institute of Environmental Health Sciences P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709 (919) 541–0752, *mcgee1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25244 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Deafness and Other Communication Disorders Special Emphasis Panel, October 11, 2013, 08:00 a.m. to October 11, 2013, 02:30 p.m., Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC, 20015 which was published in the **Federal Register** on September 16, 2013, 78 FR 56902.

This meeting will be held on November 19, 2013 from 08:30 a.m. to 03:30 p.m. at the Residence Inn Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814. The meeting is closed to the public.

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25233 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Omnibus—Cancer Biology 1.

Date: November 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Zhiqiang Zou, MD, Ph.D., Scientific Review Officer, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, 7W242, Bethesda, MD 20892, 240–276–6372, *zouzhiq@mail.nih.gov.*

This meeting notice is being published less than 15 days in advance of the meeting due to the Government shutdown of October 2013.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/sep/sep.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 22, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25235 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, October 24, 2013, 08:00 a.m. to October 25, 2013, 05:00 p.m., Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on October 01, 2013, 78 FR 60298.

The meeting will be held at the National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. The meeting will start on November 18, 2013 at 10:00 a.m. and end on November 19, 2013 at 06:00 p.m. The meeting is closed to the public.

Dated: October 22, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25222 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cancer Drug Developments & Therapeutics.

Date: November 14–15, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Riverwalk Marriott, 207 N. St Mary's Street, San Antonio, TX 78205.

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–451–0131, *ltopol@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Cancer Health Disparities/Diversity in Basic Cancer Research.

Date: November 18–19, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mandarin Oriental, 1330 Maryland Avenue SW., Washington, DC 20024.

Contact Person: Nywana Sizemore, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6204, MSC 7804, Bethesda, MD 20892, 301–435–1718, *sizemoren@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Molecular and Cellular Biology Study Section.

Date: November 18, 2013.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Contact Person: Kenneth A Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-HIV Anti-Infective Therapeutics.

Date: November 18, 2013.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Kenneth M Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge, Rm 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology and Bioengineering.

Date: November 18–19, 2013.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: National Center for Dynamic Interactome Research.

Date: November 18–20, 2013.

Time: 6:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fitzpatrick Manhattan Hotel, 687 Lexington Avenue, New York, NY 10022.

Contact Person: James J Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7849, Bethesda, MD 20892, 301–806–8065, *lijames@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: BTRC site visit.

Date: November 18–20, 2013.

Time: 6:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Millennium Harvest House Hotel, 1345 28th Street, Boulder, CO 80302.

Contact Person: Wallace Ip, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, 301–435–1191, *ipws@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 22, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25224 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Mental Health Services Research Committee, October 10, 2013, 08:00 a.m. to October 10, 2013, 05:00 p.m., Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD, 20814 which was published in the **Federal Register** on September 04, 2013, 78 FRN 54477.

Due to the Government shutdown, this meeting will now be held on November 14–15, 2013, as a telephone conference meeting at the Neuroscience Center. The meeting is closed to the public.

Dated: October 22, 2013.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–25228 Filed 10–25–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

[Docket No. DHS–2013–0056]

DHS Data Privacy and Integrity Advisory Committee

AGENCY: Privacy Office, DHS.

ACTION: Committee Management; Request for Applicants for Appointment to the DHS Data Privacy and Integrity Advisory Committee—EXTENSION.

SUMMARY: The Department of Homeland Security Privacy Office is seeking applicants for appointment to the DHS Data Privacy and Integrity Advisory Committee. Applicants who submitted their applications under the previous **Federal Register** Notice published on September 9, 2013 need not reapply.

DATES: Applications for membership must reach the Department of Homeland Security Privacy Office at the address below on or before November 4, 2013.

ADDRESSES: If you wish to apply for membership, please submit the documents described below to Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, by *either* of the following methods:

- *E-mail: PrivacyCommittee@hq.dhs.gov.* Include the Docket Number (DHS–2013–0056) in the subject line of the message.
- *Fax:* (202) 343–4010

FOR FURTHER INFORMATION CONTACT: Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, Department of Homeland Security, Washington, DC 20528, by telephone (202) 343–1717, by fax (202) 343–4010, or by email to *PrivacyCommittee@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION: The DHS Data Privacy and Integrity Advisory Committee is an advisory committee established in accordance with the provisions of the *Federal Advisory Committee Act* (FACA), 5 U.S.C.A. App. 2. The Committee was established by the Secretary of Homeland Security under the authority of 6 U.S.C. 451 and provides advice at the request of the Secretary and the DHS Chief Privacy Officer on programmatic, policy, operational, administrative, and technological issues within DHS that relate to personally identifiable information (PII), as well as data integrity and other privacy-related matters. The duties of the Committee are solely advisory in nature. In developing its advice and recommendations, the Committee may, consistent with the requirements of the FACA, conduct studies, inquiries, workshops, and seminars in consultation with individuals and groups in the private sector and/or other governmental entities. The Committee typically meets three times in a calendar year.

Committee Membership: The DHS Privacy Office is seeking applicants for terms of three years from the date of appointment. Members are appointed by and serve at the pleasure of the Secretary of the Department of Homeland Security, and must be specially qualified to serve on the Committee by virtue of their education, training, and experience in the fields of

data protection, privacy, and/or emerging technologies. Members are expected to actively participate in Committee activities and provide material input into Committee research and recommendations. Pursuant to the FACA, the Committee's Charter requires that Committee membership be balanced to include:

1. Individuals who are currently working in higher education, state or local government, or not-for-profit organizations;

2. Individuals currently working in for-profit organizations including at least one who shall be familiar with the data privacy-related issues addressed by small- to medium-sized enterprises; and

3. Other individuals, as determined appropriate by the Secretary.

Committee members serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. As such, they are subject to Federal conflict of interest laws and government-wide standards of conduct regulations. Members must annually file Confidential Financial Disclosure Reports (OGE Form 450) for review and approval by Department ethics officials. DHS may not release these reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the *Privacy Act* (5 U.S.C. 552a). Committee members are also required to obtain and retain at least a secret-level security clearance as a condition of their appointment. Members are not compensated for their service on the Committee; however, while attending meetings or otherwise engaged in Committee business, members may receive travel expenses and per diem in accordance with Federal regulations.

Committee History and Activities: All individuals interested in applying for Committee membership should review the history of the Committee's work. The Committee's charter and current membership, transcripts of Committee meetings, and all of the Committee's reports and recommendations to the Department are posted on the Committee's Web page on the DHS Privacy Office Web site (*www.dhs.gov/privacy*).

Applying for Membership: If you are interested in applying for membership on the DHS Data Privacy and Integrity Advisory Committee, please submit the following documents to Shannon Ballard, Designated Federal Officer, at the address provided below within seven days of the date of this notice:

1. A current resume; and

2. A letter that explains your qualifications for service on the Committee and describes in detail how your experience is relevant to the Committee's work.

Applicants who submitted their applications under the previous **Federal Register** Notice published on September 9, 2013, need not reapply. Your resume and your letter will be weighed equally in the application review process. Please note that by Administration policy, individuals who are registered as Federal lobbyists are not eligible to serve on Federal advisory committees. If you are registered as a Federal lobbyist and you have actively lobbied at any time within the past two years, you are not eligible to apply for membership on the DHS Data Integrity and Privacy Advisory Committee. Applicants selected for membership will be required to certify, pursuant to 28 U.S.C. 1746, that they are not registered as Federal lobbyists.

Please send your documents to Shannon Ballard, Designated Federal Officer, DHS Data Privacy and Integrity Advisory Committee, by *either* of the following methods:

- *E-mail: PrivacyCommittee@hq.dhs.gov* or
- *Fax:* (202) 343–4010.

Privacy Act Statement: DHS's Use of Your Information

Authority: DHS requests that you voluntarily submit this information under its following authorities: the *Federal Records Act,* 44 U.S.C. 3101; the FACA, 5 U.S.C. App. 2; and the *Privacy Act of 1974,* 5 U.S.C. 552a.

Principal Purposes: When you apply for appointment to the DHS Data Privacy and Integrity Advisory Committee, DHS collects your name, contact information, and any other personal information that you submit in conjunction with your application. We will use this information to evaluate your candidacy for Committee membership. If you are chosen to serve as a Committee member, your name will appear in publicly-available Committee documents, membership lists, and Committee reports.

Routine Uses and Sharing: In general, DHS will not use the information you provide for any purpose other than the Principal Purposes, and will not share this information within or outside the agency. In certain circumstances, DHS may share this information on a case-by-case basis as required by law or as necessary for a specific purpose, as described in the DHS/ALL–009 Department of Homeland Security Advisory Committees System of Records Notice (October 3, 2008, 73 FR 63181).

Effects of Not Providing Information: You may choose not to provide the requested information or to provide only some of the information DHS requests. If you choose not to provide some or all of the requested information, DHS may not be able to consider your application for appointment to the Data Privacy and Integrity Advisory Committee.

Accessing and Correcting Information: If you are unable to access or correct this information by using the method that you originally used to submit it, you may direct your request in writing to the DHS Chief FOIA Officer at *foia@hq.dhs.gov.* Additional instructions are available at *http://www.dhs.gov/foia* and in the DHS/ALL–002 Mailing and Other Lists System of Records referenced above.

Jonathan R. Cantor,

Acting Chief Privacy Officer, Department of Homeland Security.

[FR Doc. 2013–25381 Filed 10–25–13; 8:45 am]

BILLING CODE 9110–9L–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Countywide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the countywide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2013, will be increased.

DATES: *Effective Date:* October 1, 2013, and applies to major disasters declared on or after October 1, 2013.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: In assessing damages for area designations under 44 CFR 206.40(b), FEMA uses a county-wide per capita indicator to evaluate the impact of the disaster at the county level. FEMA will adjust the countywide per capita impact indicator under the Public Assistance program to reflect annual changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase in the countywide per capita impact indicator to $3.50 for all disasters declared on or after October 1, 2013.

FEMA bases the adjustment on an increase in the Consumer Price Index

for All Urban Consumers of 1.5 percent for the 12-month period ended in August 2013. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 17, 2013.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–25332 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Disaster Grant Amounts

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice of an increase of the maximum amount for Small Project Grants made to State, Tribal, and local governments and private nonprofit facilities for disasters declared on or after October 1, 2013.

DATES: *Effective Date:* October 1, 2013, and applies to major disasters declared on or after October 1, 2013.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: The Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), 42 U.S.C. 5121–5207, prescribes that FEMA must annually adjust the maximum grant amount made under section 422, Simplified Procedures, relating to the Public Assistance program, to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice of an increase to $68,500 in the maximum amount of any Small Project Grant made to State, Tribal, and local governments or to the owner or operator of an eligible private nonprofit facility under section 422 of the Stafford Act for all disasters declared on or after October 1, 2013.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 1.5 percent for the 12-month period ended in August 2013. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 17, 2013.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–25336 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Notice of Adjustment of Statewide Per Capita Impact Indicator

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: FEMA gives notice that the statewide per capita impact indicator under the Public Assistance program for disasters declared on or after October 1, 2013, will be increased.

DATES: *Effective Date:* October 1, 2013, and applies to major disasters declared on or after October 1, 2013.

FOR FURTHER INFORMATION CONTACT: William Roche, Recovery Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3834.

SUPPLEMENTARY INFORMATION: 44 CFR 206.48 provides that FEMA will adjust the statewide per capita impact indicator under the Public Assistance program to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

FEMA gives notice that the statewide per capita impact indicator will be increased to $1.39 for all disasters declared on or after October 1, 2013.

FEMA bases the adjustment on an increase in the Consumer Price Index for All Urban Consumers of 1.5 percent for the 12-month period ended in August 2013. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 17, 2013.

Catalog of Federal Domestic Assistance No. 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters).

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–25333 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4146–DR; Docket ID FEMA–2013–0001]

North Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of North Carolina (FEMA–4146–DR), dated September 25, 2013, and related determinations.

DATES: *Effective Date:* September 25, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 25, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of North Carolina resulting from severe storms, flooding, landslides, and mudslides during the period of July 3–13, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of North Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Michael Bolch, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following areas of the State of North Carolina have been designated as adversely affected by this major disaster:

Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Jackson, Macon, Madison, Mitchell, Polk, Watauga, and Yancey Counties and the Eastern Band of Cherokee Indians for Public Assistance.

All counties and Indian Tribes within the State of North Carolina are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–25339 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4147–DR; Docket ID FEMA–2013–0001]

Santa Clara Pueblo; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Santa Clara Pueblo (FEMA–4147–DR), dated September 27, 2013, and related determinations.

DATES: *Effective Date:* September 27, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated September 27, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage to the lands associated with the Santa Clara Pueblo resulting from severe storms and flooding during the period of July 19–21, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists for the Santa Clara Pueblo and associated lands.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide debris removal and emergency protective measures (Categories A and B) under the Public Assistance for the Santa Clara Pueblo and associated lands. Consistent with the requirement that Federal assistance is supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to Section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Nancy M. Casper, of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following area has been designated as adversely affected by this major disaster:

The Santa Clara Pueblo for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households In Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–25337 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4129–DR; Docket ID FEMA–2013–0001]

New York; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New York (FEMA–4129–DR), dated July 12, 2013, and related determinations.

DATES: *Effective Date:* October 17, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this declared disaster is now June 26, 2013, through and including July 10, 2013.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.)

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–25338 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Reinstatement of Customs Broker Licenses; Correction

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: CBP published a notice in the **Federal Register** on August 8, 2013, erroneously announcing that it had reinstated the broker licenses of certain brokers. Notice is hereby given that the broker licenses named in the previous document and identified in this document were never reinstated and remain revoked.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** (78 FR 48458) on August 8, 2013, CBP announced that it had reinstated certain broker licenses that were erroneously revoked in a December 6, 2012 **Federal Register** (77 FR 72873) notice. This correction notice is being issued to note that certain brokers were erroneously included in the list of brokers whose licenses were reinstated. Those licenses were never reinstated and remain revoked. Those brokers were never personally notified that their licenses were reinstated and have not been permitted to practice despite the erroneous publication.

Correction

In the **Federal Register** (78 FR 48458) notice of August 8, 2013, on page 48459, correct the list to exclude the following names, license numbers, and port of issuance:

Last name	First name	License #	Port of issuance
Ahn	Byung M.	22354	New York.
Arbolante	Armand	16369	New York.
Banghart	Warren G.	16374	New York.
Cambell & Gardiner, Inc.		02342	New York.
Crapanzano	Dominick J.	10029	New York.
Elisberg	Norman Gene	02929	New York.
EWA Customs Service, Inc.		23694	New York.
Fei	Donald L.	10362	New York.
Fellouris	George	04757	New York.
Ferrara International Logistics, Inc		20280	New York.
Fietz	William L.	05163	New York.
Forte	Peter F.	14575	New York.
Gambardella	Michael J.	02913	New York.
Gregoriou	Larry	10461	New York.
Haft	Shlomo Yisrael	22296	New York.
Hassinger	Herbert A.	07057	New York.
HAV International Freight		12843	New York.
Irizarry	Dawn M.	15160	New York.
Keenan	Gloria J.	12322	New York.
Keough	James	06910	New York.
Kittler	James A.	09946	New York.
Konstantinovsky	Boris	20792	New York.
Launer	Ralph W.	05747	New York.
Lehat	Irving	02579	New York.
Levine	Seth A.	09759	New York.
Ma	Guo Zhan	28050	New York.
Mosher	Fredric W.	17134	New York.
Ovair Freight Service, Inc.		05773	New York.
Palmieri	Eugene D.	02632	New York.
Rea	Robert	03980	New York.
Reid	Derick	15453	New York.
Ronan	William G.	23177	New York.
Rowan	Susan M.	09932	New York.
Stettner	Robert	05894	New York.
Valdes	Dorianne	17091	New York.
Walsh	John X.	03979	New York.
Wang	Chia S.	15452	New York.
Weinstock	Richard	05119	New York.

Dated: October 23, 2013.

Richard F. Dinucci,

Acting Assistant Commissioner, Office of International Trade.

[FR Doc. 2013–25365 Filed 10–25–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5683–N–95]

30-Day Notice of Proposed Information Collection: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* November 27, 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: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

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. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 13, 2013.

A. Overview of Information Collection

Title of Information Collection: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities.

OMB Approval Number: 2506–0087.

Type of Request: Revision of a currently approved collection.

Form Number: HUD–7015.15.

Description of the need for the information and proposed use: 24 CFR Part 58, ''Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities'' requires units of general local government receiving HUD assistance to maintain a written environmental review record for all projects receiving HUD funding documenting compliance with the National Environmental Policy Act (NEPA), the regulations of the Council on Environmental Quality, related federal environmental laws, executive orders, and authorities, and Part 58 procedure. When the environmental review record is complete, HUD recipients use HUD–7015.15—''Request for Release of Funds and Certification'' to certify their compliance with all applicable environmental laws and authorities. HUD (or the State for certain State-administered HUD grant programs) approves the certification allowing for the conditionally awarded or formula-allocated funds to be released to the recipient. Various laws that authorize this procedure are listed in 24 CFR 58.1(b).

Respondents (i.e. affected public): The respondents are state and local governments receiving HUD funding who are required to submit HUD–7015.15.

ESTIMATION OF THE TOTAL NUMBER OF HOURS TO PREPARE THE INFORMATION COLLECTION INCLUDING NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE AND HOURS OF RESPONSE

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	18,785	1	18,785	.6	11,271	30	$338,130

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) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 22, 2013.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2013–25359 Filed 10–25–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2013–N222; FXES11130200000F5–145–FF02ENEH00]

Emergency Exemption; Issuance of Emergency Permit To Survey for and Relocate Jemez Mountain Salamanders Within the Santa Fe National Forest, New Mexico

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of endangered species emergency permits.

SUMMARY: The final rule to list the Jemez Mountain salamander (*Plethodon neomexicanus*) as endangered throughout its range in New Mexico published in the **Federal Register** on September 10, 2013. The final rule becomes effective on October 10, 2013. Without having personnel authorized to survey for and minimize impacts through moving individuals out of harm's way, the New Mexico Gas Company's ongoing pipeline repairs may be delayed to prevent individual Jemez Mountain salamanders being needlessly harmed or killed. We, the U.S. Fish and Wildlife Service have, under an Endangered Species Act (ESA) permit, authorized qualified researchers to survey for and move Jemez Mountain salamanders out of harm's way during pipeline repairs. These pipeline repairs are considered essential to human and environmental health.

ADDRESSES: Documents and other information concerning the permit are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Documents will be available for public inspection, by appointment only, during normal business hours at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW., Room 6034, Albuquerque, NM 87103.

FOR FURTHER INFORMATION CONTACT: Susan Jacobsen, Chief, Endangered Species Division, P.O. Box 1306, Albuquerque, NM 87103; (505) 248–6920.

SUPPLEMENTARY INFORMATION: The New Mexico Gas Company has identified eight dented and corroded segments of natural gas pipeline within the occupied

range of the Jemez Mountain salamander that are in critical condition and require immediate repair. This approximately 17.5-mile-long portion of pipeline lies between the village of Cuba, New Mexico, and the western boundary of the Valles Cauldera National Preserve within the Santa Fe National Forest. Emergency repairs are necessary to ensure that natural gas pressure may be restored to levels necessary to supply northern New Mexico with adequate fuel for home heating before any cold weather in early November. These emergency repairs to the pipeline have been analyzed and authorized under an emergency consultation between the Cuba Ranger District, Santa Fe National Forest and the Service's New Mexico Ecological Services Field Office (Consultation # 02ENNM00–2013–FE–0110). We, the U.S. Fish and Wildlife Service (Service) have, under an Endangered Species Act (16 U.S.C. 1531 et seq.) permit, authorized the following researchers to survey for and move Jemez Mountain salamanders out of harm's way during pipeline repairs:

Permit TE–819477

Applicant: Parametrix, Inc., Albuquerque, New Mexico.

We approved the applicant's request for an amendment to a current permit for research and recovery purposes to survey for, locate, capture, temporarily hold, sample for disease, measure, relocate, salvage any dead, moribund, or parts (e.g., severed tails) and release of any Jemez Mountains salamander (*Plethodon neomexicanus*) that is directly in harm's way or has been harmed resulting from emergency repairs by New Mexico Gas Company to a natural gas pipeline located in the Jemez Mountains, in Los Alamos, Rio Arriba, and Sandoval Counties, New Mexico.

Permit TE–045236

Applicant: SWCA, Inc., Albuquerque, New Mexico.

We approved the applicant's request for an amendment to a current permit for research and recovery purposes to survey for, locate, capture, temporarily hold, sample for disease, measure, relocate, salvage any dead, moribund, or parts (e.g., severed tails) and release of any Jemez Mountains salamander (*Plethodon neomexicanus*) that is directly in harm's way or has been harmed resulting from emergency repairs by New Mexico Gas Company to a natural gas pipeline located in the Jemez Mountains, in Los Alamos, Rio Arriba, and Sandoval Counties, New Mexico.

Permit TE–071287

Applicant: Bruce Christman, Albuquerque, New Mexico.

We approved the applicant's request for an amendment and renewal of an expired permit for research and recovery purposes to survey for, locate, capture, temporarily hold, sample for disease, measure, relocate, salvage any dead, moribund, or parts (e.g., severed tails) and release of any Jemez Mountains salamander (*Plethodon neomexicanus*) that is directly in harm's way or has been harmed resulting from emergency repairs by New Mexico Gas Company to a natural gas pipeline located in the Jemez Mountains, in Los Alamos, Rio Arriba, and Sandoval Counties, New Mexico.

These emergency permits are issued for the sole purpose of facilitating the New Mexico Gas Company pipeline repairs. Any further authorization for surveys or research of the Jemez Mountains salamander will be processed separately.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: October 21, 2013.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2013–25140 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLORP000000.102000000.DF0000.14X. HAG14–0002]

Notice of Public Meeting for the John Day; Snake 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 and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the John Day—Snake Resource Advisory Council (RAC) will meet as indicated below:

DATES: The John Day—Snake RAC will hold a public meeting Thursday and Friday, November 14 and 15, 2013. The exact meeting time, agenda, and location will be announced online at *http://www.blm.gov/or/rac/jdrac_meetingnotes.php* prior to November 8, 2013.

ADDRESSES: The exact meeting time, agenda, and location will be announced online at *http://www.blm.gov/or/rac/jdrac_meetingnotes.php* prior to November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Lisa Clark, Public Affairs Specialist, BLM Prineville District Office, 3050 NE. 3rd St., Prineville, Oregon 97754, (541) 416–6864, or email *lmclark@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1(800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The John Day—Snake RAC consists of 15 members chartered and appointed by the Secretary of the Interior. Their diverse perspectives are represented in commodity, conservation, and general interests. They provide advice to BLM and Forest Service resource managers regarding management plans and proposed resource actions on public land in central and eastern Oregon. Tentative agenda items for the November 14–15, 2013, meeting include: Fee proposal for the John Day River; and planning future meeting agendas, dates, and locations. Any other matters that may reasonably come before the John Day—Snake RAC may also be addressed. This meeting is open to the public in its entirety. Information to be distributed to the John Day—Snake RAC is requested prior to the start of each meeting. A public comment period will be available each day of the session. Unless otherwise approved by the John Day—Snake RAC Chair, the public comment period will last no longer than 30 minutes, and each speaker may address the John Day—Snake RAC for a maximum of 5 minutes. Meeting times and the duration scheduled for public comment periods may be extended or altered when the authorized representative considers it necessary to accommodate necessary business and all who seek to be heard regarding matters before the John Day—Snake RAC.

Before including your address, phone number, email address, or other personal identifying information in your comments, please 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.

Carol Benkosky,

Prineville District Manager.

[FR Doc. 2013–25309 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000–L63100000–HD0000–14XL1116AF: HAG14–0003]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon, 30 days from the date of this publication.

Willamette Meridian, Oregon

T. 39 S., R. 6 E., accepted September 10, 2013
Tps. 6 & 7 S., Rgs. 2 & 3 W., accepted September 13, 2013
T. 34 S., R. 7 W., accepted September 27, 2013
T. 8 S., R. 4 E., accepted September 27, 2013

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW. 3rd Avenue, Portland, Oregon 97204, upon required payment.

FOR FURTHER INFORMATION CONTACT: Kyle Hensley, (503) 808–6132, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW. 3rd Avenue, Portland, Oregon 97204. 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: A person or party who wishes to protest against this survey must file a written notice with the Oregon State Director, Bureau of Land Management, stating that they wish to protest. A statement of reasons for a protest may be filed with the notice of protest and must be filed with the Oregon State Director within thirty days after the protest is filed. If a protest against the survey is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed or otherwise resolved.

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.

Mary J.M. Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2013–25311 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Number 1010–0114]

Information Collection: General and Oil and Gas Production Requirements in the Outer Continental Shelf; Submitted for OMB Review; Comment Request

ACTION: 30-Day notice.

MMAA104000

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Ocean Energy Management (BOEM) is notifying the public that we have submitted an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval. The ICR pertains to the paperwork requirements in the regulations under 30 CFR Part 550, Subparts A and K, General and Oil and Gas Production Requirements. This notice provides the public a second opportunity to comment on the paperwork burden of this collection.

DATE: Submit written comments by November 27, 2013.

ADDRESSES: Submit comments on this ICR to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_submission@omb.eop.gov* (email). Please provide a copy of your comments to the BOEM Information Collection Clearance Officer, Arlene Bajusz, Bureau of Ocean Energy Management, 381 Elden Street, HM–3127, Herndon, Virginia 20170 (mail) or *arlene.bajusz@boem.gov* (email). Please reference ICR 1010–0114 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at *arlene.bajusz@boem.gov* (email) or (703) 787–1025 (phone). You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 1010–0114.

Title: 30 CFR Part 550, Subpart A, General, and Subpart K, Oil and Gas Production Requirements.

Forms: BOEM–0127, BOEM–0140, BOEM–1123, BOEM–1832.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended (43 U.S.C. 1331 *et seq.* and 43 U.S.C. 1801 *et seq.*), authorizes the Secretary of the Interior to prescribe rules and regulations to administer leasing of the OCS. Such rules and regulations will apply to all operations conducted under a lease. Operations in the OCS must preserve, protect, and develop oil and natural gas resources in a manner that is consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of human, marine, and coastal environments; ensure the public a fair and equitable return on the resources of the OCS; and preserve and maintain free enterprise competition. Section 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well trained personnel using technology, precautions, and techniques sufficient to prevent or minimize . . . loss of well control . . . physical obstructions to users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property or endanger life or health.''

The Independent Offices Appropriations Act (31 U.S.C. 9701), the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996), and Office of Management and Budget (OMB) Circular A–25 authorize Federal agencies to recover the full cost of services that confer special benefits. Under the Department of the Interior's (DOI) implementing policy, the Bureau of Ocean Energy Management (BOEM) is required to charge fees for services that provide special benefits or privileges to an identifiable non-Federal recipient above and beyond those that accrue to the public.

This ICR covers 30 CFR 550, Subpart A, General, and Subpart K, Oil and Gas Production Requirements, which deal with regulatory requirements of oil, gas, and sulphur operations on the OCS. This request also covers the related Notices to Lessees and Operators (NTLs)

that BOEM issues to clarify and provide guidance on some aspects of our regulations.

The BOEM uses the information collected under the Subpart A and K regulations to ensure that operations in the OCS are carried out in a safe and environmentally sound manner, do not interfere with the rights of other users in the OCS, and balance the protection and development of OCS resources. Specifically, we use the information collected to:

- Determine the capability of a well to produce oil or gas in paying quantities or to determine the possible need for additional wells resulting in minimum royalty status on a lease.
- Provide lessees/operators greater flexibility to comply with regulatory requirements through approval of alternative equipment or procedures and departures if they demonstrate equal or better compliance with the appropriate performance standards.
- Ensure that subsurface storage of natural gas does not unduly interfere with development and production operations under existing leases.
- Record the designation of an operator authorized to act on behalf of the lessee/operating rights owner and to fulfill their obligations under the OCS Lands Act and implementing regulations, or to record the local agent empowered to receive notices and comply with regulatory orders issued (Form BOEM–1123, Designation of Operator). This form requires the respondent to submit general information such as lease number, name, address, company number of designated operator, and signature of the authorized lessee. With this renewal, BOEM is adding a line for the signator's name and title and clarifying explanations and terminology. We are also introducing instructions on how to fill out the form specific to the Gulf of Mexico Region to better facilitate the processing of the form, given the volume of form submissions and inquiries that the Gulf Region receives. We estimate the instructions will increase the time from 15 to 30 minutes to read and fill out the form; however, we believe the instructions will reduce the number of basic questions and result in faster processing time for respondents.
- Determine if an application for right-of-use and easement complies with the OCS Lands Act, other applicable laws, and BOEM regulations; and does not unreasonably interfere with the operations of any other lessee.
- Provide for orderly development or disqualification of leases to determine the appropriateness of lessee/operator performance.
- Approve requests to cancel leases and ascertain if/when the Secretary may cancel leases.
- Ensure the protection of any discovered archaeological resources.
- Regulate production rates from sensitive reservoirs (Form BOEM–0127, Sensitive Reservoir Information Report). BOEM engineers and geologists use the information for rate control and reservoir studies. The form requests general information about the reservoir and the company, volumetric data, and fluid analysis and production data. To assist respondents in filling out the form, BOEM is introducing instructions to clarify data entries. We expect the instructions to reduce or eliminate the number of form revisions in the future, although it could initially add 30 minutes to the form burden to read them.
- Manage reservoirs in our efforts to conserve natural resources, prevent waste, and protect correlative rights, including the Government's royalty interest (Form BOEM–0140, Bottomhole Pressure Survey Report). Specifically, BOEM uses the information in reservoir evaluations to determine maximum production and efficient rates and to review applications for downhole commingling to ensure that action does not harm ultimate recovery or undervalued royalties. The form requests information about the well and operator; test data information such as shut-in time, bottomhole temperature, kelly bushing elevation; and bottomhole pressure points that consist of measured depth(s), true vertical depth(s), pressure(s), and pressure gradient(s). With this renewal, BOEM is adding a line to record the distance between the kelly bushing and tubing-head flange and is modifying some wording for clarification. We expect no change to the hour burden as a result.
- Determine that respondents have corrected any Incidents of Non-Compliance (INCs), Form BOEM–1832, identified during compliance reviews. The BOEM issues this form to the operator and the operator then corrects the INC(s), signs and returns the form to the BOEM Regional Supervisor. To accommodate the split of regulatory responsibilities from the former Bureau of Ocean Energy Management, Regulation, and Enforcement, BOEM will be revising this form to reflect BOEM's compliance authority and will obtain OMB approval under a separate submission.

We will protect proprietary information according to the Freedom of Information Act (5 U.S.C. 552), its implementing regulations (43 CFR part 2), 30 CFR part 252, and 30 CFR 550.197, ''Data and information to be made available to the public or for limited inspection.'' Proprietary information concerning geological and geophysical data will be protected according to 43 U.S.C. 1352. No items of a sensitive nature are collected. Responses are mandatory.

Frequency: Primarily on occasion; monthly.

Description of Respondents: Federal oil and gas and sulphur lessees/operators.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this collection is 30,635 hours. The following table details the individual components and estimated hour burdens. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

BURDEN BREAKDOWN

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours
Authority and Definition of Terms				
104; 181; Form BOEM–1832.	Appeal orders or decisions; appeal INCs; request hearing due to cancellation of lease.	Exempt under 5 CFR 1320.4(a)(2), (c)		0

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours
Performance Standards				
115; 116	Request determination of well producibility; make available or submit data and information; notify BOEM of test.	5	90 responses	450
119	Apply for subsurface storage of gas; sign storage agreement.	10	3 applications	30
Subtotal			93 responses	480
Cost Recovery Fees				
125; 126; 140	Cost Recovery Fees; confirmation receipt etc; verbal approvals and written request to follow. Includes request for refunds.	Cost Recovery Fees and related items are covered individually throughout this subpart		0
Designation of Operator				
143	Report change of name, address, etc	Not considered information collection under 5 CFR 1320.3(h)(1)		0
143(a–c); 144; 145; Form BOEM–1123.	Submit designation of operator (Form BOEM–1123—form takes 30 minutes); report updates; notice of termination; submit designation of agent. Request exception. NO FEE.	1	2,584 forms	2,584
143(a–d); 144; 145; Form BOEM–1123.	Change designation of operator (Form BOEM–1123—form takes 30 minutes); report updates; notice of termination; submit designation of agent; include pay.gov confirmation receipt. Request exception. SERVICE FEE.	1	930 forms	930
		$175 fee x 930 = $162,750		
186(a)(3); NTL	Apply for user account in TIMS (electronic/digital form submittals).	Not considered information collection under 5 CFR 1320.3(h)(1)		0
Subtotal			3,514 responses	3,514
			$162,750 non-hour cost burden	
Compliance				
101; 135; 136; Form BOEM–1832.	Submit response and required information for INC, probation, or revocation of operating status. Notify when violations corrected.	2	94 submissions	188
	Request waiver of 14-day response time or reconsideration.	1	1	1
135; 136	Request reimbursement for services provided to BOEM representatives during reviews; comment.	1.5	2 requests	3
Subtotal			97 responses	192
Special Types of Approval				
125(c); 140	Request various oral approvals not specifically covered elsewhere in regulatory requirements.	1	100 requests	100
141; 101–199	Request approval to use new or alternative procedures; submit required information.	20	100 requests	2,000
142; 101–199	Request approval of departure from operating requirements not specifically covered elsewhere in regulatory requirements; submit required information.	2.5	100 requests	250
Subtotal			300 responses	2,350

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours
Right-of-use and Easement				
160; 161; 123	OCS lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include notifications and submitting required information.	9	26 applications	234
160(c)	Establish a Company File for qualification; submit updated information, submit qualifications for lessee/bidder, request exception.	Burden covered under 30 CFR 556 (1010–0006)		0
160; 165; 123	State lessees: Apply for new or modified right-of-use and easement to construct and maintain off-lease platforms, artificial islands, and installations and other devices; include pay.gov confirmation and notifications.	5	1 application	5
		$2,742 state lease fee x 1 = $2,742		
166	State lessees: Furnish surety bond; additional security if required.	Burden covered under 30 CFR 556 (1010–0006)		0
Subtotal			27 responses	239
			$2,742 non-hour cost burden	
Primary Lease Requirements, Lease Term Extensions, and Lease Cancellations				
181(d); 182(b), 183(a)(b)	Request termination of suspension, cancellation of lease, lesser lease term (no requests in recent years for termination/cancellation of a lease; minimal burden).	20	1 request	20
182; 183, 185; 194	Various references to submitting new, revised, or modified exploration plan, development/production plan, or development operations coordination document, and related surveys/reports.	Burden covered under 30 CFR 550, Subpart B (1010–0151)		0
184	Request compensation for lease cancellation mandated by the OCS Lands Act (no qualified lease cancellations in many years; minimal burden compared to benefit).	50	1 request	50
Subtotal			2 responses	70
Information and Reporting Requirements				
186(a)	Apply to receive administrative entitlements to eWell/TIMS system for electronic submissions.	Not considered IC under 5 CFR 1320.3(h)(1)		0
186; NTL	Submit information, reports, and copies as BOEM requires.	10	125	1,250
135; 136	Report apparent violations or non-compliance.	1.5	2 reports	3
194; NTL	Report archaeological discoveries. Submit archaeological and follow-up reports and additional information.	2	6 reports	12
194; NTL	Request departures from conducting archaeological resources surveys and/or submitting reports in GOMR.	1	2 requests	2
194	Submit ancillary surveys/investigations reports, as required.	Burden covered under 30 CFR 550 Subpart B (1010–0151)		0
196	Submit data/information for G&G activity and request reimbursement.	Burden covered under 30 CFR 551 (1010–0048)		0
197(b)(2)	Demonstrate release of G&G data would unduly damage competitive position.	1	1	1

BURDEN BREAKDOWN—Continued

Citation 30 CFR 550 Subpart A and related forms/NTLs	Reporting or recordkeeping requirement	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours
197	Submit confidentiality agreement	1	1	1
Subtotal			137 responses	1,269
	Recordkeeping			
135; 136	During reviews, make records available as requested by inspectors.	2	7 reviews	14
Subtotal			7 responses	14

Citation 30 CFR 550 Subpart K and related forms/NTLs	Well surveys and classifying reservoirs	Non-hour cost burdens		
		Hour burden	Average number of annual responses	Annual burden hours
1153	Conduct static bottomhole pressure survey; submit Form BOEM–0140 (Bottomhole Pressure Survey Report) (within 60 days after survey).	14	1,161 surveys	16,254
1153(d)	Submit justification, information, and Form BOEM–0140, to request a departure from requirement to run a static bottomhole survey.	1	200 survey departures	200
1154; 1167	Submit request and supporting information to reclassify reservoir.	1	15 requests	15
1155; 1165(b); 1166; 1167	Submit Form BOEM–0127 (Sensitive Reservoir Information Report) and supporting information/revisions (within 45 days after certain events or at least annually). AK Region: submit BOEM–0127 and request MER.	3	2,012 forms	6,036
1153–1167	Request general departure or alternative compliance requests not specifically covered elsewhere in regulatory requirements.	1	2	2
1165	Submit proposed plan for enhanced recovery operations to BSEE.	Burden covered under BSEE 30 CFR 250 (1014–0019)		0
Subtotal			3,390 responses	22,507
Total Burden			7,567 responses	30,635
			$165,492 non-hour cost burdens	

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified two non-hour cost burdens. Section 550.143 requires a fee for a change in designation of operator ($175). Section 550.165 requires a State lessee applying for a right-of use and easement in the OCS to pay a cost recovery application fee ($2,742). These fees reflect the recent adjustment for inflation that became effective February 2, 2013 (78 FR 5836, 1/28/13). The total non-hour cost burden for this collection is estimated at $165,492.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501, *et seq.,*) requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information . . .'' Agencies must specifically solicit comments to: (a) Evaluate whether the collection is necessary or useful; (b) evaluate the accuracy of the burden estimates; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of technology.

To comply with the public consultation process, on June 17, 2013, BOEM published a **Federal Register** notice (78 FR 36244) announcing that we would submit this ICR to OMB for approval. This notice provided the required 60-day comment period. We received no comments in response to the notice; however, comments are accepted at any time.

Public Availability of Comments: 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.

Dated: September 16, 2013.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2013–25322 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA 104000]

Outer Continental Shelf (OCS), Gulf of Mexico (GOM), Oil and Gas Lease Sales, Western Planning Area (WPA) Lease Sales 238, 246, and 248

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Availability (NOA) of the Draft Supplemental Environmental Impact Statement (EIS) and Public Meetings.

SUMMARY: BOEM has prepared a Draft Supplemental EIS for proposed OCS oil and gas Lease Sales 238, 246, and 248, which are tentatively scheduled to be held in August 2014, 2015, and 2016, respectively, in the Western Planning Area (WPA) offshore the States of Texas and Louisiana. This Draft Supplemental EIS updates the environmental and socioeconomic analyses related to proposed WPA Lease Sales 238, 246, and 248 evaluated in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2012–2017; Western Planning Area Lease Sales 229, 233, 238, 246, and 248; Central Planning Area Lease Sales 227, 231, 235, 241, and 247, Final Environmental Impact Statement* (OCS EIS/EA BOEM 2012–019) (2012–2017 WPA/CPA Multisale EIS) and in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2013–2014; Western Planning Area Lease Sale 233; Central Planning Area Lease Sale 231, Final Supplemental Environmental Impact Statement* (OCS EIS/EA BOEM 2013–0118) (WPA 233/CPA 231 Supplemental EIS). The 2012–2017 WPA/CPA Multisale EIS was completed in July 2012. The WPA 233/CPA 231 Supplemental EIS was completed in April 2013.

SUPPLEMENTARY INFORMATION: BOEM developed this Draft Supplemental EIS for proposed WPA Lease Sales 238, 246, and 248 to consider new information made available since completion of the 2012–2017 WPA/CPA Multisale EIS and WPA 233/CPA 231 Supplemental EIS, and to consider new information on the *Deepwater Horizon* explosion, oil spill, and response. This Draft Supplemental EIS provides updates on the baseline conditions and potential environmental effects of oil and natural gas leasing, exploration, development, and production in the WPA. BOEM conducted an extensive search for new information in consideration of the *Deepwater Horizon* explosion, by reviewing scientific journals and available scientific data and information from academic institutions and Federal, State, and local agencies; and by interviewing personnel from academic institutions and Federal, State, and local agencies. BOEM has examined the potential impacts of routine activities, potential accidental events, and the proposed lease sales' incremental contribution to the cumulative impacts on environmental and socioeconomic resources. The oil and gas resource estimates and scenario information for this Draft Supplemental EIS are presented as a range that would encompass the resources and activities estimated for a proposed WPA lease sale.

Draft Supplemental EIS Availability: BOEM has printed and will be distributing a limited number of paper copies of the Draft Supplemental EIS. In keeping with the Department of the Interior's mission to protect natural resources, and to limit costs while ensuring availability of the document to the public, BOEM will primarily distribute digital copies of this Draft Supplemental EIS on compact discs. However, if you require a paper copy, BOEM will provide one upon request if copies are still available.

1. You may obtain a copy of the Draft Supplemental EIS from the Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Public Information Office (GM 335A), 1201 Elmwood Park Boulevard, Room 250, New Orleans, Louisiana 70123–2394 (1–800–200–GULF).

2. You may download or view the Draft Supplemental EIS on BOEM's Internet Web site at *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment//.aspx.*

Several libraries along the Gulf Coast have been sent copies of the Draft Supplemental EIS. To find out which libraries have copies of the Draft Supplemental EIS for review, you may contact BOEM's Public Information Office or visit BOEM's Internet Web site at *http://www.boem.gov/Environmental-Stewardship/Environmental-Assessment/NEPA/nepaprocess.aspx.*

Comments: Federal, State, and local government agencies and other interested parties are requested to send their written comments on the Draft Supplemental EIS in one of the following ways:

1. In an envelope labeled ''Comments on the WPA 238, 246, and 248 Draft Supplemental EIS'' and mailed (or hand carried) to Mr. Gary D. Goeke, Chief, Environmental Assessment Section, Office of Environment (GM 623E), Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394;

2. Through the regulations.gov web portal: Navigate to *http://www.regulations.gov* and search for ''Oil and Gas Lease Sales: Gulf of Mexico, Outer Continental Shelf; Western Planning Area Lease Sales 238, 246, and 248''. (Note: It is important to include the quotation marks in your search terms.) Click on the ''Comment Now!'' button to the right of the document link. Enter your information and comment, then click ''Submit''; or

3. BOEM's email address: *wpa238@boem.gov.*

Comments should be submitted no later than December 12, 2013.

Public Meetings: BOEM will hold public meetings to obtain comments regarding the Draft Supplemental EIS. These meetings are scheduled as follows:

- *Galveston, Texas:* Tuesday, November 5, 2013, Courtyard Galveston Island Gulf Front Marriott, 9550 Seawall Boulevard, Galveston, Texas 77554, beginning at 6:30 p.m. CST; and
- *New Orleans, Louisiana:* Thursday, November 7, 2013, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123, beginning at 1:00 p.m. CST.

FOR FURTHER INFORMATION CONTACT: For more information on the Draft Supplemental EIS, you may contact Mr. Gary D. Goeke, Bureau of Ocean Energy Management, Gulf of Mexico OCS Region, Office of Environment (GM 623E), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394 or by email at *wpa238@boem.gov.* You may also contact Mr. Goeke by telephone at (504) 736–3233.

Public Disclosure of Names and Addresses

BOEM does not consider anonymous comments; please include your name and address as part of your submittal. BOEM makes all comments, including the names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that BOEM withhold their names and/or addresses from the public record; however, BOEM cannot guarantee that we will be able to do so. If you wish your name and/or address to be withheld, you must state your preference prominently at the beginning of your comment. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority: This NOA is published pursuant to the regulations (40 CFR 1503) implementing the provisions of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.* [1988]).

Dated: October 22, 2013.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2013–25329 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA 104000]

Notice of Availability of the Proposed Notice of Sale (NOS) for Central Gulf of Mexico Planning Area (CPA) Outer Continental Shelf (OCS) Oil and Gas Lease Sale 231 (CPA Sale 231)

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of Availability of the Proposed Notice of CPA Sale 231.

SUMMARY: BOEM announces the availability of the Proposed NOS for proposed CPA Sale 231. This Notice is published pursuant to 30 CFR 556.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides affected States the opportunity to review the Proposed NOS. The Proposed NOS sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rental rates.

DATES: Affected States may comment on the size, timing, and location of proposed CPA Sale 231 within 60 days following their receipt of the Proposed NOS. The Final NOS will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening currently is scheduled for March 19, 2014.

SUPPLEMENTARY INFORMATION: The Proposed NOS for CPA Sale 231 and a ''Proposed Notice of Sale Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Bureau of Ocean Energy Management, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

Agency Contact: Julie Conklin, Sales Coordination Branch Chief, *Julie.Conklin@boem.gov.*

Dated: October 18, 2013.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2013–25325 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[MMAA104000]

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: List of Restricted Joint Bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Bureau of Ocean Energy Management by the joint bidding provisions of 30 CFR 556.41, each entity within one of the following groups shall be restricted from bidding with any entity in any of the other following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period November 1, 2013, through April 30, 2014. This List of Restricted Joint Bidders will cover the period November 1, 2013, through April 30, 2014, and replace the prior list published on May 10, 2013, which covered the period of May 1, 2013, through October 31, 2013.

Group I

BP America Production Company
BP Exploration & Production Inc.
BP Exploration (Alaska) Inc.

Group II

Chevron Corporation
Chevron U.S.A. Inc.
Chevron Midcontinent, L.P.
Unocal Corporation
Union Oil Company of California
Pure Partners, L.P.

Group III

Eni Petroleum Co. Inc.
Eni Petroleum US LLC
Eni Oil US LLC
Eni Marketing Inc.
Eni BB Petroleum Inc.
Eni US Operating Co. Inc.
Eni BB Pipeline LLC

Group IV

Exxon Mobil Corporation
ExxonMobil Exploration Company

Group V

Nexen Petroleum Offshore U.S.A. Inc.

Group VI

Petroleo Brasileiro S.A.
Petrobras America Inc.

Group VII

Shell Oil Company
Shell Offshore Inc.
SWEPI LP
Shell Frontier Oil & Gas Inc.
SOI Finance Inc.
Shell Gulf of Mexico Inc.

Group VIII

Statoil ASA
Statoil Gulf of Mexico LLC
Statoil USA E&P Inc.
Statoil Gulf Properties Inc.

Group IX

Total E&P USA, Inc.

Dated: October 22, 2013.

Tommy P. Beaudreau,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2013–25323 Filed 10–25–13; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–509 and 731–TA–1244 (Preliminary)]

1,1,1,2-Tetrafluoroethane From China; Institution of Antidumping and Countervailing Duty Investigations and Scheduling of Preliminary Phase Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping and countervailing duty investigations Nos. 701–TA–509 and 731–TA–1244 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from China of 1,1,1,2-Tetrafluoroethane, provided for in subheading 2903.39.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value and alleged to be subsidized by the Government of China. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 1673a(c)(1)(B)), the Commission must reach a preliminary determination in

antidumping and countervailing duty investigations in 45 days, or in this case by December 6, 2013. The Commission's views must be transmitted to Commerce within five business days thereafter, or by December 13, 2013.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

DATES: *Effective Date:* October 22, 2013.

FOR FURTHER INFORMATION CONTACT: Chris Cassise (202–708–5408), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on October 22, 2013, by Mexichem Fluor Inc., St. Gabriel, LA.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register.** Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Investigations has scheduled a conference in connection with these investigations for 9:30 a.m. on November 12, 2013, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the conference should be filed with *William.Bishop@usitc.gov* and *Sharon.Bellamy@usitc.gov* (DO NOT FILE ON EDIS) on or before November 8, 2013. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 15, 2013, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.*

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: October 23, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–25315 Filed 10–25–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–749 (Third Review)]

Persulfates From China; Revised Schedule for the Subject Investigation

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: *Effective Date:* October 22, 2013.

FOR FURTHER INFORMATION CONTACT: Angela M. W. Newell (202–708–5409), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On August 21, 2013, the Commission established a schedule for the conduct of the subject investigation (78 FR 52969, August 27, 2013). The Commission did not operate between October 1, 2013, and October 16, 2013, because of a lack of appropriations. On October 21, 2013, the Commission issued a notice stating that statutory deadlines would be tolled by this disruption in its operations. The Commission, therefore, is revising its schedule to conform to the revised statutory deadlines.

The Commission's new schedule for the review is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than January 7, 2014; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on

January 8, 2014; the prehearing staff report will be placed in the nonpublic record on December 19, 2013; the deadline for filing prehearing briefs is January 7, 2014; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on January 16, 2014; the deadline for filing posthearing briefs is January 23, 2014; the Commission will make its final release of information on February 13, 2014; and final party comments are due on February 18, 2014.

For further information concerning this investigation see the Commission's notice cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and F (19 CFR part 207).

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: October 23, 2013.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–25316 Filed 10–25–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

AG Survey of Transitional Housing Assistance for Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault Program Grantees Agency Information Collection Activities: New Collection

ACTION: 60-day notice.

The Department of Justice, Office on Violence Against Women (OVW) 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. Comments are encouraged and will be accepted for ''sixty days'' until December 27, 2013. This process is conducted in accordance with 5 CFR 1320.10.

Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. 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. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please Cathy Poston, Office on Violence Against Women, at 202–514–5430.

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:* New collection.

(2) *Title of the Form/Collection:* Survey of Transitional Housing Assistance Program Grant for Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault Program (Transitional Housing Assistance Program) grantees

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* 1122–XXXX. 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:* The affected public includes approximately 300 Transitional Housing Assistance Program Grant for Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault Program (Transitional Housing Assistance Program) grantees. The Transitional Housing Assistance Program focuses on a holistic, victim-centered approach to providing transitional housing services that move survivors into permanent housing. Grants made under this grant program support programs that provide assistance to victims of sexual assault, domestic violence, dating violence, and/or stalking who are in need of transitional housing, short-term housing assistance, and related supportive services. Successful transitional housing programs provide a wide range of flexible and optional services that reflect the differences and individual needs of victims and that allow victims to choose the course of action that is best for them. Transitional housing programs may offer individualized services such as counseling, support groups, safety planning, and advocacy services as well as practical services such as licensed child care, employment services, transportation vouchers, telephones, and referrals to other agencies. Trained staff and case managers may also be available to work with survivors to help them determine and reach their goals of permanent housing.

(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 300 respondents (approximately 300 Transitional Housing Assistance Program grantees) approximately 30 minutes to complete the survey. The survey will address promising practices, specific interventions, how different programs track success, how different programs serve clients with different needs, how programs interact with other programs that do not have a focus on domestic violence, dating violence, sexual assault or stalking, how housing assistance and staffing are utilized for different kinds of programs, and successes and challenges experienced either under the grant program or in general.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 150 hours, that is approximately 300 respondents with an estimated completion time for the form being 30 minutes.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 1407–B, Washington, DC 20530.

Dated: October 22, 2013.

Jerri Murray,

Department Clearance Officer for PRA, United States Department of Justice.

[FR Doc. 2013–25219 Filed 10–25–13; 8:45 am]

BILLING CODE 4410–FX–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[Docket No. 2013R–6T]

Commerce in Explosives; List of Explosives Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); Department of Justice.

ACTION: Notice of list of explosives materials.

SUMMARY: Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, the Department must publish and revise at least annually in the **Federal Register** a list of explosives determined to be within the coverage of 18 U.S.C. 841 *et seq.* The list covers not only explosives, but also blasting agents and detonators, all of which are defined as explosive materials in 18 U.S.C. 841(c). The Department further seeks to clarify that ''black powder substitutes'' are explosives; and have, therefore, added this term to the List of Explosive Materials. This notice publishes the 2013 List of Explosive Materials.

DATES: The list becomes effective October 28, 2013.

FOR FURTHER INFORMATION CONTACT: Paul Brown, Chief, Explosives Industry Programs Branch; Firearms and Explosives Industry Division; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Department of Justice; 99 New York Avenue NE., Washington, DC 20226; 202–648–7120.

SUPPLEMENTARY INFORMATION: The list includes all mixtures containing any of the materials on the list. Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all-inclusive. The fact that an explosive material is not on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definitions in 18 U.S.C. 841. Explosives materials are listed alphabetically by their common names followed, where applicable, by chemical names and synonyms in brackets.

The Department has added one new term, ''Black powder substitutes'' that will appear after ''Black powder based explosive mixtures'' on the List of Explosive Materials. The addition of this term will not expand the list to include any materials not already covered under other names. Although these materials already appear on the List of Explosive Materials under their chemical, mixture or common names, ATF believes that placing this common general term on the list will clarify to readers who are unfamiliar with the nomenclature that these materials are explosives. The Department has not removed any listing since its last publication.

This list supersedes the List of Explosives Materials dated September 20, 2012 (Docket No. ATF 47N, 77 FR 58410).

Notice of List of Explosives Materials

Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, I hereby designate the following as explosive materials covered under 18 U.S.C. 841(c):

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
*Ammonium nitrate explosive mixtures (non-cap sensitive).
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate explosive mixtures (excluding ammonium perchlorate composite propellant (APCP)).
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
*ANFO [ammonium nitrate-fuel oil].
Aromatic nitro-compound explosive mixtures.
Azide explosives.

B

Baranol.
Baratol.
BEAF [1,2-bis (2,2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
Black powder substitutes.
*Blasting agents, nitro-carbo-nitrates, including non-cap sensitive slurry and water gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Bulk salutes.
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclonite [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.
Cyclotrimethylenetrinitramine [RDX].

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM [dipicramide; diaminohexanitrobiphenyl].
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.
DNPA [2,2-dinitropropyl acrylate].
DNPD [dinitropentano nitrile].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA [ethylenedinitramine].
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
EGDN [ethylene glycol dinitrate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive liquids.
Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive powders.

F

Flash powder.

Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMTD [hexamethylenetriperoxidediamine].
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].
Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate explosive mixtures.
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [plastic bonded explosives].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate explosives.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
PYX [2,6-bis(picrylamino)] 3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Salutes (bulk).
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate explosive mixtures.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Special fireworks.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TATP [triacetonetriperoxide].
TEGDN [triethylene glycol dinitrate].
Tetranitrocarbazole.
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetrazole explosives.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.

Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthamonas hydrophilic colloid explosive mixture.

Date approved: October 18, 2013.

B. Todd Jones,

Director.

[FR Doc. 2013–25370 Filed 10–25–13; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International Standards

Notice is hereby given that, on September 16, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ASTM International (''ASTM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between May 2013 and September 2013 designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at *http://www.astm.org.*

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226).

The last notification was filed with the Department on May 10, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on June 13, 2013 (78 FR 35646).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–25281 Filed 10–25–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993; DVD Copy Control Association

Notice is hereby given that, on August 30, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AMZ Midia Industrial S/A, Barueri, BRAZIL; Crystal Ton 2 Ltd., Sofia, BULGARIA; CSR Technology Inc., Sunnyvale, CA; CyberLink Corporation, Shindian City, Taipei, TAIWAN; D&M Holdings Inc., Chuo-ku, Tokyo, JAPAN; Daesung Eltec Co., Ltd., Geumcheon-Gu, Seoul, REPUBLIC OF KOREA; Datapulse Technology Limited, Singapore, SINGAPORE; Dell Products, L.P., Round Rock, TX; Deluxe Digital Studios, Inc., Burbank, CA; Denso Corporation, Kariya, Aichi-ken, JAPAN; Diamondking Inc., Chino, CA; digiCon AG, Kornwestheim, GERMANY; Huawei Device Co., Ltd., Longgang District, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Korea Mikasa Corporation Co., Ltd., Kangham-ku, Seoul, REPUBLIC OF KOREA; Shenzhen Chuangwei Electronic Appliance Tech Co., Nanshan District, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Smart Electronics Manufacturing Service Philippine, Calamba City, Laguna, PHILIPPINES; SoJean International Co., Ltd., His-Chih City, Taipei Hsien, TAIWAN; and YuCha (Hong Kong) Electronics Co., Ltd., Tsuen Wan N.T., Hong Kong, HONG KONG–CHINA, have been added as parties to this venture.

Also, Action Electronics Co., Ltd., Chung Li, TAIWAN; and DAT H.K. Limited, Quarry Bay, Hong Kong, HONG KONG–CHINA, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on May 31, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 1, 2013 (78 FR 39327).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–25282 Filed 10–25–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Heterogeneous System Architecture Foundation

Notice is hereby given that, on September 3, 2013, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Heterogeneous System Architecture Foundation (''HSA Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Broadcom Corporation, Irvine, CA; VIA Technologies Inc., New Taipei City, TAIWAN; Synopsys Inc., Mountain View, CA; and Kishonti Kft (individual member), Budapest, HUNGARY, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research

project remains open, and HSA Foundation intends to file additional written notifications disclosing all changes in membership.

On August 31, 2012, HSA Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 11, 2012 (77 FR 61786).

The last notification was filed with the Department on June 17, 2013. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on July 18, 2013 (78 FR 42976).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2013–25283 Filed 10–25–13; 8:45 am]

BILLING CODE P

LEGAL SERVICES CORPORATION

Notice of Intent To Award—Grant Awards for the Provision of Civil Legal Services to Eligible Low-Income Clients Beginning January 1, 2014

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to make FY 2014 Competitive Grant Awards.

SUMMARY: The Legal Services Corporation (LSC) hereby announces its intention to award grants and contracts to provide economical and effective delivery of high quality civil legal services to eligible low-income clients, beginning January 1, 2014.

DATES: All comments and recommendations must be received on or before the close of business on November 27, 2013.

ADDRESSES: Legal Services Corporation—Competitive Grants, Legal Services Corporation; 3333 K Street NW., Third Floor; Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Reginald Haley, Office of Program Performance, at (202) 295–1545, or *haleyr@lsc.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to LSC's announcement of funding availability on March 29, 2013 (78 FR 19326), and Grant Renewal applications due beginning June 3, 2013, LSC intends to award funds to provide civil legal services in the indicated service areas. Applicants for each service area are listed below. These amounts reflect the most current information available, i.e., 100% implementation of ACS 2009–2011 poverty population and the LSC FY 2013 Basic Field Appropriation of $316,144,749.

State and name of applicant organization	Service area	Estimated annualized 2014 funding amount
Alabama		
Legal Services Alabama, Inc.	AL–4	$5,502,403
Texas RioGrande Legal Aid, Inc.	MAL	30,318
Alaska		
Alaska Legal Services Corporation	AK–1	607,934
Alaska Legal Services Corporation	NAK–1	499,474
American Samoa		
American Samoa Legal Aid	AS–1	204,665
Arizona		
Community Legal Services, Inc.	AZ–3	4,622,586
Community Legal Services, Inc.	MAZ	136,823
DNA-Peoples Legal Services, Inc.	AZ–2	394,550
DNA-Peoples Legal Services, Inc.	NAZ–5	2,409,986
Southern Arizona Legal Aid, Inc.	AZ–5	1,954,524
Southern Arizona Legal Aid, Inc.	NAZ–6	588,689
Arkansas		
Center for Arkansas Legal Services	AR–7	2,011,209
Legal Aid of Arkansas, Inc.	AR–6	1,377,732
Texas RioGrande Legal Aid, Inc.	MAR	72,841
California		
Bay Area Legal Aid	CA–28	3,872,309
California Indian Legal Services, Inc.	CA–1	22,565
California Indian Legal Services, Inc.	NCA–1	815,953
California Rural Legal Assistance, Inc.	CA–31	4,391,072
California Rural Legal Assistance, Inc.	MCA	2,432,738
Central California Legal Services, Inc.	CA–26	2,615,572
Greater Bakersfield Legal Assistance, Inc.	CA–2	938,773
Inland Counties Legal Services, Inc.	CA–12	4,308,476
Legal Aid Foundation of Los Angeles	CA–29	5,294,469
Legal Aid Society of Orange County, Inc.	CA–19	3,238,266
Legal Aid Society of San Diego, Inc.	CA–14	2,573,415
Legal Services of Northern California, Inc.	CA–27	3,363,185
Neighborhood Legal Services of Los Angeles County	CA–30	3,470,765
Colorado		
Colorado Legal Services	CO–6	4,055,902
Colorado Legal Services	MCO	136,868
Colorado Legal Services	NCO–1	88,694
Connecticut		
Pine Tree Legal Assistance, Inc.	NCT–1	14,458
Statewide Legal Services of Connecticut, Inc.	CT–1	2,239,443
Delaware		
Legal Aid Bureau, Inc.	MDE	22,880
Legal Services Corporation of Delaware, Inc.	DE–1	635,691
District of Columbia		
Neighborhood Legal Services Program of the District of Columbia	DC–1	695,117

State and name of applicant organization	Service area	Estimated annualized 2014 funding amount
Florida		
Bay Area Legal Services, Inc.	FL–16	3,016,885
Coast to Coast Legal Aid of South Florida, Inc.	FL–18	1,805,142
Community Legal Services of Mid-Florida, Inc.	FL–15	3,765,129
Florida Rural Legal Services, Inc.	FL–17	3,463,810
Florida Rural Legal Services, Inc.	MFL	827,648
Legal Services of Greater Miami, Inc.	FL–5	2,967,908
Legal Services of North Florida, Inc.	FL–13	1,393,753
Three Rivers Legal Services, Inc.	FL–14	1,869,181
Georgia		
Atlanta Legal Aid Society, Inc.	GA–1	3,380,693
Georgia Legal Services Program	GA–2	7,106,251
Georgia Legal Services Program	MGA	361,311
Guam		
Guam Legal Services Corporation	GU–1	230,653
Hawaii		
Legal Aid Society of Hawaii	HI–1	1,118,203
Legal Aid Society of Hawaii	NHI–1	211,556
Idaho		
Idaho Legal Aid Services, Inc.	ID–1	1,345,445
Idaho Legal Aid Services, Inc.	MID	172,249
Idaho Legal Aid Services, Inc.	NID–1	60,002
Illinois		
Land of Lincoln Legal Assistance Foundation, Inc.	IL–3	2,313,854
Legal Assistance Foundation	IL–6	5,348,079
Legal Assistance Foundation	MIL	230,048
Prairie State Legal Services, Inc.	IL–7	3,363,430
Indiana		
Indiana Legal Services, Inc.	IN–5	6,042,565
Indiana Legal Services, Inc.	MIN	104,781
Iowa		
Iowa Legal Aid	IA–3	2,309,009
Iowa Legal Aid	MIA	34,770
Kansas		
Kansas Legal Services, Inc.	KS–1	2,417,290
Kentucky		
Appalachian Research and Defense Fund of Kentucky	KY–5	1,413,551
Kentucky Legal Aid	KY–9	1,051,114
Legal Aid of the Bluegrass	KY–10	1,362,670
Legal Aid Society Inc.	KY–2	1,219,824
Texas RioGrande Legal Aid, Inc.	MKY	39,223
Louisiana		
Acadiana Legal Service Corporation	LA–10	1,356,049
Legal Services of North Louisiana, Inc.	LA–11	1,304,530
Southeast Louisiana Legal Services Corporation	LA–1	993,071
Southeast Louisiana Legal Services Corporation	LA–12	1,628,556
Texas RioGrande Legal Aid, Inc.	MLA	25,383
Maine		
Pine Tree Legal Assistance, Inc.	ME–1	1,017,173
Pine Tree Legal Assistance, Inc.	MMX–1	115,101
Pine Tree Legal Assistance, Inc.	NME–1	59,527
Maryland		
Legal Aid Bureau, Inc.	MD–1	3,432,398
Legal Aid Bureau, Inc.	MMD	83,786
Massachusetts		
Community Legal Aid, Inc.	MA–10	1,289,166
Merrimack Valley Legal Services, Inc.	MA–4	713,428
South Coastal Counties Legal Services	MA–12	792,910
Volunteer Lawyers Project of the Boston Bar Association	MA–11	1,752,954
Michigan		
Legal Aid and Defender Association, Inc.	MI–13	4,024,993
Legal Aid of Western Michigan	MI–15	2,043,232
Legal Services of Eastern Michigan	MI–14	1,498,675
Legal Services of Northern Michigan, Inc.	MI–9	751,068
Legal Services of South Central Michigan	MI–12	1,508,224
Legal Services of South Central Michigan	MMI	554,716
Michigan Indian Legal Services, Inc.	NMI–1	152,034
Micronesia		
Micronesian Legal Services, Inc.	MP–1	1,156,731
Minnesota		
Anishinabe Legal Services, Inc.	NMN–1	220,713
Central Minnesota Legal Services, Inc.	MN–6	1,543,792

State and name of applicant organization	Service area	Estimated annualized 2014 funding amount
Legal Aid Service of Northeastern Minnesota	MN–1	404,504
Legal Services of Northwest Minnesota Corporation	MN–4	309,690
Southern Minnesota Regional Legal Services, Inc.	MMN	184,378
Southern Minnesota Regional Legal Services, Inc.	MN–5	1,425,866
Mississippi		
Mississippi Center for Legal Services	MS–10	2,445,015
Mississippi Center for Legal Services	NMS–1	76,772
North Mississippi Rural Legal Services, Inc.	MS–9	1,609,781
Texas RioGrande Legal Aid, Inc.	MMS	52,593
Missouri		
Legal Aid of Western Missouri	MMO	75,074
Legal Aid of Western Missouri	MO–3	1,786,978
Legal Services of Eastern Missouri, Inc.	MO–4	1,842,274
Legal Services of Southern Missouri	MO–7	1,557,046
Mid-Missouri Legal Services Corporation	MO–5	410,231
Montana		
Montana Legal Services Association	MMT	50,302
Montana Legal Services Association	MT–1	878,279
Montana Legal Services Association	NMT–1	147,055
Nebraska		
Legal Aid of Nebraska	MNE	38,965
Legal Aid of Nebraska	NE–4	1,404,961
Legal Aid of Nebraska	NNE–1	30,528
Nevada		
Nevada Legal Services, Inc.	NNV–1	122,810
Nevada Legal Services, Inc.	NV–1	2,477,932
New Hampshire		
Legal Advice & Referral Center, Inc.	NH–1	684,443
New Jersey		
Central Jersey Legal Services, Inc.	NJ–17	1,009,407
Essex-Newark Legal Services Project, Inc.	NJ–8	766,510
Legal Services of Northwest Jersey	NJ–15	358,423
Northeast New Jersey Legal Services Corporation	NJ–18	1,503,926
Ocean-Monmouth Legal Services, Inc.	NJ–12	627,706
South Jersey Legal Services, Inc.	MNJ	111,189
South Jersey Legal Services, Inc.	NJ–16	1,149,705
New Mexico		
DNA-Peoples Legal Services, Inc.	NM–1	174,328
DNA-Peoples Legal Services, Inc.	NNM–2	20,981
New Mexico Legal Aid	MNM	80,485
New Mexico Legal Aid	NM–5	2,366,505
New Mexico Legal Aid	NNM–4	429,121
New York		
Legal Aid Society of Mid-New York, Inc.	MNY	255,089
Legal Aid Society of Mid-New York, Inc.	NY–22	1,461,666
Legal Aid Society of Northeastern New York, Inc.	NY–21	1,138,400
Legal Assistance of Western New York, Inc.	NY–23	1,537,538
Legal Services NYC	NY–9	10,245,135
Legal Services of the Hudson Valley	NY–20	1,496,082
Nassau/Suffolk Law Services Committee, Inc.	NY–7	1,071,137
Neighborhood Legal Services, Inc.	NY–24	1,100,335
North Carolina		
Legal Aid of North Carolina, Inc.	MNC	493,913
Legal Aid of North Carolina, Inc.	NC–5	9,780,735
Legal Aid of North Carolina, Inc.	NNC–1	201,563
North Dakota		
Legal Services of North Dakota	ND–3	412,354
Legal Services of North Dakota	NND–3	248,781
Southern Minnesota Regional Legal Services, Inc.	MND	106,820
Ohio		
Community Legal Aid Services, Inc.	OH–20	1,789,848
Legal Aid of Western Ohio, Inc.	MOH	116,085
Legal Aid of Western Ohio, Inc.	OH–23	2,780,583
Legal Aid Society of Greater Cincinnati	OH–18	1,511,576
Ohio State Legal Services	OH–17	1,653,585
Ohio State Legal Services	OH–5	1,575,615
The Legal Aid Society of Cleveland	OH–21	2,008,919
Oklahoma		
Legal Aid Services of Oklahoma, Inc.	MOK	57,669
Legal Aid Services of Oklahoma, Inc.	OK–3	3,882,012
Oklahoma Indian Legal Services, Inc.	NOK–1	756,200
Oregon		

State and name of applicant organization	Service area	Estimated annualized 2014 funding amount
Legal Aid Services of Oregon	MOR	513,332
Legal Aid Services of Oregon	NOR–1	170,489
Legal Aid Services of Oregon	OR–6	3,313,816
Pennsylvania		
Laurel Legal Services, Inc.	PA–5	582,602
Legal Aid of Southeastern Pennsylvania	PA–23	1,024,199
MidPenn Legal Services, Inc.	PA–25	2,127,790
Neighborhood Legal Services Association	PA–8	1,286,515
North Penn Legal Services, Inc.	PA–24	1,704,415
Northwestern Legal Services	PA–26	641,552
Philadelphia Legal Assistance Center	MPA	152,741
Philadelphia Legal Assistance Center	PA–1	2,523,164
Southwestern Pennsylvania Legal Services, Inc.	PA–11	388,245
Puerto Rico		
Community Law Office, Inc.	PR–2	203,867
Puerto Rico Legal Services, Inc.	MPR	267,932
Puerto Rico Legal Services, Inc.	PR–1	10,251,408
Rhode Island		
Rhode Island Legal Services, Inc.	RI–1	875,802
South Carolina		
South Carolina Legal Services, Inc.	MSC	182,280
South Carolina Legal Services, Inc.	SC–8	5,071,133
South Dakota		
Dakota Plains Legal Services, Inc.	NSD–1	862,328
Dakota Plains Legal Services, Inc.	SD–4	355,360
East River Legal Services	SD–2	355,231
Tennessee		
Legal Aid of East Tennessee	TN–9	2,218,950
Legal Aid Society of Middle Tennessee and the Cumberlands	TN–10	2,835,505
Memphis Area Legal Services, Inc.	TN–4	1,309,884
Texas RioGrande Legal Aid, Inc.	MTN	58,448
West Tennessee Legal Services, Inc.	TN–7	639,210
Texas		
Legal Aid of NorthWest Texas	TX–14	7,968,393
Lone Star Legal Aid	TX–13	9,474,577
Texas RioGrande Legal Aid, Inc.	MTX	1,280,067
Texas RioGrande Legal Aid, Inc.	NTX–1	28,905
Texas RioGrande Legal Aid, Inc.	TX–15	9,453,338
Utah		
Utah Legal Services, Inc.	MUT	62,508
Utah Legal Services, Inc.	NUT–1	75,982
Utah Legal Services, Inc.	UT–1	2,161,982
Vermont		
Legal Services Law Line of Vermont, Inc.	VT–1	448,520
Virgin Islands		
Legal Services of the Virgin Islands, Inc.	VI–1	151,995
Virginia		
Blue Ridge Legal Services, Inc.	VA–19	722,533
Central Virginia Legal Aid Society, Inc.	MVA	145,342
Central Virginia Legal Aid Society, Inc.	VA–18	1,023,601
Legal Aid Society of Eastern Virginia	VA–16	1,055,663
Legal Services of Northern Virginia, Inc.	VA–20	1,155,959
Southwest Virginia Legal Aid Society, Inc.	VA–15	659,671
Virginia Legal Aid Society, Inc.	VA–17	783,175
Washington		
Northwest Justice Project	MWA	672,661
Northwest Justice Project	NWA–1	263,092
Northwest Justice Project	WA–1	4,969,119
West Virginia		
Legal Aid of West Virginia, Inc.	WV–5	2,076,150
Wisconsin		
Legal Action of Wisconsin, Inc.	MWI	83,902
Legal Action of Wisconsin, Inc.	WI–5	3,580,841
Wisconsin Judicare, Inc.	NWI–1	143,264
Wisconsin Judicare, Inc.	WI–2	943,708
Wyoming		
Legal Aid of Wyoming, Inc.	NWY–1	159,594
Legal Aid of Wyoming, Inc.	WY–4	384,024

These grants and contracts will be awarded under the authority conferred on LSC by the Legal Services Corporation Act, as amended, 42 U.S.C. 2996e(a)(l). Awards will be made so that each service area is served, although no listed organization is guaranteed an award or contract. Grants will become effective and grant funds will be distributed on or about January 1, 2014.

This notice is issued pursuant to 42 U.S.C. 2996f(f). Comments and recommendations concerning potential grantees are invited, and should be delivered to LSC within thirty (30) days from the date of publication of this notice.

Dated: October 23, 2013.

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–25334 Filed 10–25–13; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 13–123]

NASA Advisory Council; Science Committee; Planetary Protection Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Protection Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Tuesday, November 12, 2013, 9:00 a.m. to 5:00 p.m., and Wednesday, November 13, 2013, 8:30 a.m. to 4:00 p.m., Local Time.

ADDRESSES: This meeting will take place at the NASA Goddard Space Flight Center, 8800 Greenbelt Road, Greenbelt, MD 20771. The November 12 meeting will be held in Building 28, Room E210. The November 13 meeting will be held in Building 21, Rooms 183A and B.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, fax (202) 358–2779, or *ann.b.delo@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will also be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 866–625–7921, pass code 9515434, to participate in this meeting by telephone. The WebEx link for the November 12 meeting is *https://nasa.webex.com/,* meeting number 990 787 342, password PPS111220131! The WebEx link for the November 13 meeting is *https://nasa.webex.com/,* meeting number 999 279 440, password PPS111320132! The agenda for the two-day meeting includes the following topics:

—Planetary Protection at NASA; Issues and Status

—Planetary Protection for Cached Mars Samples

—Planetary Science Update

—Mars Science Laboratory Lessons Learned Status

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter into the NASA Goddard Space Flight Center and must state that they are attending the NASA Advisory Council's Planetary Protection Subcommittee meeting in Buildings 28 and 21. The November 12 meeting will be held in Building 28, Room E210. The November 13 meeting will be held in Building 21, Rooms 183A and B. All U.S. citizens and Permanent Residents (green card holders) desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Ann Delo via email *ann.b.delo@nasa.gov* or by telephone at (202) 358–0750 no later than the close of business November 5, 2013. Foreign Nationals must provide following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned copy of their passport and visa to Ann Delo via email at *ann.b.delo@nasa.gov* no later than close of business November 1, 2013. If the above information is not received by the noted dates, U.S. citizens should expect a minimum delay of two (2) hours, and Foreign Nationals may not be granted entrance. All visitors to this meeting will report to the Goddard Space Flight Center (GSFC) Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Mary Holland at (301) 286–5412 or email *mary.holland@nasa.gov.*

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2013–25327 Filed 10–25–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 13–124]

NASA Asteroid Initiative Idea Synthesis Workshop

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Continuation of public conference to examine ideas in response to the recent RFI for the agency's Asteroid Initiative.

SUMMARY: The National Aeronautics and Space Administration announces that the agency will resume the NASA Asteroid Initiative Idea Synthesis public conference, which was postponed October 1, 2013, to provide a status on the Agency's Asteroid Initiative planning and to enable feedback and discussion from the global community and the public.

DATES: Wednesday Nov. 20, 2013, (7 p.m. CST)—Friday, Nov. 22, 2013, (12 p.m. CST).

ADDRESSES: Lunar and Planetary Institute, 3600 Bay Area Boulevard, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Michele Gates, Senior Technical Advisor, NASA Human Exploration and Operations Mission Directorate: 202–358–1048.

SUPPLEMENTARY INFORMATION:

- The purpose of this conference is to publicly examine and synthesize highly rated responses to the *NASA's Asteroid Initiative RFI.* Findings will be developed and provided as inputs to NASA's planning activities.
- This conference will be streamed live online. Viewing and interactive participation options will be posted at *http://www.nasa.gov/asteroidworkshop* prior to the event.
- Due to limited seating capacity, onsite attendance is by invitation only. Invitations will be issued starting Monday, October 28, 2013.

Registration

• NASA will invite many of the RFI submitters to attend the workshop to share their ideas. Invited presenters will have the option to attend onsite, or present their ideas remotely via online virtual meeting capabilities. Presenters must R.S.V.P. through the registration form provided to them in the invitation email.

• Anyone who is not invited to present at the workshop will be able to participate virtually through live streaming forums dedicated to the workshop plenary sessions and focused track sessions.

Check In

• Workshop check-in will open at on Wednesday, November 20, 2013, 6 p.m. CST.

• All attendees must enter through the LPI main doors (3600 Bay Area Blvd., Houston, Texas 77058).

Media

News media interested in attending are required to pre-register and should contact Sarah Becky Ramsey at 202–358–1694 or Rachel Kraft at 202–358–1100 for additional information.

Security

Event attendees will receive a workshop badge upon check in. All participates are asked to keep this badge on them at all times while in the facility.

Driving Directions

Driving directions and parking procedures will be provided to attendees prior to the workshop.

Local Area information including additional directions and maps can be found here: *http://www.hou.usra.edu/meetings/local_info/.*

Public Transportation

For Houston Metro information, please visit their Web site at *http://www.ridemetro.org/SchedulesMaps/Default.aspx.*

William Gerstenmaier,

Associate Administrator, Human Exploration & Operations Mission Directorate.

[FR Doc. 2013–25324 Filed 10–25–13; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–002]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency has submitted to OMB for approval the information collection described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted to OMB at the address below on or before November 27, 2013 to be assured of consideration.

ADDRESSES: Send comments to Mr. Nicholas A. Fraser, Desk Officer for NARA, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5167; or electronically mailed to *Nicholas_A._Fraser@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694 or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. NARA published a notice of proposed collection for this information collection on July 29, 2013 (78 FR 45569). No comments were received. NARA has submitted the described information collection to OMB for approval.

In response to this notice, comments and suggestions should address one or more of the following points: (a) Whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by this collection. In this notice, NARA is soliciting comments concerning the following information collection:

Title: OGIS Request for Assistance and Consent.

OMB number: 3095–0068.

Agency form number: NA Forms 10003 and 10004.

Type of review: Regular.

Affected public: Individuals or households, business or other for-profit, not-for-profit institutions, and Federal government.

Estimated number of respondents: 600.

Estimated time per response: 1 minute.

Frequency of response: On occasion.

Estimated total annual burden hours: 10 hours.

Abstract: In order to fulfill its government-wide statutory mission, OGIS provides varying types of assistance to its customers, which requires communicating with government departments and agencies regarding the customers' FOIA/Privacy Act request/appeal. Handling requests for OGIS assistance must conform to the legal requirements of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. Authority for the requirements set forth in these forms is also contained in 5 U.S.C. 552a(b). OGIS will use the information submitted in the proposed forms to provide the requested assistance. Without the information submitted in these forms, OGIS would be unable to fulfill its mission.

Dated: October 22, 2013.

Michael L. Wash,

Executive for Information Services/CIO.

[FR Doc. 2013–25384 Filed 10–25–13; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Cancellation of Meeting

SUMMARY: As a result of the impact of the recent government shutdown, the National Science Foundation is issuing this notice to cancel the November 6–7, 2013 Advisory Committee for Education and Human Resources meeting. The public notice for this committee was published in the **Federal Register** on October 3, 2013 (FR Doc. 2013–24199, page 61400).

FOR FURTHER INFORMATION CONTACT: Teresa Caravelli, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, 703/292–8600, *tcaravel@nsf.gov.*

Dated: October 23, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–25303 Filed 10–25–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Cancellation of Meeting

SUMMARY: As a result of the impact of the recent government shutdown, the National Science Foundation is issuing this notice to cancel the October 31 to November 1, 2013 Advisory Committee for Computer and Information Science and Engineering meeting. The public notice for this committee was published in the **Federal Register** on October 4, 2013 (FR Doc. 2013–24277, page 61870–61871).

FOR FURTHER INFORMATION CONTACT: Carmen Whitson, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, 703/292–8900.

Dated: October 23, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–25302 Filed 10–25–13; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; Cancellation of Meeting

SUMMARY: As a result of the impact of the recent government shutdown, the National Science Foundation is issuing this notice to cancel the October 30, 2013 Committee on Equal Opportunities in Science and Engineering meeting. The public notice for this committee was published in the **Federal Register** on October 2, 2013 (FR Doc. 2013–23981, page 60918).

FOR FURTHER INFORMATION CONTACT: Bernice T. Anderson, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, 703/292–5151 Email Address: *banderso@nsf.gov.*

Dated: October 23, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–25304 Filed 10–25–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–454–LR, 50–455–LR, 50–456–LR, 50–457–LR; ASLBP No. 13–929–02–LR–BD01]

Exelon Generation Company, LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, *see* 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Exelon Generation Company, LLC (Byron Nuclear Station, Units 1 and 2, and Braidwood Nuclear Station, Units 1 and 2)

This proceeding involves an application by Exelon Generation Company, LLC to renew for twenty years its operating licenses for Byron Nuclear Station, Units 1 and 2, and Braidwood Nuclear Station, Units 1 and 2, which are located, respectively, near Byron, Illinois and Braidwood, Illinois. The current operating licenses for Byron Nuclear Station, Units 1 and 2, expire, respectively, on October 31, 2024 and November 6, 2026. The current operating licenses for Braidwood Nuclear Station, Units 1 and 2, expire, respectively, on October 17, 2026 and December 18, 2027. In response to a notice that provided an opportunity for a hearing on the renewal application, *see* 78 FR 44,603, July 24, 2013, the Environmental Law and Policy Center filed a hearing request on September 23, 2013.

The Board is comprised of the following administrative judges:

Paul S. Ryerson, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Paul B. Abramson, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Issued at Rockville, Maryland this 8th day of October 2013.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2013–25413 Filed 10–25–13; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70734; File No. SR–NYSEMKT–2013–83]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Commentary .07 to Rule 904 To Extend the Pilot Program That Eliminated the Position Limits for Options on SPDR S&P 500 ETF

October 22, 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 11, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Commentary .07 to Rule 904 to extend the pilot program that eliminated the position limits for options on SPDR S&P 500 ETF (''SPY'') (''SPY Pilot Program''). 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

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b-4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Commentary .07 to Rule 904 to extend the time period of the SPY Pilot Program,[4] which is currently scheduled to expire on October 15, 2013, through December 15, 2014.

This filing does not propose any substantive changes to the SPY Pilot Program. In proposing to extend the SPY Pilot Program, the Exchange reaffirms its consideration of several factors that supported the original proposal of the SPY Pilot Program, including (1) the availability of economically equivalent products and their respective position limits, (2) the liquidity of the option and the underlying security, (3) the market capitalization of the underlying security and the related index, (4) the reporting of large positions and requirements surrounding margin, and (5) the potential for market on close volatility.

In the original proposal to establish the SPY Pilot Program, the Exchange stated that if it were to propose an extension, permanent approval or termination of the program, the Exchange would submit, along with any filing proposing such amendments to the program, a report providing an analysis of the SPY Pilot Program covering the first twelve (12) months during which the SPY Pilot Program was in effect (the ''Pilot Report'').[5] However, because not all self-regulatory organizations (''SROs'') have adopted similar rules eliminating position limits on SPY and market participants that are members of such SROs are required to comply with the more restrictive SPY position limits, no market participants have availed themselves of the SPY Pilot Program. As a result, there is no meaningful data available to compile the Pilot Report at this time and therefore the Exchange is not filing a Pilot Report with this extension request. The Exchange believes it is appropriate to extend the SPY Pilot Program to provide time for other SROs to adopt similar rules eliminating position limits on SPY so that the Exchange can prepare a meaningful Pilot Report if it were to propose any further extension, permanent approval or termination of the program.

As with the original proposal to establish the SPY Pilot Program, the Exchange represents that the Pilot Report will be submitted within thirty (30) days of the end of such twelve (12) month time period. The Pilot Report will detail the size and different types of strategies employed with respect to positions established as a result of the elimination of position limits in SPY. In addition, the Pilot Report will note whether any problems resulted due to the no limit approach and any other information that may be useful in evaluating the effectiveness of the pilot program. The Pilot Report will compare the impact of the pilot program, if any, on the volumes of SPY options and the volatility in the price of the underlying SPY shares, particularly at expiration. In preparing the report the Exchange will utilize various data elements such as volume and open interest. In addition, the Exchange has represented that it will make available to Commission staff data elements relating to the effectiveness of the pilot.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5) of the Act[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that extending the SPY Pilot Program promotes just and equitable principles of trade by permitting market participants, including market makers, institutional investors and retail investors, to establish greater positions when pursuing their investment goals and needs.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any aspect of competition, whether between the Exchange and its competitors, or among market participants. Instead, the proposed rule change is designed to allow the SPY Pilot Program to continue while other SROs adopt similar provisions and meaningful data can be compiled into a Pilot Report.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6)[12] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the 30-day operative delay is appropriate and will benefit market participants because immediate operability will allow the SPY Pilot Program to continue without interruption. The Commission believes that waiving the 30-day operative delay

[4] *See* Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012).

[5] *See* Securities Exchange Act Release No. 67672 (August 15, 2012), 77 FR 50750 (August 22, 2012).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 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, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposal operative upon filing.[14]

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) of the Act[15] to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2013–83 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–83. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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–NYSEMKT–2013–83 and should be submitted on or before November 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–25292 Filed 10–25–13; 8:45 am]

BILLING CODE 8011–01–P

[14] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70733; File No. SR–NYSEArca–2013–42]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending Rule 6.72 To Make the Penny Pilot Program for Options Permanent

October 22, 2013.

On August 20, 2013, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Arca Rule 6.72 to make permanent the penny program for options (''Penny Pilot Program'') permanent. The proposed rule change was published for comment in the **Federal Register** on September 10, 2013.[3] The Commission received 8 comment letters on this proposal.[4]

Section 19(b)(2) of the Act[5] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is October 25, 2013. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change, which relates to the Penny Pilot Program, so that it has sufficient time to consider this proposed rule change, the Comment Letters that have been submitted in connection with this proposed rule change, and NYSE Arca's forthcoming Response to the Comment Letters.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates December 9, 2013, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEArca–2013–42).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–25291 Filed 10–25–13; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70317 (September 4, 2013), 78 FR 55312.

[4] *See* Position Paper from Michael J. Simon, Secretary, International Securities Exchange, LLC (''ISE''), dated September 19, 2013; and letters to Elizabeth M. Murphy, Secretary, Commission, from John M. Liftin, Managing Director and General Counsel, D.E. Shaw & Co., L.P., dated September 30, 2013; Michael J. Simon, Secretary, ISE, dated October 1, 2013; Benjamin R. Londergan, Chief Executive Officer, Group One Trading, L.P., dated October 1, 2013; Jenny L. Golding, Senior Attorney, Legal Division, Chicago Board Options Exchange, Incorporated, dated October 7, 2013; John C. Nagel, Managing Director and General Counsel, Citadel Securities, dated October 15, 2013; Michael J. Simon, Secretary, ISE, dated October 16, 2013; and Harris Bock, Chief Executive Officer, Dynamex Trading LLC, dated October 17, 2013 (collectively ''Comment Letters'').

[5] 15 U.S.C. 78s(b)(2).

[6] 15 U.S.C. 78s(b)(2).

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70735; File No. SR–BOX–2013–49]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Include the Series 56 Examination Fee Information

October 22, 2013.

Pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 16, 2013, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule on the BOX Market LLC (''BOX'') options facility to include the Series 56 examination fee information. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange recently amended the Fee Schedule for trading on BOX to establish fees for the Proprietary Trader Program (S501) Continuing Education Regulatory Element Session.[5] The Exchange now proposes to make a clarifying change to specify the fee for the corresponding Proprietary Trader Qualification Examination (''Series 56'') on the Fee Schedule.

Specifically, the Exchange proposes to add the $195.00 fee per person, per Series 56 examination to the Fee Schedule. This fee reflects both the cost of the examination and the costs incurred in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading. The $60.00 per person, per session fee for the S501 continuing education requirement is already contained within the Fee Schedule and the Exchange believes including both fees in the Fee Schedule would clarify the full cost of the exam to Participants. The Series 56 examination is administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange.[6]

The Exchange permits each person associated with a Participant who is included within the definition of Representative to register as a Limited Representative—Proprietary Trader if his activities in the investment banking or securities business are limited solely to proprietary trading; and he passes the appropriate Qualification Examination for Limited Representative—Proprietary Trader, the Series 56; and he is an associated person of a proprietary trading firm.[7]

The Exchange's Fee Schedule does not currently set forth the fees applicable for the Series 7 and its continuing education program (S101) as these programs are within FINRA's jurisdiction and collected by FINRA from its members. On the contrary, the Series 56 and its continuing education requirements apply to Participants that are not required by Section 15(b)(8) of the Act [8] to become a FINRA member. Therefore, the Exchange believes including these fees in the Fee Schedule will clarify the costs related to this exam and its continuing education.

Additionally, the Exchange proposes to make clarifying changes to the fee schedule to make certain that the differences between these two related fees, the Series 56 examination fee and the S501 continuing education fee, are clear.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange is proposing to include additional information about a relevant fee for the sake of clarity. On behalf of the exchanges, FINRA incurs costs in maintaining and developing the examination and continuing education program to ensure their content is and continues to be adequate in testing the competence and knowledge generally applicable to proprietary trading. The Exchange believes the Series 56 examination fee is reasonable as it is designed to allow FINRA to cover its cost of administering the Series 56 exam program on behalf of the Exchange. The fee for the Series 56 exam is greater than the fee for continuing education because the exam fee is also designed to cover the costs associated with developing not just the Series 56 exam, but also the related S501 continuing education program. The Exchange also believes this fee is reasonable because it understands that other exchanges will be assessing an identical fee to be collected by FINRA for the Series 56 exam. In addition, the Exchange believes this fee is equitably allocated and not unfairly discriminatory as it will apply uniformly to all Participants

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 70255 (August 26, 2013), 78 FR 53812 (August 30, 2013) (Notice of Filing and Immediate Effectiveness of SR–BOX–2013–42).

[6] Participants would continue to submit the exam fee, as well as the fee for continuing education, to FINRA; the Exchange will not invoice or collect these fees.

[7] *See* Exchange Rule 2020(b)(2)(i). Under Exchange Rule 2020(e)(2) a proprietary trading firm is a Participant that trades its own capital, that does not have customers, and that is not a member of the Financial Industry Regulatory Authority. In addition, to qualify for this definition, the funds used by a proprietary trading firm must be exclusively firm funds, all trading must be in the firm's accounts, and traders must be owners of, employees of, or contractors to the firm.

[8] 15 U.S.C. 78o(b)(8).

[9] 15 U.S.C. 78f(b)(4) and (5).

who chose to take the Series 56 examination.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to provide greater specificity and clarity within the Fee Schedule with respect to the fees related to the Series 56 exam and does not impose any burden on intermarket competition because other exchanges will be assessing an identical fee for the Series 56 exam.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action Effectiveness

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Exchange Act [10] and Rule 19b–4(f)(2) thereunder,[11] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2013–49 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2013–49. 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–BOX–2013–49 and should be submitted on or before November 18, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–25293 Filed 10–25–13; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 8508]

U.S. Department of State Advisory Committee on Private International Law (ACPIL)—Online Dispute Resolution (ODR) Study Group

The Office of the Assistant Legal Adviser for Private International Law, Department of State, hereby gives notice that the ACPIL ODR Study Group will hold a public meeting. The ACPIL ODR Study Group will meet to discuss the next session of the UNCITRAL ODR Working Group, scheduled for November 18–22, 2013 in Vienna. This is not a meeting of the full Advisory Committee.

The UNCITRAL ODR Working Group is charged with the development of legal instruments for resolving both business to business and business to consumer cross-border electronic commerce disputes. The Working Group is in the process of developing generic ODR procedural rules for resolution of cross-border electronic commerce disputes. For the reports of the first six sessions of the UNCITRAL ODR Working Group—December 13–17, 2010, in Vienna (A/CN.9/716); May 23–27, 2011, in New York (A/CN.9/721); Nov. 14–18, 2011, in Vienna (A/CN.9/739); May 21–25, 2012, in New York (A/CN.9/744); November 5–9, 2012, in Vienna (A/CN.9/762); and May 20–24, 2013, in New York (A/CN.9/769)—please follow the following link: *http://www.uncitral.org/uncitral/commission/working_groups/3Online_Dispute_Resolution.html*. Documents relating to the upcoming session of the Working Group are available on the same link.

Time and Place: The meeting of the ACPIL ODR Study Group will take place on Thursday, November 7, from 12:30 p.m. to 3:00 p.m. EDT at 2201 C Street NW., Harry S Truman Building, Room 4517. Participants should arrive at the C Street entrance of the Harry S Truman Building before 11:30 a.m. for visitor screening. Participants will be met inside the building at that entrance and will be escorted to Room 4517. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room.

Access to building is strictly controlled. For pre-clearance purposes, those planning to attend in person are requested to email at *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, affiliation, and email address. This will greatly facilitate entry. Participants will be met inside the diplomatic entrance at C Street and, once badges are obtained, escorted to the meeting room.

A member of the public needing reasonable accommodation should provide an email requesting accommodations to *pil@state.gov* no later than a week before the meeting. Requests made after that date will be

considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

Data from the public is requested pursuant to Pub. L. 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State–36) at *http://www.state.gov/documents/organization/103419.pdf* for additional information.

Dated: October 17, 2013.

Michael Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2013–25405 Filed 10–25–13; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 8509]

Overseas Security Advisory Council (OSAC) Meeting Notice

Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on November 19, 20, and 21, 2013. Pursuant to Section 10(d) of the Federal Advisory Committee Act (5 U.S.C. Appendix), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(7)(E), it has been determined that the meeting will be closed to the public. The meeting will focus on an examination of corporate security policies and procedures and will involve extensive discussion of trade secrets and proprietary commercial information that is privileged and confidential, and will discuss law enforcement investigative techniques and procedures. The agenda will include updated committee reports, a global threat overview, and other matters relating to private sector security policies and protective programs and the protection of U.S. business information overseas.

For more information, contact Marsha Thurman, Overseas Security Advisory Council, U.S. Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Dated: October 17, 2013.

Gregory B. Starr,

Director of the Diplomatic Security Service, U.S. Department of State.

[FR Doc. 2013–25407 Filed 10–25–13; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF STATE

[Public Notice 8507]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Cross-Border Insolvency

The Office of the Assistant Legal Adviser for Private International Law, Department of State, gives notice of a public meeting to discuss potential future work related to cross-border insolvency issues under consideration in the United Nations Commission on International Trade Law (UNCITRAL). The public meeting will take place on Monday, November 4, 2013 from 9:00 a.m. until 12 p.m. EDT. This is not a meeting of the full Advisory Committee.

UNCITRAL has developed a number of instruments related to cross-border insolvency law, including the UNCITRAL Model Law on Cross-Border Insolvency, a 4-part Legislative Guide on Insolvency Law, and multiple explanatory texts regarding the Model Law. These texts are available online at *http://www.uncitral.org/uncitral/uncitral_texts/insolvency.html.* UNCITRAL is now seeking to determine what its next insolvency-related projects should be. These issues will be discussed during a colloquium and a meeting of UNCITRAL's Working Group V scheduled for December 16–20, 2013. Documents related to these UNCITRAL meetings are located at *http://www.uncitral.org/uncitral/en/commission/colloquia/insolvency-2013.html* and *http://www.uncitral.org/uncitral/en/commission/working_groups/5Insolvency.html.*

The purpose of the public meeting is to obtain the views of concerned stakeholders on the topics under consideration by Working Group V for future work. Those who cannot attend but wish to comment are welcome to do so by email to Tim Schnabel at *SchnabelTR@state.gov.*

Time and Place: The meeting will take place from 9:00 a.m. until 12:00 p.m. in Room 6421, Harry S Truman Building, 2201 C Street NW., Washington, DC 20520. Participants should plan to arrive at the C Street entrance by 8:30 a.m. for visitor screening. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to the building is strictly controlled. For pre-clearance purposes, those planning to attend should email *pil@state.gov* providing full name, address, date of birth, citizenship, driver's license or passport number, and email address. This information will greatly facilitate entry into the building. A member of the public needing reasonable accommodation should email *pil@state.gov* not later than October 28, 2013. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email *pil@state.gov* to obtain the call-in number and other information.

Data from the public is requested pursuant to Public Law 99–399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107–56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS–D) database. Please see the Security Records System of Records Notice (State-36) at *http://www.state.gov/documents/organization/103419.pdf* for additional information.

Dated: October 17, 2013.

Timothy R. Schnabel,

Attorney-Adviser, Office of Private International Law, Office of Legal Adviser, Department of State.

[FR Doc. 2013–25403 Filed 10–25–13; 8:45 am]

BILLING CODE 4710–08–P

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on November 13, 2013, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for December 12, 2013, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral

comment to the Commission for the listed projects. The deadline for the submission of written comments is November 25, 2013.

DATES: The public hearing will convene on November 13, 2013, at 2:30 p.m. The public hearing will end at 5:00 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is November 25, 2013.

ADDRESSES: The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E–B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436.

Information concerning the applications for these projects is available at the SRBC Water Resource Portal at www.srbc.net/wrp. Materials and supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/pubinfo/docs/2009-02%20Access%20to%20Records%20Policy%209-10-09.PDF*.

Opportunity To Appear and Comment

Interested parties may appear at the hearing to offer comments to the Commission on any project listed below. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Ground rules will be posted on the Commission's Web site, www.srbc.net, prior to the hearing for review. The presiding officer reserves the right to modify or supplement such rules at the hearing. Written comments on any project listed below may also be mailed to Mr. Richard Cairo, General Counsel, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Comments mailed or electronically submitted must be received by the Commission on or before November 25, 2013, to be considered.

SUPPLEMENTARY INFORMATION: The public hearing will cover the following projects:

Public Hearing—Projects Scheduled for Action:

1. Project Sponsor: Aqua Pennsylvania, Inc. Project Facility: Mifflin Township Water System, Mifflin Township, Columbia County, Pa. Application for renewal of groundwater withdrawal of up to 0.432 mgd (30-day average) from Mifflinville Well 3 (Docket No. 19960902).

2. Project Sponsor and Facility: Aqua Infrastructure, LLC (Tioga River), Hamilton Township, Tioga County, Pa. Application for surface water withdrawal of up to 2.500 mgd (peak day).

3. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Athens Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 1.440 mgd (peak day) (Docket No. 20080906).

4. Project Sponsor and Facility: DS Waters of America, Inc., Clay Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 6 (Docket No. 20000203).

5. Project Sponsor and Facility: Energy Corporation of America (West Branch Susquehanna River), Goshen Township, Clearfield County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20091203).

6. Project Sponsor: Gettysburg Municipal Authority. Project Facility: York Water Company Interconnection, Straban Township, Adams County, Pa. Application for consumptive water use of up to 3.000 mgd (peak day).

7. Project Sponsor and Facility: Houtzdale Municipal Authority, Gulich Township, Clearfield County, Pa. Application for groundwater withdrawal of up to 0.537 mgd (30-day average) from Well 14R.

8. Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Modification to low flow protection requirements and authorization of additional water uses of the surface water withdrawal approval (Docket No. 20110616).

9. Project Sponsor and Facility: LHP Management, LLC (Fishing Creek—Clinton Country Club), Bald Eagle Township, Clinton County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20090906).

10. Project Sponsor and Facility: Millersburg Area Authority, Upper Paxton Township, Dauphin County, Pa. Application for renewal of groundwater withdrawal of up to 0.173 mgd (30-day average) from Well 10 (Docket No. 19830309).

11. Project Sponsor and Facility: Millersburg Area Authority, Upper Paxton Township, Dauphin County, Pa. Application for renewal of groundwater withdrawal of up to 0.187 mgd (30-day average) from Well 11 (Docket No. 19830309).

12. Project Sponsor and Facility: New Holland Borough Authority, New Holland Borough, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.576 mgd (30-day average) from Well 2 (Docket No. 19830501).

13. Project Sponsor: New Oxford Municipal Authority. Project Facility: Oxen Country Meadows, Oxford Township, Adams County, Pa. Application for groundwater withdrawal of up to 0.144 mgd (30-day average) from Oxen Country Meadows (OCM) Well 1.

14. Project Sponsor: Old Dominion Electric Cooperative. Project Facility: Rock Springs Expansion, Rising Sun District, Cecil County, Md. Application for consumptive water use of up to 7.900 mgd (peak day).

15. Project Sponsor and Facility: Old Dominion Electric Cooperative (Susquehanna River), Fulton Township, Lancaster County, Pa. Application for surface water withdrawal of up to 8.700 mgd (peak day).

16. Project Sponsor and Facility: Seneca Resources Corporation (Arnot No. 5 Mine Discharge), Bloss Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.499 mgd (peak day) (Docket No. 20090908).

17. Project Sponsor and Facility: Southwestern Energy Production Company (Lycoming Creek—Bodines), Lewis Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20091207).

18. Project Sponsor and Facility: Southwestern Energy Production Company (Lycoming Creek—Ralston), McIntyre Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20091210).

19. Project Sponsor and Facility: Talisman Energy USA Inc. (Choconut Creek), Choconut Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd (peak day).

20. Project Sponsor and Facility: Talisman Energy USA Inc. (Fall Brook—C.O.P. Tioga State Forest), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20091204).

21. Project Sponsor and Facility: Talisman Energy USA Inc. (Fellows Creek—C.O.P. Tioga State Forest), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20091205).

22. Project Sponsor and Facility: WPX Energy Appalachia, LLC (Turner Lake), Liberty Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.393 mgd (peak day) (Docket No. 20090601).

23. Project Sponsor and Facility: Winner Water Services, Inc. (Manor #44 Deep Mine), Girard Township, Clearfield County, Pa. Application for surface water withdrawal of up to 0.144 mgd (peak day).

24. Project Sponsor and Facility: York Water Company (Susquehanna River and South Branch Codorus Creek), Lower Windsor and Spring Garden Townships, York County, Pa. Modification to authorize supply of water to Gettysburg Municipal Authority through an interconnection, subject to receipt by Gettysburg Municipal Authority of an interbasin diversion approval (Docket No. 20021023).

Public Hearing—Projects Scheduled for Action Involving a Diversion

1. Project Sponsor: Gettysburg Municipal Authority. Project Facility: Hunterstown Wastewater Treatment Plant, Straban Township, Adams County, Pa. Modification to increase authorized diversion to accommodate occasional power plant surge (Docket No. 20100916).

2. Project Sponsor: Gettysburg Municipal Authority. Project Facility: York Water Company Interconnection, Straban Township, Adams County, Pa. Application for an out-of-basin diversion of up to 3.000 mgd (peak day) to the Potomac River Basin.

Authority: Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR Parts 806–808.

Dated: October 11, 2013.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2013–25320 Filed 10–25–13; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2013–0131]

Agency Information Collection Activities: Request for Comments of a Previously Approved Information Collection: Procedures for Transportation Drug and Alcohol Testing Programs

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request abstracted below is being forwarded to the Office of Management and Budget for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on renewing the same information collection was published on July 12, 2013 [78 FR 41974]. There were three responses to the docket with a total of seven comments. Two of the respondents were consortium/third party administrators from the trucking and pipeline industries, and one respondent represented a collection site that performs DOT urine collections and pre-employment medical exams. Our responses to the respondents' comments are explained in this notice and the supporting statement to OMB.

DATES: Comments must be submitted on or before November 27, 2013.

ADDRESSES: Send comments regarding the proposed information collection, including burden estimate, and suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of the U.S. Department of Transportation, 725 17th Street NW., Washington, DC 20503; fax: 202–395–5806, or via electronic mail to *OIRA_Submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Bohdan Baczara, Office of Drug and Alcohol Policy and Compliance, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Room W62–317, Washington, DC 20590; 202–366–3784 (voice), 202–366–3897 (fax), or *bohdan.baczara@dot.gov* (email).

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2105–0529.

Title: Procedures for Transportation Drug and Alcohol Testing Programs.

Type of Request: Renewal of a Previously Approved Information Collection.

Background: Under the Omnibus Transportation Employee Testing Act of 1991, DOT is required to implement a drug and alcohol testing program in various transportation-related industries. This specific requirement is elaborated in 49 CFR Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. This request for a renewal of the information collection for the program includes 43 burden items among which are the U.S. Department of Transportation Alcohol Testing Form (ATF) and the DOT Drug and Alcohol Testing Management Information System (MIS) Data Collection Form.

The ATF includes the employee's name, the type of test taken, the date of the test, and the name of the employer. The ATF is essential to the alcohol testing program. Data on each test conducted, including test results, are necessary to document tests conducted and actions taken to ensure safety in the workplace.

The MIS form includes employer specific drug and alcohol testing information such as the reason for the test and the cumulative number of positive, negative and refusal test results. The MIS data is used by each of the affected DOT Agencies (i.e., Federal Aviation Administration, Federal Transit Administration, Federal Railroad Administration, Federal Motor Carrier Safety Administration, and the Pipeline and Hazardous Materials Safety Administration) and the United States Coast Guard when calculating their random testing rates.

Estimated Number of Respondents: The information will be used by transportation employers, Department representatives, and a variety of service agents. Estimated total number of respondents is 2,639,331.

Estimated Number of Responses: 6,548,043.

Frequency: The information will be collected annually.

Annual Estimated Total Number Burden Hours: 678,986

Discussion of Comments to the Docket

There were three respondents to the docket with a total of seven comments. Two of the respondents are consortium/third party administrators from the trucking and pipeline industries, and one respondent represented a collection site that performs pre-employment medical exams and DOT urine collections. Below are our responses to the respondents' comments.

Comment

Most of the respondents expressed support for the Department's use of the Alcohol Testing Form (ATF) to be the record of an alcohol test and the Management Information System (MIS) form to document an employer's DOT testing data. They also supported the Department's estimate of burden hours associated with collection and handling each of the forms.

DOT Response

The Department agrees with the commenters' supportive statements regarding use of the forms and the calculation of burden hours.

Comment

Two of the respondents wondered if the DOT was contemplating an electronic ATF in the future and suggested moving away from a paper-based system.

DOT Response

The Department has no objection to pursuing establishing the framework for an electronic ATF. We are interested in and currently working with the Department of Health and Human Services on issues related to implementing an electronic Federal Drug Testing Custody and Control Form (CCF). We believe that issues associated with the electronic CCF will be similar to issues associated with the electronic ATF. For these reasons, the Department will explore implementing an electronic ATF after an electronic CCF has been implemented.

Comment

One respondent suggested that we modify the urine collection process to permit a portion of the DOT urine sample to also be used for other tests.

DOT Response

Because the comment is not germane to the ATF or MIS form, the Department has no response other than to welcome the respondent to submit comments on this issue during any future rulemaking involving Part 40's urine collections.

Comment

One respondent, a large C/TPA providing services to the trucking industry, recommended allowing ''. . . third-party administrators to be part of the remediation process for alcohol tests as is the case with controlled substances tests.'' The C/TPA went on to say that the current three-part ATF does not provide for the capability for employers to rapidly share information leading to a hole in recordkeeping and making wrong choices regarding drivers with positive test results.

DOT Response

The ATF is a 3-page form and the drug test CCF is a 5-page form. The difference in who ultimately gets certain pages of the form is based upon the fact that drug testing utilizes laboratories and Medical Review Officers, and alcohol testing does not. Hence, the ATF is 3 pages, not 5. As in drug testing, copies of the ATF go to the employee, the employer, and the BAT [in drug testing, the collector]. It is unclear as to what remediation process the respondent is referring. If the issue is that of permitting C/TPAs to transmit positive alcohol test results to employer, the Department has already an established position. The immediate transmission of positive alcohol test result to the employer is a safety matter. Because time is of the essence, the Breath Alcohol Technician (BAT) is required to immediately transmit the result of the confirmation test result (i.e. .020 or greater) to the Designated Employer Representative (DER) so the DER can take the appropriate action. For these reasons, C/TPAs are not permitted to act as intermediaries in transmitting this information to the DER. The Department has no reason to believe that BATs have not been transmitting or cannot immediately transmit this information to the DER.

With respect to employers making incorrect choices regarding what to do with employees who have positive alcohol test results, as a service agent, a C/TPA can advise an employer on the regulation. For example, a C/TPA can explain that an employer's responsibility is to permanently remove an employee from safety sensitive duties when the employee has an alcohol test result of .040 or greater. They can also advise the employer about actions for results 0.02 through 0.039.

Comment

One respondent, a C/TPA servicing the pipeline industry, did not have any concern over the Department's estimated burden hours for either form. That same respondent went on to say that the burden hours should include an estimate for data entry into the Drug and Alcohol Management Information System (DAMIS) as the DAMIS procedures vary by Agency.

DOT Response

DAMIS is an on-line portal to the electronic MIS form. Because of the nature of each transportation industry, each DOT Agency may require different log-in and setup procedures to ensure the accountability by those entities required to submit MIS information. These administrative procedures are external to the actual completion of the MIS form and are independent of the estimated time to actually enter the MIS data once in DAMIS.

Comment

One respondent, a C/TPA servicing the pipeline industry, wanted to know ''. . . what other uses the Department makes of this data in the aggregate and by agency.''

DOT Response

As the respondent noted, the MIS data is primarily used by the DOT Agencies to determine their respective industry's random testing rate for the next calendar year. We would like to add that the DOT Agencies often use the MIS data for planning audit/inspection strategy as well.

Comment

One respondent, a C/TPA servicing the pipeline industry, made several comments related to minimizing the burden of the collection of information on respondents. Their comments focused on the pipeline industry and were on issues leading up to the submission of the MIS data, such as: (1) The varying request dates for submitting the MIS data; (2) the standardization of data entry into DAMIS, as well as permitting to upload a data file into DAMIS; (3) standardizing the input process for contractors in the pipeline industry; and (4) permitting an audit service to log into DAMIS as the employer in order to be able to enter contractor data into DAMIS.

DOT Response

With respect to item 1, it is a well-known fact that the due-date for submitting MIS data is set in each of the Agency's regulations as March 15 of the following year. A DOT Agency may see the need to extend that date to accommodate the stakeholders' request for an extension or the DOT Agency may have identified issues that have prevented their efforts to provide notice to employers in a timely manner so that employers could enter information by the March 15 due-date. In either scenario, extending the due-date would not add a paperwork burden to employers.

With respect to item 2, the one DOT Agency referenced in this comment as a potential beneficiary of ''data entry standardization'' is PHMSA. In particular, it appears the login process for this agency was the commenter's primary issue and was characterized as, ''complicated.'' According to PHMSA, the suggestion to change this process for the sake of ''standardization'' may result in unintended consequences when there is a misunderstanding of the overarching intent of the login process. For PHMSA, each transportation employer—designated as either an ''operator'' or ''contractor''—is issued a unique ''user name'' and ''password'' for purposes of data integrity and security. It is important to understand that operators are solely accountable for their contractors' ''covered employees'' during the MIS reporting year. This means that contractors must provide MIS testing data under the banner of each operator for their contractor's covered employees when they have

performed covered functions, at any time and duration, on the operator's jurisdictional pipeline facilities. With this operator-contractor association rule lodged in the programming, DAMIS designates contractor login information that is solely and directly associated with the operator who has listed them as a ''covered function performing'' contractor. DAMIS also captures one contractor employer entry as a ''data of record'' for accounting purposes and avoiding duplication of data. Eliminating these processes has the possible unintended consequence of degrading data security or forcing the agency to create a login process that is complicated, requiring additional processes such as contractor registration, to assure data integrity.

The suggestion for developing a process for downloading a DAMIS file onto a transportation employer's computer server and then uploading it back to DAMIS while laudable is replete with potential IT security challenges. Among them are: Providing prescriptive stakeholder data entry procedures (especially those with limited computer skills); programing challenges associated with each DOT Agency; and agency budgetary considerations for developing such programming.

With respect to item 3, we mentioned earlier DAMIS is an on-line portal to the electronic MIS form. Because of the nature of the each transportation industry, each DOT Agency may require different log-in and setup procedures to ensure the accountability by those entities required to submit MIS information. These administrative procedures are external to the actual completion of the MIS form and are independent of the estimated time to actually enter the MIS data once in DAMIS.

In the DOT Agency example, PHMSA is being cited as duplicating the reporting requirements for contractor employers. Each contractor login designation is uniquely associated with the operator employer who has identified them in the DAMIS electronic reporting system. This reporting association is consistent with PHMSA regulatory mandate regarding operator monitoring and reporting requirements under Title 49 CFR part 199, 199.115 and 245, which address contractor covered employees.

With respect to item 4, while we recognized the value of MIS provider service performed by C/TPAs, accommodating them for business process efficiency, with a single login, presents significant potential risk to maintaining data integrity and security. Moreover, current regulations assign accountability and responsibility on the employer for MIS reporting.

With regard to entering multiple contractor MIS data under the PHMSA regulation, operator employers, or their designated C/TPAs, always had the option of issuing the DAMIS unique user name and password to these contractors, and then allowing them to enter their data directly into DAMIS. This option is utilized effectively with DOT/FTA grantees/grantors, which allows for shared responsibility for this MIS information. In similar fashion, the pipeline safety operator employer, or their designated C/TPA, can monitor contractor employers' submissions for data review and approval. Utilizing this process could alleviate the number of contractor MIS data has to be physically entered by operator employers or their C/TPA.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Issued in Washington, DC, on October 1, 2013.

Authority and Issuance.

Patricia Lawton,

DOT PRA Clearance Officer.

[FR Doc. 2013–25272 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Southwest Florida International Airport, Ft. Myers, Florida

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed Noise Compatibility Program that was submitted for Southwest Florida International Airport under the provisions of 49 U.S.C. 47504 *et seq* (the Aviation Safety and Noise Abatement Act hereinafter referred to as ''the Act'') and 14 CFR part 150 by the Lee County Port Authority. This program was submitted subsequent to a determination by FAA that the associated Noise Exposure Maps submitted under 14 CFR part 150 for the Southwest Florida International Airport were in compliance with applicable requirements effective February 8, 2013, and was published in the **Federal Register** on February 8, 2013. The proposed Noise Compatibility Program will be approved or disapproved on or before April 19, 2014.

DATES: *Effective Date:* The effective date of the start of FAA's review of the associated noise compatibility program is October 21, 2013. The public comment period ends December 20, 2013.

FOR FURTHER INFORMATION CONTACT: Allan Nagy, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Orlando, FL 32822, (407) 812–6331. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed Noise Compatibility Program for Southwest Florida International Airport which will be approved or disapproved on or before April 19, 2014. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of Title 14 Code of Federal Regulations (CFR) Part 150, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the Noise Compatibility Program for Southwest Florida International Airport, effective on October 21, 2013. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a Noise Compatibility Program under Section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to the

requirements for the submittal of Noise Compatibility Programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before April 19, 2014.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed Noise Compatibility Program are available for examination at the following locations: Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Orlando, FL 32822.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, FL on October 21, 2013.

Bart Vernace,

Manager Orlando Airports District Office.

[FR Doc. 2013–25400 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice To Rescind a Notice of Intent To Prepare an Environmental Impact Statement (EIS): State Route 71, South Knoxville Boulevard (James White Parkway), From Governor John Sevier Highway (State Route 168) to Moody Avenue, Knox County, Tennessee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice to Rescind a Notice of Intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that the Notice of Intent published on May 1, 2007 to prepare an EIS for the proposed State Route 71, South Knoxville Boulevard (James White Parkway), from Governor John Sevier Highway (State Route 168) to Moody Avenue, Knox County, Tennessee, is being rescinded.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Claxton, Planning and Program Management Team Leader, Federal Highway Administration—Tennessee Division Office, 404 BNA Drive, Suite 508, Nashville, TN 37217. 615–781–5770.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Tennessee Department of Transportation, is rescinding the notice of intent to prepare an EIS for the proposed State Route 71, South Knoxville Boulevard (James White Parkway) from near the existing Chapman Highway/Governor John Sevier Highway interchange to Moody Avenue. The proposed project was approximately 5 miles in length.

The FHWA approved the Draft EIS (DEIS) on September 28, 2012. The project as described in the DEIS was to provide an efficient and safe transportation facility that would enhance transportation service by improving access in the South Knoxville area and help relieve traffic congestion on Chapman Highway. During the DEIS process, TDOT conducted public involvement and agency coordination, developed a purpose and need for the project, and developed preliminary alternatives. The preliminary alternatives included a No-Build alternative, and three build alternatives on new location east of the Chapman Highway/Governor John Sevier Highway interchange and extending north westward to the existing State Route 71, South Knoxville Boulevard (James White Parkway) terminus at Moody Avenue.

After consideration of public comments, the Knoxville Regional Transportation Planning Organization (TPO) removed the project from their draft Fiscal Year (FY) 2014–2017 Transportation Improvement Program (TIP) in August of 2013. Subsequently, the FY 2014–2017 Knoxville TIP was adopted by the TPO Executive Board on October 16, 2013, and did not include the State Route 71 project. Based on the Knoxville Regional TPO's intent to not advance the State Route 71 project, TDOT is terminating future development of the EIS.

Comments and questions concerning the proposed action should be directed to FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this proposed program.)

Theresa Claxton,

Planning and Program Mgmt. Team Leader, Nashville, TN.

[FR Doc. 2013–25313 Filed 10–25–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0275]

Hours of Service of Drivers: U.S. Department of Defense (DOD); Application for Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant the U.S. Department of Defense (DOD) Military Surface Deployment and Distribution Command (SDDC) an exemption from the minimum 30-minute rest break provision of the Agency's hours-of-service (HOS) regulations for commercial motor vehicle (CMV) drivers. The exemption enables SDDC's contract motor carriers and their employee-drivers engaged in the transportation of weapons, munitions, and sensitive/classified cargo to have the same regulatory flexibility that 49 CFR 395.1(q) provides for drivers transporting explosives. The exempted drivers are allowed to use 30 minutes or more of attendance time to meet the HOS rest break requirements, provided they do not perform any other work during the break.

DATES: This exemption is effective from 12:01 a.m., October 22, 2013, through 11:59 p.m., October 21, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Pearlie Robinson, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver, and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide

the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

The Military Surface Deployment and Distribution Command (SDDC) manages the motor carrier industry contracts for the Department of Defense (DOD). Certain motor carriers under contract to the SDDC provide protective services while transporting weapons, munitions, and sensitive/classified cargo.

SDDC requests a limited exemption from the HOS regulation pertaining to rest breaks [49 CFR 395.3(a)(3)(ii)] to allow SDDC-contracted drivers providing dual driver-protective services to be treated the same as drivers transporting explosives, as provided in § 395.1(q). Section 395.1(q) states that operators of CMVs carrying Division 1.1, 1.2, or 1.3 explosives subject to the requirement for a minimum 30-minute rest break in § 395.3(a)(3)(ii) may use 30 minutes or more of ''attendance time'' to meet the requirement for a rest break. FMCSA analyzed SDDC's request and on July 23, 2013, granted a limited 90-day waiver for SDDC-contracted motor carriers and drivers from the HOS rest break requirement. The waiver expired on October 22, 2013.

SDDC believes that shipments moved under the requested exemption would achieve a level of safety and security that is at least equivalent to what would be obtained by following the normal break requirements in § 395.3(a)(3)(ii).

SDDC states that it requires continuous attendance and surveillance of such shipments until they reach their final destination. SDDC states that it has instituted several technical and administrative controls to ensure the efficient transportation of cargo requiring protective services, controls that would remain in effect under the requested exemption. They include the following:

- Conducting review of carrier compliance requirements and procedures for moving hazardous cargo.
- Evaluating carrier authority to operate on U.S. roadways.
- Evaluating carrier compliance with FMCSA's Compliance Safety Accountability program and Safety Measurement System standards.
- Providing over-the-road vehicle surveillance.
- Inspecting carrier facilities and corporate headquarters for compliance with DOD and DOT standards.

Further details regarding SDDC's safety controls can be found in its application for exemption. The application can be accessed in the docket identified at the beginning of this notice. SDDC asserts that granting the exemption would allow driver teams to manage their en-route rest periods efficiently and also perform mandated shipment security surveillance, resulting in both safe driving performance and greater security of cargo during long-distance trips.

SDDC anticipates no safety impacts from this exemption and believes that its contract employee drivers should be allowed to follow the requirements in § 395.1(q) when transporting shipments of sensitive DOD cargo. SDDC believes that shipments made under the requested exemption would achieve a level of safety and security that is at least equivalent to that which would be obtained by following the normal break requirement in § 395.3(a)(3)(ii).

SDDC indicated that 40 contract carriers with approximately 1,942 power units and 3,000 drivers would currently be eligible for the exemption if granted. The proposed exemption would be effective for 2 years, the maximum period allowed by § 381.300.

Public Comments

On August 12, 2013, FMCSA published notice of this application, and asked for public comment (78 FR 48927). Six comments were submitted. An anonymous respondent commented by stating, ''If the Federal Motor Carrier Safety Administration approves this exemption for SDDC then they should at least approve the exemption for all team drivers (if not all drivers) of commercial motor vehicles fleet and owner/operators operating in the FMCSA jurisdiction based on the SDDC exemption document.'' Another anonymous respondent opposed the exemption by stating, ''I feel as someone who has held a job as a long distance driver it is important to have regular rest breaks.'' Mr. Wayne Yoder commented by stating that ''If the FMCSA concludes allowing munitions haulers to monitor their vehicles while on their 30 minute break does not detract from highway safety, then all drivers should be allowed to monitor their vehicles while on their 30 minute break.'' Mr. David A. Bell provided comments in support of the exemption.

The American Trucking Associations (ATA) and Boyle Transportation also provided comments in support of the exemption. ATA commented by stating ''FMCSA should grant the Department of Defense's request to preserve en route security, just as it did for a previous Department of Energy exemption request. Doing so preserves a well-established cargo security practice in place before the thirty minute rest break requirement took effect.'' Boyle Transportation commented by stating ''We urge the Federal Motor Carrier Safety Administration to grant this exemption but with more stringent terms and conditions than those identified in the 90-day waiver dated July 23, 2013.'' Additionally, Boyle Transportation made recommendations for FMCSA to place in the terms and conditions for this exemption. All comments are available for review in the docket for this notice.

FMCSA Decision

The FMCSA has evaluated SDDC's application for exemption and the public comments. The Agency believes that SDDC will likely achieve a level of safety that is equivalent to or greater than, the level of safety achieved without the exemption [49 CFR 381.305(a)]. The exempted drivers will receive the 30 minutes or more of rest when required since they will be free of all duties other than ''attending'' the vehicle during the break periods. The safety objectives of the break requirement will be met; the only subject of the exemption is the duty status of the driver while attending the vehicle during a required rest break. Therefore, the Agency grants the exemption request subject to the terms and conditions in this **Federal Register** notice.

Terms of the Exemption

1. Drivers authorized by SDDC to utilize this exemption must have a copy of this exemption document in their possession while operating under the terms of the exemption. The exemption document must be presented to law enforcement officials upon request.

2. All motor carriers operating under this exemption must have a

''Satisfactory'' safety rating with FMCSA, or be ''unrated;'' motor carriers with ''Conditional'' or ''Unsatisfactory'' FMCSA safety ratings are prohibited from using this exemption.

3. All motor carriers operating under this exemption must have Safety Measurement System (SMS) scores below FMCSA's intervention thresholds, as displayed at *http://ai.fmcsa.dot.gov/sms/.*

Period of the Exemption

This exemption from the requirements of 49 CFR 395.3(a)(3)(ii) is granted for the period from 12:01 a.m., October 22, 2013, through 11:59 p.m., October 21, 2015.

Extent of the Exemption

The exemption is restricted to SDDC's contract driver-employees transporting security-sensitive materials. This exemption is limited to the provisions of 49 CFR 395.3(a)(3)(ii) to allow contract driver-employees transporting security-sensitive materials to be treated the same as drivers transporting explosives, as provided in § 395.1(q). These drivers must comply with all other applicable provisions of the FMCSRs.

Preemption

In accordance with 49 U.S.C. 31315(d), during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Notification to FMCSA

The SDDC must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs operating under the terms of this exemption. The notification must include the following information:

a. Date of the accident,

b. City or town, and State, in which the accident occurred, or closest to the accident scene,

c. Driver's name and driver's license number and State of issuance,

d. Vehicle number and State license plate number,

e. Number of individuals suffering physical injury,

f. Number of fatalities,

g. The police-reported cause of the accident,

h. Whether the driver was cited for violation of any traffic laws or motor carrier safety regulations, and

i. The driver's total driving time and total on-duty time period prior to the accident.

Reports filed under this provision shall be emailed to *MCPSD@DOT.GOV.*

Termination

FMCSA does not believe the drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation or restriction of the exemption. The FMCSA will immediately revoke or restrict the exemption for failure to comply with its terms and conditions.

Issued on: October 23, 2013.

Anne S. Ferro,

Administrator.

[FR Doc. 2013–25375 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0184]

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 26 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 27, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0184 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 26 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

Daniel L. Alcaraz

Mr. Alcaraz, 55, 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. Alcaraz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Alcaraz 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.

John Baltich

Mr. Baltich, 53, 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. Baltich understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Baltich 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.

Rodney G. Bell

Mr. Bell, 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. Bell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bell 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.

John D. Clark, 4th

Mr. Clark, 34, 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. 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 optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New Jersey.

Theeir L. Coleman

Mr. Coleman, 54, has had ITDM since 1976. 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 Virginia.

Michael W. Denney

Mr. Denney, 32, 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. Denney understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Denney 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 Kentucky.

Charles G. Garabedian

Mr. Garabedian, 60, 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. Garabedian understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Garabedian 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 Hampshire.

William I. Harbolt

Mr. Harbolt, 64, 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. Harbolt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harbolt 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 Montana.

Ryan L. Harrier

Mr. Harrier, 37, 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. Harrier understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Harrier 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 O operator's license from Michigan.

John D. Heffington

Mr. Heffington, 30, 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. Heffington understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Heffington 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 Kansas.

Matthew L. Herscowitz

Mr. Herscowitz, 22, 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. Herscowitz understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Herscowitz 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 California.

Larry W. Hines

Mr. Hines, 66, 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. Hines understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hines 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 Mexico.

Mark G. Kahler

Mr. Kahler, 33, has had ITDM since 2009. His endocrinologist examined him in 2012 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. Kahler understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Kahler 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 Texas.

Roger B. Larson

Mr. Larson, 75, 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. Larson understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Larson 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 Minnesota.

Michael W. McCrary

Mr. McCrary, 51, 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. McCrary understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McCrary 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 Georgia.

Sean T. McMahon

Mr. McMahon, 49, 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. McMahon understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. McMahon 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 Minnesota.

David S. Monroe

Mr. Monroe, 41, has had ITDM since 1982. 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. Monroe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Monroe 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 Kansas.

Steven M. Oliver

Mr. Oliver, 55, 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. Oliver understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Oliver 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 Arizona.

John E. Parker

Mr. Parker, 54, 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. Parker understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Parker 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 Kansas.

Thomas B. Quirk

Mr. Quirk, 56, 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. Quirk understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Quirk 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.

Michael R. Shields

Mr. Shields, 54, 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. Shields understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Shields 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 North Dakota.

David G. Shultz

Mr. Shultz, 62, 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. 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 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.

Donald A. Spivey

Mr. Spivey, 46, 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. Spivey understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Spivey 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 Tennessee.

James Tracy

Mr. Tracy, 27, 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. Tracy understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Tracy 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.

James S. Wolfe

Mr. Wolfe, 35, 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. Wolfe understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wolfe 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.

Jerry D. Zimmerman

Mr. Zimmerman, 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. Zimmerman understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Zimmerman 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.

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–2013–0184 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–2013–0184 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 22, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–25382 Filed 10–25–13; 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–2013–0167]

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 24 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 27, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0167 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 24 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

Larry Adams, Jr.

Mr. Adams, age 44, has had traumatic corneal necrosis in his left eye since 1990. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, ''It is my opinion the Mr. Adams should be allowed to have his commercial license. Mr. Adams has been successfully driving with only his right eye for the past 18 years.'' Mr. Adams reported that he has driven tractor-trailer combinations for 17 years, accumulating 1.64 million miles. He holds a Class A Commercial Driver's License (CDL) from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Juan R. Andrade

Mr. Andrade, 53, has a macular hole in his right eye due to a traumatic incident in 2001. The visual acuity in his right eye is 20/70, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''I certify that, in my medical opinion, the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Andrade reported that he has driven tractor-trailer combinations for 29 years, accumulating 2.9 million miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald C. Ashley

Mr. Ashley, 42, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''I find no reason to restrict his duties as a CDL driver. I find that speaking with Mr. Ashley that he is well aware of his visual situation and understands the importance of good vision in his occupation as a CDL holder. I find that he is fit to perform his duties.'' Mr. Ashley reported that he has driven tractor-trailer combinations for 3 years, accumulating 255,000 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael A. Bagwell

Mr. Bagwell, 38, has had amblyopia in his left eye since birth. 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, ''It is my opinion that Mr. Bagwell has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Bagwell reported that he has driven straight trucks for 10 years, accumulating 42,500 miles, and tractor-trailer combinations for 15 years, accumulating 67,500 miles. He holds an operator's license from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lester E. Burnes

Mr. Burnes, 47, has a prosthetic left eye due to a traumatic incident in 2012. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2012, his optometrist noted, ''It is my opinion that this patient has loss of left eye due to trauma; well adapted to loss. Right eye visual correction consistent with previous Rx and age. Patient shows better than average adjustment to loss of one eye and approval for continued CDL is recommended.'' Mr. Burnes reported that he has driven straight trucks for 10 years, accumulating 1 million miles, and tractor-trailer combinations for 5 years, accumulating 100,000 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.

Miguel A. Calderon

Mr. Calderon, 40, has a prosthetic left eye due to a traumatic incident in 1990. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, ''In my opinion, Mr. Calderon has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Calderon reported that he has driven straight trucks for 5 years, accumulating 150,000 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.

Terry L. Cliffe

Mr. Cliffe, 59, 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, ''The amblyopic right eye seems to be stable at this time and you have enough vision in the left eye to be able to drive a commercial vehicle.'' Mr. Cliffe reported that he has driven straight trucks for 4 years, accumulating 272,000 miles, and tractor-trailer combinations for 10 years, accumulating 1.19 million 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.

Herman R. Dahmer, Jr.

Mr. Dahmer, 56, has amblyopia 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 optometrist noted, ''Can drive a commercial vehicle.'' Mr. Dahmer reported that he has driven straight trucks for 33 years, accumulating 442,497 miles. He holds a Class A CDL from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Andrew S. Durward

Mr. Durward, 52, has had a central retinal vein occlusion in his right eye since 2010. The visual acuity in his right eye is 20/70, and in his left eye, 20/25. Following an examination in 2013, his ophthalmologist noted, ''He is able to recognize the colors of traffic

control signals and in my medical opinion has sufficient vision to perform the driving task required to operate a commercial vehicle.'' Mr. Durward reported that he has driven straight trucks for 4 years, accumulating 40,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

James P. Fitzgerald

Mr. Fitzgerald, 57, has had a retinal detachment in his left eye since 2010. The visual acuity in his right eye is 20/25, and in his left eye, hand motion. Following an examination in 2012, his ophthalmologist noted, ''Mr. Fitzgerald has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Fitzgerald reported that he has driven tractor-trailer combinations for 33 years, accumulating 3.1 million miles. He holds a Class AM CDL from Massachusetts. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Vashion E. Hammond

Mr. Hammond, 34, has had a mature mixed cataract in his left eye since 1982. The visual acuity in his right eye is 20/20, and in his left eye, hand motion. Following an examination in 2013, his optometrist noted, ''I certify that in my optometric opinion, Mr. Hammond has sufficient vision to operate a commercial vehicle.'' Mr. Hammond reported that he has driven tractor-trailer combinations for 5 years, accumulating 600,000 miles. He holds a Class A CDL from Florida. His driving record for the last 3 years shows one crash, for which he was cited due to careless driving, and one conviction for a moving violation in a CMV; he exceeded the speed limit by 10 mph.

Louis E. Henry, Jr.

Mr. Henry, 58, 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 2013, his optometrist noted, ''Based upon my findings and medical expertise, I Dr. Rashid Omar hereby certify Louis Henry to be visually able to safely operate a commercial motor vehicle.'' Mr. Henry reported that he has driven straight trucks for 32 years, accumulating 1.6 million miles, and tractor-trailer combinations for 6 years, accumulating 150,000 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.

Adam S. Larson

Mr. Larson, 33, has central opacity 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, 20/70. Following an examination in 2013, his ophthalmologist noted, ''In my professional opinion, Mr. Larson has normal peripheral vision and can operate a commercial vehicle.'' Mr. Larson reported that he has driven straight trucks for 4.5 years, accumulating 90,000 miles, and tractor-trailer combinations for 1.5 months, accumulating 1,600 miles. He holds a Class B CDL from Colorado. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Sally A. Leavitt

Ms. Leavitt, 49, has had optic neuropathy in her right eye since childhood. The visual acuity in her right eye is 20/50, and in her left eye, 20/25. Following an examination in 2012, her ophthalmologist noted, ''I certify she has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Ms. Leavitt reported that she has driven buses for 4 years, accumulating 16,640 miles. She holds a Class C CDL from Nevada. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Glenn H. Lewis, Jr.

Mr. Lewis, 45, 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, ''In my opinion, from past performance and the current vision situation Glenn should still be able to operate a commercial vehicle for his employment, just as he has done for the past 15 years.'' Mr. Lewis reported that he has driven straight trucks for 16 years, accumulating 3.3 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.

Leonardo Lopez

Mr. Lopez, 21, has complete loss of vision in his left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20. Following an examination in 2012, his optometrist noted, ''In my medical opinion, Leonardo Lopez seems to have sufficient vision in his right eye to perform the visual tasks associated with operating a commercial vehicle.'' Mr. Lopez reported that he has driven straight trucks for 1 year, accumulating 12,000 miles, and tractor-trailer combinations for 2 years, accumulating 80,000 miles. He holds an operator's license from Nebraska. His driving record for the last 3 years shows one crash, to which he did not contribute and for which he was not cited, and no convictions for moving violations in a CMV.

Larry P. Magrath

Mr. Magrath, 49, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''I believe Larry Magrath has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Magrath reported that he has driven straight trucks for 15 years, accumulating 75,000 miles, tractor-trailer combinations for 1 year, accumulating 30,000 miles, and buses for 5 years, accumulating 12,500 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gilberto D. Miramontes

Mr. Miramontes, 44, has a retinal detachment in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2012, his ophthalmologist noted, ''In my medical opinion, given that Mr. Miramontes has had decreased vision in his right eye for many years and that he has driven a commercial vehicle with no incidents for four years, that [sic] Mr. Miramontes has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Miramontes reported that he has driven tractor-trailer combinations for 4 years, accumulating 208,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard J. Pauxtis

Mr. Pauxtis, 51, has had a vascular occlusion in his left eye since 2002. The visual acuity in his right eye is 20/15, and in his left eye, 20/50. Following an examination in 2013, his optometrist noted, ''Mr. Pauxtis has sufficient vision to perform the driving tasks required to operate commercial vehicles.'' Mr. Pauxtis reported that he has driven tractor-trailer combinations for 38 years,

accumulating 4.56 million 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.

Johnny L. Powell

Mr. Powell, 48, 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, ''Sufficient VA to perform commercial vehicles.'' Mr. Powell reported that he has driven straight trucks for 2 years, accumulating 64,000 miles, and tractor-trailer combinations for 1 year, accumulating 47,000 miles. He holds a Class AM CDL from Maryland. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he was operating a moving vehicle while the operator/occupant was not restrained by a seatbelt.

Jacques W. Rainville

Mr. Rainville, 59, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my medical opinion I believe Mr. Rainville has sufficient vision to drive a commercial vehicle based on his long driving history and the fact his vision has been mostly stable the last 10 years.'' Mr. Rainville reported that he has driven tractor-trailer combinations for 25 years, accumulating 3.75 million miles. He holds a Class A CDL from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Jeffrey T. Skaggs

Mr. Skaggs, 38, has complete loss of vision in his right eye due to a traumatic incident in 1996. 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, ''Today's examination findings suggest that he would be perfectly capable of operation [sic] a commercial vehicle without limitations. His left eye has 20/20 vision with and without correction. He has full peripheral vision.'' Mr. Skaggs reported that he has driven straight trucks for 21 years, accumulating 1.05 million miles, and tractor-trailer combinations for 4 years, accumulating 12,000 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.

Roy A. Whitaker

Mr. Whitaker, 36, has had refractive 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, ''He has refractive amblyopia in his left eye with best corrected va [sic] 20/100, he has neglible [sic] rx [sic] in his right eye and sees 20/20 . . . He appears to be competent and capable of driving a commercial vehicle on our roads and highways.'' Mr. Whitaker reported that he has driven straight trucks for 3.5 years, accumulating 84,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Sammy D. Wynn

Mr. Wynn, 55, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is hand motion, and in his left eye, 20/25. Following an examination in 2013, his optometrist noted, ''It is my professional opinion that Mr. Sammy Wynn meets the requirements to safely drive any motor vehicle.'' Mr. Wynn reported that he has driven straight trucks for 15 years, accumulating 37,500 miles. He holds a Class A CDL from Georgia. 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 27, 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–2013–0167 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–2013–0167 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 16, 2013.

Larry W. Minor,

Associate Administration for Policy.

[FR Doc. 2013–25378 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0169]

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 48 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 27, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0169 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 48 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

Lawrence A. Angle

Mr. Angle, age 49, has complete loss of vision in his left eye due to a traumatic incident in 1986. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, ''In my opinion, Mr. Angle has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Angle reported that he has driven straight trucks for 8 years, accumulating 400,000 miles, and tractor-trailer combinations for 27 years, accumulating 2.8 million miles. He holds a Class A Commercial Driver's License (CDL) from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Alois K. Asche

Mr. Asche, 57, has had acquired anophthalmos in his right eye since 1999. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2013, his ophthalmologist noted, ''It is my medical opinion, Mr. Asche does have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Asche reported that he has driven straight trucks for 39 years, accumulating 312,000 miles, and tractor-trailer combinations for 35 years, accumulating 140,000 miles. He holds a Class A CDL from Indiana. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John P. Bails

Mr. Bails, 70, 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 certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Bails reported that he has driven straight trucks for 10 years, accumulating 500,000 miles, and tractor-trailer combinations for 8 years, accumulating 400,000 miles. He holds an operator's license from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Craig J. Belles

Mr. Belles, 48, has had anisometropic amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/70. Following an examination in 2013, his optometrist noted, ''In my medical opinion, Mr. Belles definitely has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Belles reported that he has driven straight trucks for 14 years, accumulating 94,500 miles. He holds an operator's license from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John E. Bellosi, Jr.

Mr. Bellosi, 48, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his optometrist noted, ''Mr. Bellosi has amblyopia in his left eye and that's why the vision is 20/60 corrected. His vision is stable and in my professional opinion he can safely perform driving tasks required to operate a commercial vehicle.'' Mr. Bellosi reported that he has driven straight trucks for 28 years, accumulating 560,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas A. Black

Mr. Black, 40, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/400. Following an examination in 2013, his optometrist noted, ''In my medical opinion, Mr. Black has demonstrated his ability to do his job well even with his visual issues. Despite his longstanding visual deficit in his left eye, he has likely compensated well throughout his lifetime and should be considered to retain his commercial vehicle license.'' Mr. Black reported that he has driven straight trucks for 8 years, accumulating 32,000 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Eugene R. Briggs

Mr. Briggs, 49, has penetration trauma from a foreign object in his left eye due to a traumatic incident in 1982. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, ''Has sufficient vision to operate a commercial vehicle.'' Mr. Briggs reported that he has driven straight trucks for 6 years, accumulating 216,000 miles. He holds a chauffeur's license from Michigan. His driving record for the last 3 years shows no crashes and one conviction for a moving violation in a CMV; he disobeyed a traffic signal.

Matthew S. Burns

Mr. Burns, 41, has had refractive amblyopia in his right eye since birth. The visual acuity in his right eye is hand motion, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''In my opinion, Matthew has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Burns reported that he has driven straight trucks for 10 years, accumulating 40,000 miles. He holds a Class B CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ryan J. Burnworth

Mr. Burnworth, 35, has complete loss of vision in his right eye due to a traumatic incident in 1980. 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 that Mr. Burnworth does not have any visual defects or field loss that would affect the safe operation of a commercial motor vehicle. Mr. Burnworth reported that he has driven straight trucks for 15 years, accumulating 312,000 miles. He holds an operator's license from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Dennis W. Burrage II

Mr. Burrage, 41, has had enucleation in his right eye since 2005. 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 that Mr. Burrage does not have any visual defects or field loss that would affect the safe operation of a commercial vehicle.

Mr. Burrage reported that he has driven straight trucks for 1 year, accumulating 14,000 miles, and tractor-trailer combinations for 3.5 years, accumulating 336,000. 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.

Freddie A. Carrasquillo

Mr. Carrasquillo, 45, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/60, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''It is my opinion that Mr. Carrasquillo has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Carrasquillo reported that he has driven straight trucks for 17 years, accumulating 187,850 miles, and tractor-trailer combinations for 7 years, accumulating 31,850. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Luis Castelleon-Berrios

Mr. Castelleon-Berrios, 29, has had complete loss of vision 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 ophthalmologist noted that, in her medical opinion, Mr. Castelleon-Berrios does have sufficient vision to operate a commercial motor vehicle. Mr. Castelleon-Berrios reported that he has driven straight trucks for 3 years, accumulating 1.2 million miles. He holds an operator's license from New York. His driving record for the last 3 years shows no crashes and two convictions for moving violations in a CMV; both times he violated the truck route restrictions.

Michael D. Champion

Mr. Champion, 31, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, ''His vision is sufficient to safely operate a commercial vehicle.'' Mr. Champion reported that he has driven straight trucks for 6 years, accumulating 150,000 miles. He holds an operator's license from Vermont. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Kevin J. Cobb

Mr. Cobb, 55, has complete loss of vision 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, light perception. Following an examination in 2013, his optometrist noted, ''Based on these findings and stability of Kevin's visual status, I feel he has sufficient vision at this time to operate a commercial vehicle for agricultural use.'' Mr. Cobb reported that he has driven straight trucks for 39 years, accumulating 390,000 miles, and tractor-trailer combinations for 39 years, accumulating 312,000 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.

Walter F. Crean III

Mr. Crean, 50, has had exotropia in his left eye since 2008. 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, ''This patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Crean reported that he has driven straight trucks for 5 years, accumulating 250,000 miles, and tractor-trailer combinations for 24 years, accumulating 2.5 million miles. He holds a Class A CDL from Connecticut. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Lee A. DeHaan

Mr. DeHaan, 47, has a prosthetic right eye due to a traumatic incident in 2003. The visual acuity in his right eye is no light perception, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, ''It is my medical opinion that Mr. DeHaan has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. DeHaan reported that he has driven tractor-trailer combinations

for 25 years, accumulating 2.5 million miles. He holds a Class A3 CDL from South Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Vincent DeMedici

Mr. DeMedici, 60, has had complete loss of vision in his right eye since birth. The visual acuity in his right eye is no light perception, and in his left eye, 20/10. Following an examination in 2013, his optometrist noted, ''It is my opinion that Mr. DeMedici has sufficient vision to continue to perform the driving tasks required to operate a commercial vehicle.'' Mr. DeMedici reported that he has driven straight trucks for 15 years, accumulating 750,000 miles, and tractor-trailer combinations for 43 years, accumulating 4.3 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.

Bradley R. Dishman

Mr. Dishman, 62, has had a corneal scar in his left eye since 1996. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, ''It is my opinion that Mr. Dishman has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Dishman reported that he has driven straight trucks for 30 years, accumulating 180,000 miles. He holds a Class B CDL from Kentucky. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Christopher T. Faber

Mr. Faber, 46, has a prosthetic left eye due to a traumatic incident during childhood. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted that Mr. Faber does not have any visual defects or field loss that would affect the safe operation of a commercial motor vehicle. Mr. Faber reported that he has driven straight trucks for 7 years, accumulating 49,140 miles. He holds an operator's license from Florida. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Frederick E. Foster

Mr. Foster, 69, 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, ''I am of the opinion that this patient has sufficient vision to operate a commercial vehicle.'' Mr. Foster reported that he has driven straight trucks for 10 years, accumulating 300,000 miles. He holds an operator's license from Virginia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gregory K. Frazier

Mr. Frazier, 52, has retinal damage 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, ''With his visual field testing done today and his previous information in regards to his right eye, Mr. Frazier has sufficient vision to meet the regulations and exemption rule for operating a commercial vehicle.'' Mr. Frazier reported that he has driven straight trucks for 2 years, accumulating 80,000 miles, and tractor-trailer combinations for 15 years, accumulating 1.5 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

John E. Gannon, Jr.

Mr. Gannon, 63, 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 2013, his optometrist noted, ''In my medical opinion, Mr. Gannon has sufficient vision to perform the driving tasks necessary for a commercial vehicle.'' Mr. Gannon reported that he has driven straight trucks for 7 years, accumulating 126,000 miles, and tractor-trailer combinations for 1 year, accumulating 39,000 miles. He holds a Class A CDL from Nevada. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas G. Gholston

Mr. Gholston, 41, has a macular 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, 20/200. Following an examination in 2013, his optometrist noted, ''I certify that in my professional opinion, Mr. Gholston has sufficient vision to safely perform the driving tasks required to operate a commercial vehicle.'' Mr. Gholston reported that he has driven straight trucks for 18.75 years, accumulating 468,750 miles. He holds a Class B CDL from Mississippi. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Thomas J. Grant

Mr. Grant, 36, has had refractive 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 2013, his optometrist noted that Mr. Grant does not require a periodic vision evaluation to monitor changes that may affect driving and that the department does not need to request a statement of Mr. Grant's medical/physical condition that may affect his ability to safely operate a commercial motor vehicle. Mr. Grant reported that he has driven straight trucks for 1 month, accumulating 200 miles, and tractor-trailer combinations for 11 years, accumulating 820,600 miles. He holds a Class CA CDL from Michigan. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Donald Latozke

Mr. Latozke, 59, has had amblyopia in his right eye since birth. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted that Mr. Latozke does not have any visual defects or field loss that would affect the safe operation of a commercial motor vehicle. Mr. Latozke reported that he has driven straight trucks for 50 years, accumulating 250,000 miles, tractor-trailer combinations for 1 year, accumulating 500 miles, and buses for 12 years, accumulating 1,200 miles. He holds an operator's license from North Dakota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael R. Leftwich

Mr. Leftwich, 57, has had anisometropic 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, ''In my opinion he has sufficient vision to perform the driving tasks to operate a commercial vehicle.'' Mr. Leftwich reported that he has driven straight trucks for 28 years, accumulating 145,600 miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Luther D. Long

Mr. Long, 68, has had corneal scarring in his right eye since 2010. 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 that, in his opinion, Mr. Long does have sufficient vision to operate a commercial motor vehicle safely. Mr. Long reported that he has driven tractor-trailer combinations for 35 years, accumulating 2.63 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

George Malivuk

Mr. Malivuk, 56, has had amblyopia 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 optometrist noted, ''In my opinion Mr. Malivuk has sufficient vision to safely drive a commercial vehicle.'' Mr. Malivuk reported that he has driven straight trucks for 17 years, accumulating 170,000 miles, and tractor-trailer combinations for 1 year, accumulating 1,000 miles. He holds a Class ABCDM CDL from Wisconsin. His driving record for the last 3 years shows one crash, for which he was not cited, and no moving violations in a CMV.

Humberto Mendoza

Mr. Mendoza, 50, has corneal scarring in his right eye due to a traumatic incident during 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, ''My medical opinion is that the patient possesses sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Mendoza reported that he has driven straight trucks for 10 years, accumulating 93,000 miles. He holds a Class B CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Chad A. Miller

Mr. Miller, 42, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/80, and in his left eye, 20/16. Following an examination in 2013, his optometrist noted, ''Based on these findings, I feel Chad A. Miller has the visual abilities to operate a commercial motor vehicle in interstate commerce because the visual loss in his right eye occurred in shortly after birth and has been stable since that time.'' Mr. Miller reported that he has driven straight trucks for 18 years, accumulating 72,000 miles, and tractor-trailer combinations for 3 years, accumulating 2,400 miles. He holds an operator's license from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Calvin Nesbitt

Mr. Nesbitt, 60, has a prosthetic left eye due to a traumatic incident in 1988. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, ''In my opinion Mr. Nesbitt has sufficient vision to perform the driving tasks required to operate a commercial vehicle.''

Mr. Nesbitt reported that he has driven tractor-trailer combinations for 40 years, accumulating 4 million miles. He holds a Class A CDL from Georgia. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Vincent R. Neville

Mr. Neville, 43, has had esotropia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/60. Following an examination in 2013, his optometrist noted, ''In my opinion, Vince can safely perform the driving tasks required to operate a commercial motor vehicle.'' Mr. Neville reported that he has driven straight trucks for 12 years, accumulating 132,000 miles, and tractor-trailer combinations for 7 years, accumulating 17,500 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

William L. Paschall

Mr. Paschall, 57, 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, ''In my opinion, he meets the vision requirements to drive a commercial vehicle without spectacle correction.'' Mr. Paschall reported that he has driven straight trucks for 8 years, accumulating 800,000 miles. He holds an operator's license from Maryland. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Emiterio M. Pena

Mr. Pena, 71, has had a macular hole in his left eye since 2009. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his ophthalmologist noted, ''In my medical opinion Mr. Pena has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Pena reported that he has driven buses for 28 years, accumulating 604,800 miles. He holds an operator's license from New Mexico. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Daniel F. Perez

Mr. Perez, 29, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted, ''Based upon his [sic] findings and history of commercial truck driving, I find him in my professional opinion to have sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Perez reported that he has driven tractor-trailer combinations for 9 years, accumulating 936,000 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.

Kerry R. Powers

Mr. Powers, 45, has a prosthetic left eye due to a traumatic incident in 1993. The visual acuity in his right eye is 20/15, and in his left eye, no light perception. Following an examination in 2013, his ophthalmologist noted, ''In conclusion, in my medical opinion, he certainly has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Powers reported that he has driven straight trucks for 2 years, accumulating 48,000 miles, and tractor-trailer combinations for 8 years, accumulating 1 million miles. He holds a Class A CDL from Indiana. 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 7 mph.

Jonathan Pryor

Mr. Pryor, 30, has had enucleation 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, ''Mr. Pryor has been driving a motor vehicle for several years now and for this reason as well as the good vision acuity and normal fields in his left eye, I am of the opinion that he has sufficient vision to operate a commercial vehicle.'' Mr. Pryor reported that he has driven straight trucks for 7

years, accumulating 21,000 miles. He holds an operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Nick A. Reed

Mr. Reed, 46, has had amblyopia in his left eye since birth. The visual acuity in his right eye is 20/20, and in his left eye, 20/200. Following an examination in 2013, his optometrist noted that Mr. Reed does not have any visual defects or field loss that would affect the safe operation of a commercial motor vehicle. Mr. Reed reported that he has driven straight trucks for 9 years, accumulating 5,400 miles, and tractor-trailer combinations for 4 years, accumulating 2,080 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.

Joe W. Restine

Mr. Restine, 50, has complete loss of vision in his left eye due to a traumatic incident in 1981. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2013, his optometrist noted, ''I, Jeremy King, O.D., certify that in my medical opinion, Joe Restine, has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Restine reported that he has driven straight trucks for 32 years, accumulating 800,000 miles, and tractor-trailer combinations for 32 years, accumulating 160,000 miles. He holds an operator's license from Oklahoma. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Noel S. Robbins

Mr. Robbins, 57, has a macular scar in his right eye due to a traumatic incident in 1973. 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, ''Patients chart is submitted for your approval but has passed all said requirements that were found on Web site and feel thus passing said requirements he has sufficient vision to perform tasks required for cdl [sic].'' Mr. Robbins reported that he has driven straight trucks for 30 years, accumulating 30,000 miles, and tractor-trailer combinations for 5 years, accumulating 4,500 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.

Steven T. Ross

Mr. Ross, 58, has visual acuity loss in his right eye due to a traumatic incident during childhood. The visual acuity in his right eye is counting fingers, and in his left eye, 20/20. Following an examination in 2012, his optometrist noted, ''I certify that, in my medical opinion, this patient has sufficient vision to operate a commercial motor vehicle.'' Mr. Ross reported that he has driven tractor-trailer combinations for 40 years, accumulating 3.12 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.

Charles E. Schmitz

Mr. Schmitz, 52, has had amblyopia in his right eye since birth. 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, ''[Mr. Schmitz] has driven large farm equipment more than 30 years. In 2006 he received his commercial driver's license from the state of Missouri with passenger and school bus endorsements. He has driven a school bus for 7 years without incident. He has not had an accident in 36 years of civilian driving. Despite his history of amblyopia of the right eye, Mr. Schmitz has exhibited excellent ability to drive motorized vehicles in numerous and varied scenarios.'' Mr. Schmitz reported that he has driven straight trucks for 36 years, accumulating 18,000 miles, and buses for 7 years, accumulating 19,250 miles. He holds a Class B CDL from Missouri. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Raymond C. Schultz

Mr. Schultz, 63, has had refractive amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/50, and in his left eye, 20/15. Following an examination in 2013, his optometrist noted, ''In my medical opinion, Raymond has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Schultz reported that he has driven tractor-trailer combinations for 34 years, accumulating 2.72 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.

James A. Shepard

Mr. Shepard, 58, has had a cataract in his right eye since birth. The visual acuity in his right eye is light perception, and in his left eye, 20/20. Following an examination in 2013, his ophthalmologist noted, ''I feel that his vision is stable at this point and do not believe that his vision disability would interfere with his performing driving tasks required to operate a commercial vehicle.'' Mr. Shepard reported that he has driven straight trucks for 27 years, accumulating 1.68 million miles, and tractor-trailer combinations for 31 years, accumulating 751,166 miles. He holds a Class AM CDL from New York. His driving record for the last 3 years shows one crash, for which he was not cited, and no convictions for moving violations in a CMV.

Timothy R. Steckman

Mr. Steckman, 51, has had chronic angle closure glaucoma in his right eye since 2001. 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, ''In my opinion . . . I believe he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Steckman reported that he has driven tractor-trailer combinations for 20 years, accumulating 600,000 miles. He holds an operator's license from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Mark P. Thiboutot

Mr. Thiboutot, 56, has had central retinal artery occlusion in his right eye since 2008. 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, ''Pt [sic] needs to obtain a driving waiver . . . Pt [sic] . . . had central retinal artery occlusion . . . Pt [sic] has been driving a commercial vehicle since 2008. Has drove [sic] thousands of miles without any accidents.'' Mr. Thiboutot reported that he has driven straight trucks for 15 years, accumulating 55,500 miles, and tractor-trailer combinations for 20 years, accumulating 1.4 million miles. He holds a Class A CDL from New Hampshire. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Herman D. Truewell

Mr. Truewell, 55, had an idiopathic ischemic event in his right eye sometime between April 2009 and December 2011. The visual acuity in his right eye is 20/80, and in his left eye, 20/20. Following an examination in 2013, his optometrist noted, ''The stability of Mr. Truewell's vision and

his years of experience as a safe commercial driver, indicate that he should be granted a vision exception that will allow him to continue to practice as a commercial driver.'' Mr. Truewell reported that he has driven straight trucks for 15 years, accumulating 7,500 miles, and tractor-trailer combinations for 4 years, accumulating 80,000 miles, and buses for 3 years, accumulating 15,000 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.

Jason M. Wolf

Mr. Wolf, 36, 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 ophthalmologist noted, ''As Mr. Wolf is accustomed to not wearing glasses and finds that wearing the [sic] astigmatic and correction on both eyes causes him tolerable distortion, I believe that he has sufficient vision to perform a driving test required to operate a commercial vehicle without correction.'' Mr. Wolf reported that he has driven straight trucks for 17 years, accumulating 170,000 miles. He holds an operator's license from Colorado. 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 27, 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–2013–0169 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–2013–0169 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 16, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–25377 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–2002–12844; FMCSA–2003–15892; FMCSA–2005–21711]

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 17 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 November 30, 2013. Comments must be received on or before November 27, 2013.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1999–5578; FMCSA–1999–5748; FMCSA–2002–12844; FMCSA–2003–15892; FMCSA–2005–21711], 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 17 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 17 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Thomas E. Adams (IN)
Terry J. Aldridge (MS)
Lennie D. Baker, Jr. (NC)
Jerry D. Bridges (TX)
William J. Corder (NC)
Gary R. Gutschow (WI)
James J. Hewitt (WI)
Albert E. Malley (MN)
Eugene P. Martin (NH)
David L. Menken (NY)
Rodney M. Mimbs (GA)
Walter F. Moniowczak (MI)
James R. Murphy (NY)
Chris A. Ritenour (MI)
Ronald L. Roy (IL)
Thomas E. Walsh (CA)
Kevin P. Weinhold (MA)

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 17 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027; 64 FR 40404; 64 FR 51568; 64 FR 66962; 66 FR 63289; 67 FR 68719; 68 FR 2629; 68 FR 52811; 68 FR 61860; 68 FR 64944; 70 FR 48797; 70 FR 61165; 70 FR 61493; 70 FR 67776; 72 FR 64273; 74 FR 62632; 76 FR 70215). Each of these 17 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 27, 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 17 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–1999–5578; FMCSA–1999–5748; FMCSA–2002–12844; FMCSA–2003–15892; FMCSA–2005–21711 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–1999–5578; FMCSA–1999–5748; FMCSA–2002–12844; FMCSA–2003–15892; FMCSA–2005–21711 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: October 22, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–25379 Filed 10–25–13; 8:45 a.m.]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0113]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel EVEN KIEHL; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 27, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0113. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel EVEN KIEHL is:

Intended Commercial Use of Vessel: ''Sightseeing cruises, 6 passengers or fewer''.

Geographic Region: California, South Carolina, Florida, North Carolina, Oregon, Washington.

The complete application is given in DOT docket MARAD–2013–0113 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR part 388.

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 in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: October 22, 2013.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25408 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0116]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel MULLIGAN; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 27, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0116. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel MULLIGAN is:

Intended Commercial Use of Vessel: ''Full day ½ day and overnight and weekly cruises departing and returning to same port.''

Geographic Region: ''Florida.''

The complete application is given in DOT docket MARAD–2013–0116 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

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 in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: September 30, 2013.

By Order of the Maritime Administrator.

Christine Gurland,

Acting Secretary, Maritime Administration.

[FR Doc. 2013–25419 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0119]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel SEA HAWK; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 27, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0119. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel SEA HAWK is:

Intended Commercial Use of Vessel: ''Passenger sailing tours and instruction primarily in the area of the middle Chesapeake Bay but possibly expanding north and south along the East Coast of the United States.''

Geographic Region: ''Maryland, Washington, DC, Virginia, New Jersey, Delaware, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Maine, North Carolina, South Carolina, Georgia, Florida.''

The complete application is given in DOT docket MARAD–2013–0119 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR Part 388.

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 in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: October 22, 2013.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25416 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0108]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel RAINBOW'S END; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by

MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 27, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0108. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RAINBOW'S END is:

Intended Commercial Use Of Vessel: ''1 day to 2 week cruising charters for vacationers''

Geographic Region: ''Florida''

The complete application is given in DOT docket MARAD–2013–0108 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR Part 388.

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 in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: October 22, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25415 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013 0115]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ONE MORE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 27, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0115. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ONE MORE is:

Intended Commercial Use of Vessel: ''Six pack Fishing Charter''

Geographic Region: ''Ohio''

The complete application is given in DOT docket MARAD–2013–0115 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in 388.4 of MARAD's regulations at 46 CFR Part 388.

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 in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: October 22, 2013.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25412 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0118]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BIG OL; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before November 27, 2013.

ADDRESSES: Comments should refer to docket number MARAD–2013–0118. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel BIG OL is:

Intended Commercial Use of Vessel: ''Limited 6 or fewer charter.''

Geographic Region: ''New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina.''

The complete application is given in DOT docket MARAD–2013–0118 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

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 in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

Dated: October 22, 2013.

By Order of the Maritime Administrator.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25417 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2013–0101]

National Maritime Strategy Symposium: Cargo Opportunities and Sealift Capacity

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of solicitation for agenda topics for a public meeting.

SUMMARY: The Maritime Administration (MARAD) invites the public and other Marine Transportation System stakeholders to participate in a discussion intended to develop a robust national maritime strategy. The purpose of this public meeting is to gather ideas for improving the Nation's cargo opportunities and sealift capacity while ensuring future sustainability. Speaker and topic proposals for the public meeting's agenda are requested and may be submitted to the docket referenced above. The meeting agenda will be published in the docket and on the MARAD Web site at a later date, after consideration of responses received in the docket.

DATES: We plan to hold the public meeting from 9:00 a.m. to 4:30 p.m. daily, January 14 through January 16, 2014.

Key Date: The deadline to submit agenda topics and ideas for discussion is November 29, 2013.

See Submitting your agenda topics, comments and ideas below for specific directions.

The following are other important anticipated dates and deadlines:

Agenda released on MARAD docket and MARAD website; Registration opens—December 17, 2013

Deadline to register to attend the public meeting in person—January 3, 2014

Deadline to register to speak in person, speak by calling in, or to listen only by phone—January 3, 2014

Deadline to submit digital presentation materials—January 3, 2014

Call-in and Listen-only information distributed to registrants—January 8, 2014

Public Meeting—January 14–16, 2014 9:00 a.m.– 4:30 p.m.

ADDRESSES: The public meeting will be held in the U.S. Department of Transportation (DOT) West Atrium, located on the ground floor of 1200 New Jersey Avenue SE., Washington, DC 20590. Overflow seating will be available in adjacent conference rooms.

FOR FURTHER INFORMATION CONTACT: Christine S. Gurland, Assistant Chief Counsel for Legislation and Regulations, Office of Chief Counsel, MAR–225, Maritime Administration, 1200 New Jersey Avenue, Washington, DC 20590; (202) 366–5157; email: *Christine.Gurland@dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Marine Transportation System is a core component of the United States' economic and national security. While it has proven to be strong and resilient, there is a need to improve and grow the industry to ensure the availability and viability of a U.S. Merchant Marine in the future. The historic strength of the United States as a maritime Nation relies on its global, coastal and inland commercial fleet, its ports and intermodal facilities, the national security establishment and the maritime workforce that supports and operates U.S.-flagged vessels. The purpose of this public meeting is to generate ideas that will improve, strengthen and sustain the cargo opportunities and sealift capacity. Those ideas will necessarily be focused on the U. S. Marine Transportation System.

Request for Public Input to Meeting Agenda and Topics for Discussion

1. The agenda for the meeting will be developed in collaboration with the public. The public is invited to propose agenda topics and to comment on the ideas submitted by others at *http://www.regulations.gov,* DOT Docket Number MARAD–2013–0101.

2. Proposed agenda items should focus on, but are not limited to, the

following topics: fostering and improving the U.S.-flag fleet; improving transportation efficiency, speed, availability and cost-effectiveness; methods to improve overall U.S. economic competitiveness though improvements to the Marine Transportation System; improving transportation efficiency through interoperability with existing infrastructure systems and other modes of transportation; reduction of marine transportation pollution and adverse environmental impact; expansion of the pool of skilled and available U.S. mariners; developing strategically valuable capacity; increasing economical waterborne carriage for U.S. businesses; improving U.S. port operations and related businesses; improvement of global business and employment opportunities for the Nation; and fostering the construction and repair of vessels in U.S. shipyards.

3. Please provide a brief narrative to describe each topic you would like the public meeting to address. This information will help ensure proper coverage of the many topics and ideas we anticipate to be proposed. To ensure that comments are most useful in development of the meeting agenda and informing our deliberation and decision process, please provide citations to statutes or regulations to which you refer and supply any supporting information that would assist MARAD in establishing the agenda.

4. If you would like to propose a topic or an idea and would like to make a presentation on that topic or idea, please indicate your desire to make a presentation and that you will provide a summary paper or presentation materials in support of that topic or idea you are proposing for the agenda. Supporting materials can be submitted to the docket at a later date.

5. Comments received during development of the meeting agenda and any subsequent review will provide meaningful and significant information for senior MARAD officials considering topics to be discussed at the public meeting. We will endeavor to include all relevant topics proposed in the meeting agenda.

6. We will post the public meeting agenda to the docket at *http://www.regulations.gov* and on our Web site at *http://www.MARAD.dot.gov* by December 17, 2013.

Submitting Your Agenda Topics, Comments, and Ideas

1. We have opened a docket at *http://www.regulations.gov* to allow for submission of written proposals of agenda items for the National Maritime Strategy Symposium.

2. You may submit your inputs identified by DOT Docket Number MARAD–2013–0101 by any of the following methods: Web site/Federal eRulemaking Portal, Fax, Mail or Hand Delivery. Please use only one of these means for each submission. All submissions must include the agency name and docket number for this matter. Specific instructions follow.

3. For the Web site/Federal eRulemaking Portal, go to *http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site. To submit your input, type the docket number (MARAD–2013–0101) in the ''SEARCH'' box and click ''SEARCH.'' Click on ''Submit a Comment'' on the line associated with this Docket Number. If you submit an agenda topic, comment or idea online via *www.regulations.gov,* please note that inputs submitted to *www.regulations.gov* are not immediately posted to the site. It may take several business days before your submission will be posted on the electronic docket.

4. For submission by telefacsimile/FAX, transmit your agenda topic, comment or idea to (202) 493–2251. Be sure to identify the submission by DOT Docket Number MARAD–2013–0101.

5. Submissions by Mail or Hand Delivery should go to Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays. If you submit your inputs 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.

6. If you FAX, mail or hand deliver your input 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.

7. **Note:** All agenda topics, comments or ideas submitted for this purpose, including any personal information provided, will be posted without change to *http://www.regulations.gov.*

8. For access to the docket to read background documents or inputs received, go to *http://www.regulations.gov* at any time or to Room W12–140 of the Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. To view the docket electronically, type the docket number ''MARAD–2013–0101'' in the ''SEARCH'' box and click ''Search.'' Click and Open Docket Folder on the line associated with this rulemaking.

Anticipated Public Meeting Procedures

1. Additional details and registration instructions will be provided when the meeting and final agenda are announced in December.

2. The meeting is intended to collect public views and gather information to consider in developing a new maritime strategy. Therefore, the meeting will be conducted in an informal and non-adversarial manner.

3. The Maritime Administrator will preside over the public meeting. Senior Department and MARAD officials will also attend this meeting to receive comments from the public. During the meeting, we may ask questions that will clarify statements or gather more information or data to help us understand the issues raised by commenters.

4. Those who wish to speak during the meeting will be requested to advise, *no later than November 29th,* what topic or topics they would like to address through a presentation or on which they would like to comment; presentations and amplifying information will be welcome but are not required. We hope to be able to accommodate everyone who would like to speak at the meeting, but if there are more interested participants than time available, we will limit participants in order of date and time of registration. If available, time will be allotted to those attending the meeting in person to speak, even if they had not previously registered to speak. For those who wish to make comments, but for whom there is not time available or who do not wish to speak, it will be possible to post comments to the public docket. [See also Submitting your agenda topics, comments, and ideas section.]

5. The public meeting will be broadcast via live Web streaming by a link from *http://www.MARAD.dot.gov* and a listen-only telephone connection for which participants will need to register at a later date. Members of the public will be invited to make comments in person at the venue, through a call-in number, or by entry in the MARAD docket. Further details regarding the logistics of the public meeting will be published in a second

notice in the **Federal Register** prior to the meeting.

6. A transcript of the public meeting will be made available via our Web site at *http://www.MARAD.dot.gov* and posted to the docket at *www.regulations.gov.* The recorded webcast video will remain available following the meeting via a link from our Web site at *www.MARAD.dot.gov.*

Privacy Act Statement

Anyone is able to search all comments entered 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 in the **Federal Register** published on April 11, 2000 (65 FR 19476, 04/11/2011) or at *http://www.dot.gov/privacy.html.*

Authority: 5 U.S.C. 610; E.O., 13563, 76 FR 3821, Jan. 21 2011; E.O. 12866, 58 FR 51735, Oct. 4, 1993.

* * * * *

Dated: October 23, 2013.

By Order of the Maritime Administrator.

Julie Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25396 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Voluntary Intermodal Sealift Agreement Open Season

AGENCY: Maritime Administration, DOT.

ACTION: Notice of open season for enrollment in the VISA program.

SUMMARY: The Maritime Administration (MARAD) announces that the open season for Fiscal Year 2014 applications for participation in the Voluntary Intermodal Sealift Agreement (VISA) program will run for 30 days beginning today and ending November 27, 2013. The purpose of this notice is to invite interested, qualified U.S.-flag vessel operators that are not currently enrolled in the VISA program to apply. This is the only planned enrollment period for carriers to join the VISA program and derive benefits for Department of Defense (DOD) peacetime contracts initiated during the period from October 1, 2013, through September 30, 2014.

Any U.S.-flag vessel operator organized under the laws of a state of the United States, or the District of Columbia, who is able and willing to commit militarily useful sealift assets and assume the related consequential risks of commercial disruption, may be eligible to participate in the VISA program.

The mission of VISA is to provide commercial sealift and intermodal shipping services and systems, including vessels, vessel space, intermodal systems and equipment, terminal facilities, and related management services, to the Department of Defense (DOD), as necessary, to meet national defense contingency requirements or national emergencies. Carriers enrolled in the VISA program provide DOD with assured access to such services during contingencies. In return for their VISA commitment, DOD gives VISA participants priority for peacetime cargos.

DATES: VISA Program applications must be received on or before November 27, 2013.

ADDRESSES: Submit applications and questions related to this notice to Jerome D. Davis, Director, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone (202) 366–0688; Fax (202) 366–5904.

FOR FURTHER INFORMATION CONTACT: Jerome D. Davis, Director, Office of Sealift Support, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone (202) 366–0688; Fax (202) 366–5904, or visit *http://www.marad.dot.gov.*

SUPPLEMENTARY INFORMATION: The VISA program was established pursuant to Section 708 of the Defense Production Act of 1950, as amended (DPA). The VISA program was created to provide for voluntary agreements for emergency preparedness programs. Pursuant to the DPA, voluntary agreements for preparedness programs, including the VISA program expire five (5) years after the date they became effective.

The VISA program is open to U.S.-flag vessel operators of oceangoing militarily useful vessels, to include tugs and barges. An operator is defined as an owner or bareboat charterer of a vessel. Tug enrollment alone does not satisfy VISA eligibility. Operators include vessel owners and bareboat charter operators if satisfactory signed agreements are in place committing the assets of the owner to VISA. Voyage and space charterers are not considered U.S.-flag vessel operators for purposes of VISA eligibility.

VISA Concept

The VISA program provides for the staged, time-phased availability of participants' shipping services/systems through pre-negotiated contracts between the Government and participants. Such arrangements are jointly planned with the MARAD, USTRANSCOM, and participants in peacetime to allow effective and best valued use of commercial sealift capacity, provide DOD assured contingency access, and to minimize commercial disruption.

There are three time-phased stages in the event of VISA activation. VISA Stages I and II provide for pre-negotiated contracts between DOD and participants to provide sealift capacity to meet all projected DOD contingency requirements. These contracts are executed in accordance with approved DOD contracting methodologies. VISA Stage III provides for additional capacity to DOD when Stages I and II commitments or volunteered capacity are insufficient to meet contingency requirements, and adequate shipping services from non-participants are not available through established DOD contracting practices or U.S. Government treaty agreements.

Exceptions to This Open Season

The only exception to this open season period for VISA enrollment will be for a non-VISA carrier that reflags a vessel into U.S. registry. That carrier may submit an application to participate in the VISA program at any time upon completion of reflagging.

Advantages of Peacetime Participation

In return for their VISA commitment, DOD awards peacetime cargo contracts to VISA participants on a priority basis. Award of DOD cargoes to meet DOD peacetime and contingency requirements is made on the basis of the following priorities: U.S.-flag vessel capacity operated by VISA participants and U.S.-flag Vessel Sharing Agreement (VSA) capacity held by VISA participants; U.S.-flag vessel capacity operated by non-participants; Combination U.S.-flag/foreign-flag vessel capacity operated by VISA participants, and combination U.S.-flag/foreign-flag VSA capacity held by VISA participants; Combination U.S.-flag/foreign-flag vessel capacity operated by non-participants; U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by VISA participants; U.S.-owned or operated foreign-flag vessel capacity and VSA capacity held by non-participants; and

Foreign-owned or operated foreign-flag vessel capacity of non-participants.

Participation

Applicants must provide satisfactory evidence that the vessels being committed to the VISA program are operational and are intended to be operated by the applicant in the carriage of commercial or government preference cargoes. Operator is defined as an ocean common carrier or contract carrier that owns, controls or manages vessels by which ocean transportation is provided. While vessel brokers, freight forwarders, and agents play an important role as a conduit to locate and secure appropriate vessels for the carriage of DOD cargo, they are not eligible to participate in the VISA program due to lack of requisite vessel ownership or operation.

Commitment

Any U.S.-flag vessel operator desiring to receive priority consideration for DOD peacetime contracts must commit no less than 50 percent of its total U.S.-flag militarily useful capacity in Stage III of the VISA program. Participants operating vessels in international trade may receive top tier consideration in the award of DOD peacetime contracts by committing the minimum percentages of capacity to all three stages of VISA or bottom tier consideration by committing the minimum percentage of capacity to only Stage III of VISA. USTRANSCOM and MARAD will coordinate to ensure that the amount of sealift assets committed to Stages I and II will not have an adverse national economic impact. To minimize domestic commercial disruption, participants operating vessels exclusively in the domestic Jones Act trades are not required to commit the capacity of those U.S. domestic trading vessels to VISA Stages I and II. Overall VISA commitment requirements are based on annual enrollment.

In order to protect a U.S.-flag vessel operator's market share during contingency activation, VISA allows participants to join with other vessel operators in Carrier Coordination Agreements (CCAs) to satisfy commercial or DOD requirements. VISA provides a defense against antitrust laws in accordance with the DPA. CCAs must be submitted to the MARAD for coordination with the Department of Justice for approval, before they can be utilized.

Vessel Position Reporting

If VISA applicants have the capability to track their vessels, they must include the tracking system used in their VISA application. Such applicants are required to provide MARAD access to their vessel tracking systems upon approval of their VISA application. If VISA applicants do not have a tracking system, they must indicate this in their VISA application. The VISA program requires enrolled ships to comply with 46 CFR Part 307, Establishment of Mandatory Position Reporting System for Vessels.

Compensation

In addition to receiving priority in the award of DOD peacetime cargo, a participant will receive compensation during contingency activation for that capacity activated under Stage I, II and III. The amount of compensation will depend on the Stage at which capacity is activated. During enrollment, each participant must select one of several compensation methodologies. The compensation methodology selection will be completed with the appropriate DOD agency, resulting in prices in contingency contracts between DOD and the participant.

Security Clearances

All VISA applicants accepted for VISA participation, not having a Facility Security Clearance (FCL), will be required to pursue the clearance process with the Defense Security Service (DSS). If the accepted applicant does not have a clearance, MARAD and USTRANSCOM will initiate the clearance process with DSS. Participants must have a FCL and security clearances at a minimum of SECRET level for key personnel in order for them to participate in the VISA Joint Planning Advisory Group (JPAG) meetings and to meet VISA contingency contract obligations. One of the objectives of the JPAG is to provide the USTRANSCOM, MARAD and VISA participants a planning forum to analyze DOD contingency sealift/intermodal service and resource requirements against industry commitments. JPAG meetings are often SECRET classified sessions. Eligibility for VISA participation will be terminated if an applicant is rejected for a facility clearance or if it fails to progress in a timely manner in the clearance process.

Application for VISA Participation

New applicants may apply to participate by obtaining a VISA application package (Form MA–1020 (OMB Approval No. 2133–0532)) from the Director, Office of Sealift Support. Form MA–1020 includes instructions for completing and submitting the application, blank VISA Application forms and a request for information regarding the operations and U.S. citizenship of the applicant company. A copy of the VISA document as published in the **Federal Register** on March 24, 2010, will also be provided with the package. This information is needed in order to assist MARAD in making a determination of the applicant's eligibility. An applicant company must provide an affidavit that demonstrates that the company is qualified to document a vessel under 46 U.S.C. 12103, and that it owns, or bareboat charters and controls, oceangoing, militarily useful vessel(s) for purposes of committing assets to the VISA program.

New VISA applicants are required to submit their applications for the VISA program as described in this Notice no later than 30 days after the date of publication of this **Federal Register** notice. Applicants must provide the following: U.S. citizenship documentation; Copy of their Articles of Incorporation and/or By Laws; Copies of loadline documents from a recognized classification society to validate oceangoing vessel capability; U.S. Coast Guard Certificates of Documentation for all vessels in their fleet; Copy of Bareboat Charters, if applicable, valid through the period of enrollment, which state that the owner will not interfere with the charterer's obligation to commit chartered vessel(s) to the VISA program for the duration of the charter; and Copy of Time Charters, valid through the period of enrollment, for tug services to barge operators, if sufficient tug service is not owned or bareboat chartered by the VISA applicant. Barge operators must provide evidence to MARAD that tug service of sufficient horsepower will be available for all barges enrolled in the VISA program.

Approved VISA participants will be responsible for ensuring that information submitted with their application remains up to date beyond the approval process. Any changes to VISA commitments must be reported to MARAD and USTRANSCOM not later than seven days after the change. If charter agreements are due to expire, participants must provide MARAD with charters that extend the charter duration for another 12 months or longer.

Once MARAD has reviewed the application and determined VISA eligibility, MARAD will sign the VISA application document which completes the eligibility phase of the VISA enrollment process.

After VISA eligibility is approved by MARAD, approved applicants are required to execute a VISA contingency contract with USTRANSCOM. The USTRANSCOM VISA contract will specify the following: Participant's

Stage III commitment, and appropriate Stage I and/or II commitments for the period October 1, 2013 through September 30, 2014; Drytime Contingency terms and conditions; and Liner Contingency terms and conditions, if applicable.

Execution of the USTRANSCOM VISA contract completes the enrollment process and establishes the approved applicant as a VISA Participant. The Maritime Administration reserves the right to revalidate all eligibility requirements without notice. USTRANSCOM reserves the right to revalidate eligibility for VISA priority for DOD business at any time without notice.

Authority: 49 CFR 1.92 and 1.93.

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By Order of the Maritime Administrator.

Dated: October 22, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–25376 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0040; Notice 1]

General Motors, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: General Motors, LLC (GM) has determined that certain model year (MY) 2013 Chevrolet Cruze, Chevrolet Volt, and Buick Verano passenger cars manufactured between November 15, 2012 and January 11, 2013, do not fully comply with paragraph S4.2.6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 202a, *Head Restraints; Mandatory Applicability Begins on September 1, 2009.* GM has filed an appropriate report dated February 15, 2013, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.*

DATES: November 27, 2013.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: 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 comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/.* Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. GM's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 32,838 MY 2013 Chevrolet Cruze, Chevrolet Volt, and Buick Verano passenger cars manufactured between November 15, 2012 and January 11, 2013.

III. Noncompliance: GM explains that the noncompliance is that between 8 and 12 percent of the affected vehicles have rear outboard head restraints that do not meet the height retention requirements specified in paragraph S4.2.6 of FMVSS No. 202a.

GM further explained that the noncompliance is the result of a notch in one of the two head restraint rods not being machined to specifications. This notch corresponds to the rear head restraint's highest adjustment position. This condition does not affect the ability to lock the head restraint in the middle or lowest positions. Nor does it make the head restraint capable of being more easily removed.

IV. Rule Text: Paragraph S4.2.6 of FMVSS 202a specifically states:

> S4.2.6 Height retention. When tested in accordance with S5.2.6 of this section, the cylindrical test device specified in S5.2.6(b) must return to within 13 mm of its initial reference position after application of at least a 500 N load and subsequent reduction of the load to 50 N ±1 N. During application of the initial 50 N reference load, as specified in S5.2.6(b)(2) of this section, the cylindrical test device must not move downward more than 25 mm.

V. Summary of GM's Analysis: GM stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

The root cause of the condition was determined to be a change made by a machine operator which reduced the clamping force in the operation that cuts the notches in the head restraint rod, slightly altering the shape of the notch. Restraints with the altered notch have a lower retention force than design intent.

The retention force for the head restraints with the improperly machined notch was measured as approximately 150 N.

GM recognizes that one of NHTSA's concerns was improper positioning of head restraints due to the head restraint moving out of position either during normal vehicle use or in a crash, as stated in the FMVSS No. 202a NPRM (January 4, 2001, 66 FR 979).

For everyday use, with the adjustment button depressed, these head restraints

are designed to move down with a force of 40±20N. The measured retention force for the improperly machined notch is nearly 4 times the nominal adjustment force and 2.5 times the maximum. Without the button depressed, these head restraints will not ''slip'' or easily move down from the top adjustment position. For most, it would take a deliberate two-handed action to cause the restraint to move from the top to the mid position without activating the release button. The tactile feedback from such forced movement would be clear indication that it is not the correct method for adjusting the restraint. The opportunity for inadvertent misadjustment of the restraint is also diminished due to the fact that these are rear seat head restraints with no seating positions behind them. They are not at risk for misadjustment as a result of someone bumping or grabbing the restraint for assistance during vehicle ingress and egress.

FMVSS No. 202a provides two compliance options for head restraints. They are Paragraph S4.2 (Dimensional and Static Performance) or paragraph S4.3 (Dynamic Performance and Width). As with most of its vehicles, GM chose to certify the rear seat head restraints for the 2013 Cruze, Verano and Volt, to S4.2 (the ''static option'') and the front head restraints to S4.3 (the ''dynamic option'')

In order to evaluate the efficacy of the rear head restraints with the improperly machined notches, GM conducted a series of 6 sled tests at MGA Research. Two tests each were run for the Cruze, Volt and Verano. For each vehicle, one test was run according to the procedure specified by FMVSS No. 202a paragraph S4.3 which places the head restraint in the mid-position, and a second test was run in the same manner as the first test, but with the head restraint placed in the top position. The top position is that used in the height retention test of the static option, and that position is the one with the improperly machined notch. Improperly machined head restraints and corresponding rod guides were used for each test.

Significantly, in the three sled tests with the head restraint in the uppermost position, the head restraint did not move down. For all tests, the head restraint remained in its pretest height adjustment throughout the test. Also, in all sled tests (upper and mid position) the dummy met the injury criteria specified in the requirements for the dynamic option (<12 degree of neck rotation, <500 HIC) and head restraint width >170 mm.

GM's Arguments

GM believes that the subject noncompliance is inconsequential to motor vehicle safety because for the following reasons occupant protection is not compromised:

1. The noncompliant test vehicles meet the requirements specified under the dynamic compliance option 1 in all six sled tests. Therefore, GM believes that the improperly machined head restraint rod notches do not expose occupants to a significantly greater risk than those with properly machined notches.

2. The head restraints remained in their adjusted positions throughout the tests.

3. The occupant performance criteria specified for the dynamic compliance option was met in both the mid and upper head restraint adjustment positions.

4. These head restraints will maintain their adjusted positions during everyday use of the vehicle.

5. Paragraph S4.2.6 of FMVSS No. 202a allows 13 mm of permanent displacement of the head restraint. By design, the distance between the top and mid adjustment positions of the subject head restraints is 19 mm. Thus, the potential head restraint displacement due to the improperly machined notch is limited to 19 mm.

6. The owner's manual instructions continue to meet all the requirements of FMVSS No. 202a. Even though the head restraint could be forced down to the mid-position, it still requires substantially more effort than it does when the adjustment button at the base of the head restraint is depressed. The owner's manual instructions continue to be the recommended manner of adjustment.

7. GM is not aware of any injuries or customer complaints associated with this condition.

GM has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles will comply with FMVSS No. 202a.

In summation, GM believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 32,838 vehicles that GM no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their control after GM notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2013–25251 Filed 10–25–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. NOR 42136]

Intermountain Power Agency v. Union Pacific Railroad Company—Oral Argument

The Surface Transportation Board will hold oral argument on Thursday, November 14, 2013, at 9:30 a.m., in the hearing room at the Board's headquarters located at 395 E Street SW., Washington, DC. The argument will address the complaint of Intermountain Power Agency (IPA) challenging the reasonableness of rates established by Union Pacific Railroad Company (UP) for unit train coal transportation service from a point of interchange with the Utah Railway Company at Provo, Utah, to IPA's electric generating facilities at Lynndyl, Utah. The oral argument will be open for public observation, but only counsel for the parties will be permitted to present arguments.

IPA filed its complaint on May 30, 2012, and filed its opening evidence on December 17, 2012. UP filed its reply evidence on April 12, 2013. IPA filed its rebuttal evidence on July 3, 2013, and the parties filed final briefs on August 14, 2013. On August 29, 2013, IPA filed an unopposed motion requesting that the Board hold an oral argument in this proceeding. In their final briefs, the parties dispute numerous issues, among them whether certain traffic in IPA's Stand-Alone Cost model includes an

improper cross-subsidy and whether the Board should apply a new cross-subsidy test proposed by UP to replace the Board's existing test. Parties should focus their argument on the cross-subsidy issues in addition to any other issues they consider important.

By November 7, 2013, each party shall submit to the Board the name of the counsel who will be presenting argument, and the name of the party counsel will be representing. IPA shall have 20 minutes to present its argument, and UP shall have 20 minutes to present its argument. IPA, in its filing, shall address the requested time reserved for rebuttal, if any.

Counsel for the parties shall check in with Board staff in the hearing room prior to the argument.

A video broadcast of the oral argument will be available via the Board's Web site at *http://www.stb.dot.gov*, under ''Information Center''/''Webcast''/''Live Video'' on the home page.

Instructions for Attendance at Argument

The STB requests that all persons attending the argument use the Patriots Plaza Building's main entrance at 395 E Street SW., (closest to the northeast corner of the intersection of 4th and E Streets). There will be no reserved seating, except for those scheduled to present oral arguments. The building will be open to the public at 7:00 a.m., and participants are encouraged to arrive early. There is no public parking in the building.

Upon arrival, check in at the 1st floor security desk in the main lobby. Be prepared to produce valid photographic identification (driver's license or local, state, or Federal government identification); sign-in at the security desk; receive a hearing room pass (to be displayed at all times); submit to an inspection of all briefcases, handbags, etc.; then pass through a metal detector. Persons choosing to exit the building during the course of the argument must surrender their hearing room passes to security personnel and will be subject to the above security procedures if they choose to re-enter the building. Hearing room passes likewise will be collected from those exiting the argument upon its conclusion.

Laptops and recorders may be used in the hearing room, but no provision will be made for connecting personal computers to the Internet. Cellular telephone use is not permitted in the hearing room; cell phones may be used quietly in the corridor surrounding the hearing room or in the building's main lobby.

The Board's hearing room complies with the Americans with Disabilities Act, and persons needing such accommodations should call (202) 245–0245 by the close of business on November 13, 2013.

For further information regarding the oral argument, contact Jonathon Binet, (202) 245–0368. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Oral argument in this proceeding will be held on November 14, 2013, at 9:30 a.m. in the Surface Transportation Board Hearing Room, at 395 E Street SW., Washington, DC, as described above.

2. By November 7, 2013, the participants shall submit to the Board the names of the counsel who will be presenting argument and the name of the party counsel will be representing. IPA and UP, in their filings, also shall advise the Board how they choose to divide their time and address the requested time reserved for rebuttal, if any.

3. This decision is effective on the date of service.

Decided: October 22, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–25340 Filed 10–25–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 670 (Sub–No. 2)]

Notice of Rail Energy Transportation Advisory Committee Vacancy

AGENCY: Surface Transportation Board.

ACTION: Notice of vacancy on federal advisory committee and solicitation of nominations.

SUMMARY: The Surface Transportation Board (Board) hereby gives notice of one vacancy on its Rail Energy Transportation Advisory Committee (RETAC) for a representative of an electric utility. The Board is soliciting suggestions from the public for a candidate to fill this vacancy.

DATES: Suggestions for a candidate for membership on RETAC are due November 27, 2013.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's Web site, at *http://www.stb.dot.gov*. Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 670 (Sub-No. 2), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Michael H. Higgins at 202–245–0284. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: The Board, established by Congress in 1996 to assume many of the functions previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701–10747, 11101–11124), as well as the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–10907), and railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323–11327).

In 2007, the Board established RETAC as a federal advisory committee consisting of a balanced cross-section of energy and rail industry stakeholders to provide independent, candid policy advice to the Board and to foster open, effective communication among the affected interests on issues such as rail performance, capacity constraints, infrastructure planning and development, and effective coordination among suppliers, carriers, and users of energy resources. RETAC operates subject to the Federal Advisory Committee Act, 5 U.S.C. app. 2.

RETAC's membership is balanced and representative of interested and affected parties, consisting of not less than: Five representatives from the Class I railroads; three representatives from Class II and III railroads; three representatives from coal producers; five representatives from electric utilities (including at least one rural electric cooperative and one state- or municipally-owned utility); four representatives from biofuel refiners, processors, or distributors, or biofuel feedstock growers or providers; one representative of the petroleum shipping industry; and two representatives from private car owners, car lessors, or car manufacturers.

RETAC may also include up to two members with relevant experience but not necessarily affiliated with one of the aforementioned industries or sectors. Members are selected by the Chairman of the Board with the concurrence of a majority of the Board. The Chairman may invite representatives from the U.S. Departments of Agriculture, Energy, and Transportation and the Federal Energy Regulatory Commission to serve on RETAC in advisory capacities as *ex officio* (non-voting) members. The three members of the Board serve as *ex officio* members of the Committee.

RETAC meets at least twice per year. Meetings are generally held at the Board's headquarters in Washington, DC, but may be held in other locations. Members of RETAC serve without compensation and without reimbursement of travel expenses unless reimbursement of such expenses is authorized in advance by the Board's Managing Director. RETAC members appointed or reappointed after June 18, 2010, are prohibited from serving as federally registered lobbyists during their RETAC term.

The Board is soliciting nominations for a candidate to fill one vacancy on RETAC for a representative from an electric utility for a three-year term ending September 30, 2016.

Nominations for a candidate to fill this vacancy should be submitted in letter form and should include: (1) The name of the candidate; (2) the interest the candidate will represent; (3) a summary of the candidate's experience and qualifications for the position; (4) a representation that the candidate is willing to serve as a member of RETAC; and (5) a representation that the candidate is not a federally registered lobbyist. Suggestions for a candidate for membership on RETAC should be filed with the Board by November 27, 2013. Please note that submissions will be available to the public at the Board's offices and posted on the Board's Web site under Docket No. EP 670 (Sub-No. 2).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 721; 49 U.S.C. 11101; 49 U.S.C. 11121.

Decided: October 22, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–25317 Filed 10–25–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The U.S. 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 Community Development Financial Institutions (CDFI) Fund, Department of the Treasury, is soliciting comments concerning the Qualified Issuer Application, the Guarantee Application, and the Secondary Loan Requirements for the Community Development Financial Institutions (CDFI) Bond Guarantee Program.

DATES: Written comments should be received on or before December 27, 2013 to be assured of consideration.

ADDRESSES: Direct all comments to Lisa Jones, CDFI Bond Guarantee Program Manager, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020 by email to *bgp@cdfi.treas.gov* or by facsimile to (202) 508–0083. Please note this is not a toll free number.

FOR FURTHER INFORMATION CONTACT: The applications for the CDFI Bond Guarantee Program, as well as the Secondary Loan Requirements, may be obtained from the CDFI Bond Guarantee Program page of the CDFI Fund's Web site at *http://www.cdfifund.gov.* Requests for additional information should be directed to Lisa Jones, CDFI Bond Guarantee Program Manager, at the Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20020 by email to *bgp@cdfi.treas.gov* or by facsimile to (202) 508–0083. Please note this is not a toll free number.

SUPPLEMENTARY INFORMATION:

Title: CDFI Bond Guarantee Program Qualified Issuer Application, Guarantee Application, and Secondary Loan Requirements.

OMB Number: 1559–0044.

Abstract: The purpose of the CDFI Bond Guarantee Program is to support CDFI lending by providing Guarantees for Bonds issued by Qualified Issuers as part of a Bond Issue for Eligible Community or Economic Development Purposes. The CDFI Bond Guarantee Program provides CDFIs with a new source of long-term capital and further the mission of the CDFI Fund to increase economic opportunity and promote community development investments for underserved populations and distressed communities in the United States. The CDFI Fund achieves its mission by promoting access to capital and local economic growth by investing in, supporting, and training CDFIs.

Under the CDFI Bond Guarantee Program, an applicant apply to be approved as a Qualified Issuer (QI) by completing and submitting the Qualified Issuer Application (QI Application). A Qualified Issuer must submit a Guarantee Application in order to be approved for a Guarantee under the program. Applicants are required to provide financial and program related information and, subject to approval, will enter into agreements that require the collection of reports that will be used for credit underwriting, compliance monitoring and program evaluation purposes. The application information is required in order for program management to evaluate an applicant's capacity to effectively execute its obligations under the Bond Documents.

Compliance with the Secondary Loan Requirements is required for an Eligible CDFI to make a Secondary Loan through the program. It is by attesting to the Secondary Loan Requirements that the Eligible CDFI demonstrates and makes representations with regard to its organizational competence in the evaluation and underwriting of the operational and financial requirements of the proposed projects to which it desires to provide financial support using bond loan proceeds.

Current Actions: Revision of a currently approved collection.

Type of Review: Regular Review.

Affected Public: Certified CDFIs and entities seeking to become Qualified Issuers.

Estimated Number of Qualified Issuer Respondents: 20.

Estimated Annual Time per Qualified Issuer Respondent: 240 hours.

Estimated Number of Guarantee Application Respondents: 50.

Estimated Annual Time per Guarantee Application Respondent: 50 hours.

Estimated Number of Secondary Loan Requirement Respondents: 20.

Estimated Annual Time per Secondary Loan Requirement Respondent: 50.

Estimated Total Annual Burden Hours: 8,300 hours.

Requests for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record and may be published on the CDFI Fund Web site at *http://www.cdfifund.gov.* Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the CDFI Fund, including whether the information shall have practical utility; (b) the accuracy of the CDFI Fund'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 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The CDFI Fund specifically requests comments concerning the following questions:

(1) Are the revised drafts of the Qualified Issuer Application and Guarantee Application clearer and more streamlined than the applications used for the FY 2013 round?

(2) Is there additional information or instructions that the CDFI Fund should provide to clarify the application process?

(3) Are there additional or alternative data that the CDFI Fund should request in order to consider different institution types that may be eligible to serve as Qualified Issuers?

(4) Do the Qualified Issuer Application and Guarantee Application ask the appropriate questions to determine an applicant's financial health and viability?

(5) Are there additional asset classes that should be included for purposes of Secondary Loan Requirements?

(6) How should the Secondary Loan Requirements be modified to reduce the burden of program participation?

Authority: 12 U.S.C. 1834a, 4703, 4703 note, 4713, 4717; 31 U.S.C. 321; 12 CFR part 1808.

Dated: October 23, 2013.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2013–25318 Filed 10–25–13; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Form 1120–RIC]

Proposed Collection; Comment Request

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 1120–RIC, U.S. Income Tax Return for Regulated Investment Companies.

DATES: Written comments should be received on or before December 27, 2013 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Katherine Dean, *Katherine.b.dean@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Regulated Investment Companies.

OMB Number: 1545–1010.

Form Number: 1120–RIC.

Abstract: Internal Revenue Code sections 851 through 855 provide rules for the taxation of a domestic corporation that meets certain requirements and elects to be taxed as a regulated investment company. Form 1120–RIC is filed by a domestic corporation making such an election in order to report its income and deductions and to compute its tax liability. The IRS uses the information on Form 1120–RIC to determine whether the corporation's income, deductions, credits, and tax have been correctly reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,605.

Estimated Time per Respondent: 114 hours, 23 minutes. *Estimated Total Annual Burden Hours:* 374,824.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 3, 2013.

Yvette Lawrence,

OMB Reports Clearance Officer.

[FR Doc. 2013–25286 Filed 10–25–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, November 13, 2013.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, November 13, 2013 at 11:00 a.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–834–2203, or write TAP Office, 2 Metro Tech Center, 100 Myrtle Avenue 7th Floor, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: October 21, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–25284 Filed 10–25–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, November 13, 2013.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Wednesday, November 13, 2013, at 12 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Timothy Shepard. For more information please contact Mr. Shepard at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: October 21, 2013.

Otis Simpson,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–25285 Filed 10–25–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Mandatory Electronic Delivery of Loan Files for Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) Loan Guaranty Service (LGY) announces a new policy with regard to lender submission of VA-guaranteed closed loan files for review. Currently, lenders can submit loan files selected for review by LGY through either electronic upload or in hard copy form. Effective January 1, 2014, LGY will require the electronic uploading of all loan files, pursuant to 38 CFR 36.4333.

DATES: Effective January 1, 2014, VA will require the electronic submission of all loan files.

FOR FURTHER INFORMATION CONTACT: John Bell III, Assistant Director for Loan Policy and Valuation, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8786 (This is not a toll-free number.).

SUPPLEMENTARY INFORMATION: In accordance with 38 CFR 36.4333, VA announces the implementation of a new policy with regard to the submission of VA-guaranteed closed loan files to LGY for review.

LGY on a monthly basis completes a full file review of randomly selected VA-guaranteed loans, and those with certain loan characteristics that closed during the prior month. The purpose of the review is to ensure that lenders participating in the Home Loan Guaranty program are complying with LGY regulations and policies.

In May 2012, LGY began permitting lenders to submit their loan files selected for review either electronically or in hard copy form. Currently, lenders submit over 80 percent of all loan files for review electronically.

To further take advantage of this technology and create a process for targeted reviews that will streamline the loan review process, LGY is implementing a new policy with regard to lender submission of loan files. This document announces that, effective January 1, 2014, LGY will require the electronic submission of all loan files selected for full file review.

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 October 18, 2013, for publication.

Dated: October 22, 2013.

William F. Russo,

Deputy Director, Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

[FR Doc. 2013–25418 Filed 10–25–13; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 78 Monday,
No. 208 October 28, 2013

Part II

Department of Energy

10 CFR Parts 429 and 431
Energy Conservation Program: Test Procedure for Commercial Refrigeration Equipment; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE–2013–BT–TP–0025]

RIN 1904–AC99

Energy Conservation Program: Test Procedure for Commercial Refrigeration Equipment

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

ACTION: Notice of proposed rulemaking (NOPR).

SUMMARY: The U.S. Department of Energy (DOE) proposes to revise and reorganize its test procedure for commercial refrigeration equipment (CRE) in order to clarify certain terms, procedures, and compliance dates. Specifically, in this notice of proposed rulemaking, DOE addresses several inquiries it has received from interested parties regarding the applicability of DOE's test procedure and current Federal energy conservation standards, the definition of certain terms pertinent to commercial refrigeration equipment, the proper configuration and use of certain components and features of commercial refrigeration equipment when testing according to the DOE test procedure, the proper application of certain test procedure provisions, and the compliance date of certain provisions specified in the DOE test procedure final rule published on February 21, 2012 (hereafter referred to as 2012 test procedure final rule). DOE also proposes a number of test procedure clarifications which have arisen as a result of the negotiated rulemaking process for certification of commercial heating, ventilation, air conditioning, refrigeration, and water heating equipment. These provisions are addressed below in more detail. DOE will hold a public meeting to receive and discuss comments on this NOPR.

DATES: DOE will hold a public meeting on Thursday, December 5, 2013, from 9 a.m. to 1 p.m., in Washington, DC. The meeting will also be broadcast as a webinar. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) before and after the public meeting, but no later than January 13, 2014. See section V, ''Public Participation,'' for details.

DOE expects that any final rule in this proceeding would be effective 30 days after the date of publication of that final rule.

ADDRESSES: The public meeting will be held at the U.S. Department of Energy, Forrestal Building, Room 1E–245, 1000 Independence Avenue SW., Washington, DC 20585. To attend, please notify Ms. Brenda Edwards at (202) 586–2945. Persons can attend the public meeting via webinar. For more information, refer to Section V, ''Public Participation,'' near the end of this notice of proposed rulemaking.

Comments may be submitted using any of the following methods:

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

2. *Email: CRE2013TP0025@ee.doe.gov*. Include the docket number and/or RIN in the subject line of the message.

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

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

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (''Public Participation'').

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

A link to the docket Web page can be found at: *http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-TP-0025*. This Web page will contain a link to the docket for this notice of proposed rulemaking on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. See section V, ''Public Participation,'' for information on how to submit comments through regulations.gov.

For further information on how to submit a comment, review other public comments and the docket, or participate in the public meeting, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov*.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles Llenza, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2192. Email: *commercial_refrigeration_equipment@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) 586–8145. Email: *Jennifer.Tiedeman@hq.doe.gov*.

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I. Authority and Background

A. Authority

Title III, Part C of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, Sec. 441(a), established the Energy Conservation Program for Certain Industrial Equipment, a program covering certain industrial equipment, which includes the commercial refrigeration equipment that is the focus of this notice of proposed rulemaking.[1] 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).

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 equipment must use as the basis for (1) certifying to DOE that their equipment complies with the applicable energy conservation standards adopted under EPCA, (42 U.S.C. 6316(e)(1)), and (2) making representations about the efficiency of that equipment. (42 U.S.C. 6314(d)) Similarly, DOE must use these test procedures to determine whether the equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6316(e)(1))

General Test Procedure Rulemaking Process

Under 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment. EPCA provides, in relevant part, that any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6314(a)(2))

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. 6314(b)(2)) Finally, in any rulemaking to amend a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered product or equipment [2] as determined under the existing test procedure. If DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6314(a)(6)(D))

Under 42 U.S.C. 6314(c)(1), no later than 3 years after the date of prescribing a test procedure pursuant to 42 U.S.C. 6314, and from time to time thereafter, DOE is required to conduct a reevaluation and determine whether to amend the test procedure. If DOE determines a test procedure should be amended, it shall promptly publish in the **Federal Register** proposed test procedures, incorporating such amendments and affording interested persons an opportunity to present oral and written data, views and arguments. (42 U.S.C. 6314(c)(2))

On February 21, 2012, DOE published a final rule (2012 test procedure final rule) prescribing new amendments to the test procedure for commercial refrigeration equipment. 77 FR 10292, 10318–21. Pursuant to EPCA's requirement in 42 U.S.C. 6314(c), DOE has conducted a reevaluation of the CRE test procedure and concluded that it should be amended to clarify a number of provisions regarding how aspects of the test are conducted and to provide more explicit definitions of some terms. DOE's proposed amendments to the test procedure are presented in this NOPR.

B. Background

EPCA mandates that the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 117–2002, ''Method of Testing Closed Refrigerators,'' shall be the initial test procedure for the types of equipment to which standards are applicable under 42 U.S.C. 6313(c)(2)–(3). (U.S.C. 6314(a)(6)(A)(ii)) EPCA requires DOE to address whether to amend its test procedures if ASHRAE amends this standard. (42 U.S.C. 6314(a)(6)(E)–(F)) In 2005, ASHRAE combined Standard 72–1998, ''Method of Testing Open Refrigerators,'' and Standard 117–2002 and published the test method as ASHRAE Standard 72–2005 (ASHRAE 72–2005), ''Method of Testing Commercial Refrigerators and Freezers,'' which was approved by the American National Standards Institute (ANSI) on July 29, 2005. Consistent with EPCA's requirement in 42 U.S.C. 6314(a)(6)(E), DOE reviewed ASHRAE 72–2005, as well as American Refrigeration Institute (ARI) Standard 1200–2006, which was approved by ANSI on August 28, 2006. DOE determined that ARI Standard 1200–2006 included by reference the test procedures in ASHRAE 72–2005 and the rating temperatures prescribed in EPCA. (42 U.S.C. 6314(a)(6)(B)) As a result, DOE published a final rule in December 2006 (2006 test procedure final rule) that adopted ARI Standard 1200–2006 as the DOE test procedure for commercial refrigeration equipment. 71 FR 71340, 71357 (Dec. 8, 2006). The 2006 test procedure final rule specified rating temperatures of 38 °F (±2 °F) for commercial refrigerators and refrigerator compartments, 0 °F (±2 °F) for commercial freezers and freezer compartments, and −15 °F (±2 °F) for commercial ice-cream freezers. 71 FR at 71370 (Dec. 8, 2006). DOE also adopted

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

[2] The term ''covered product'' broadly refers to all types of appliances and equipment regulated by the Department regardless of whether they are consumer products or commercial and industrial equipment.

Association of Home Appliance Manufacturers (AHAM) Standard HRF–1–2004, ''Energy, Performance and Capacity of Household Refrigerators, Refrigerator-Freezers and Freezers,'' for measuring compartment volumes for equipment covered under the 2006 test procedure final rule. 71 FR at 71370 (Dec. 8, 2006). The test procedure established in the 2006 final rule became effective on January 8, 2007 (71 FR at 71340), and its use has been required to demonstrate compliance with the current energy conservation standards.

More recently, on February 21, 2012, DOE published the aforementioned 2012 test procedure final rule, in which it adopts several amendments to the DOE test procedure for commercial refrigeration equipment. These amendments include updating the standard incorporated by reference in the DOE test procedure in response to the relevant industry organizations issuing updated versions. Specifically, DOE updated the incorporation by reference of Air-Conditioning, Heating, and Refrigeration Institute (AHRI) 1200–2010 as the DOE test procedure for this equipment. 77 FR at 10318–9 (Feb. 21, 2012). The 2012 test procedure final rule also includes an amendment to incorporate by reference the updated ANSI/AHAM Standard HRF–1–2008 (AHAM HRF–1–2008), ''Energy, Performance, and Capacity of Household Refrigerators, Refrigerator-Freezers, and Freezers,'' for determining compartment volumes for this equipment. 77 FR at 10318 and 10321 (Feb. 21, 2012). These updates were primarily editorial in nature and aligned the AHRI test procedure with the nomenclature and methodology used in DOE's 2009 standards rulemaking on commercial refrigeration equipment. The newly updated AHRI Standard 1200–2010 also references the most recent version of the AHAM standard, AHAM HRF–1–2008.

In addition, the 2012 test procedure final rule includes several amendments designed to address certain energy efficiency features that were not accounted for by the previous DOE test procedure, including provisions for measuring the impact of night curtains,[3] lighting occupancy sensors, and scheduled controls. 77 FR at 10296–10298 and 10319–10320 (Feb. 21, 2012). In the 2012 test procedure final rule, DOE also adopts amendments to allow testing of commercial refrigeration equipment that cannot operate at the rating temperature specified in the DOE test procedure. Specifically, the 2012 test procedure final rule allows testing of commercial refrigeration equipment at its lowest application product temperature (LAPT), for equipment that is physically incapable of reaching the prescribed rating temperature. 77 FR at 10320 (Feb. 21, 2012). The 2012 test procedure final rule also allows manufacturers to test and certify equipment at the more-stringent rating temperatures and ambient conditions required by NSF[4] for food safety testing. 77 FR at 10321 (Feb. 21, 2012).

The test procedure amendments established in the 2012 test procedure final rule became effective on March 22, 2012. 77 FR at 10292 (Feb. 21, 2012). The amendments are required to be used in conjunction with any amended standards promulgated as a result of DOE's ongoing energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0003).

II. Summary of the Proposed Rule

Since publication of the 2012 test procedure final rule, DOE has received a number of inquiries from interested parties regarding DOE regulations for commercial refrigeration equipment, including how different types of equipment fit into DOE's definitions of commercial refrigeration equipment at 10 CFR 431.62, and questions involving certain provisions of the DOE test procedure at 10 CFR 431.64.

More specifically, DOE has received inquiries and questions regarding the applicability of DOE's test procedure and Federal energy conservation standards to particular models of commercial refrigeration equipment, the proper configuration and use of certain components and features of commercial refrigeration equipment for purposes of testing according to the DOE test procedure, and the compliance date of the amendments specified in the 2012 test procedure final rule. In this NOPR, DOE addresses the questions presented by interested parties and, where appropriate, proposes edits to the regulatory language to add clarity to DOE's existing regulations.

On February 26, 2013, members of the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) unanimously decided to form a working group to negotiate rulemaking on certification for commercial heating, ventilation, and air-conditioning; commercial water heating; and commercial refrigeration equipment. A notice of intent to form the Commercial Certification Working Group was published in the **Federal Register** on March 12, 2013 (EERE–2013–BT–NOC–0023), to which DOE received 35 nominations. 78 FR 15653. On April 16, 2013 the Department published a notice of open meeting that announced the first meeting and listed the 22 nominations that were selected to serve as members of the Working Group, in addition to two members from ASRAC, and one DOE representative. 78 FR 22431. The members of the Working Group were selected to ensure a broad and balanced array of stakeholder interests and expertise, and include efficiency advocates, manufacturers, a utility representative, and third party laboratory representatives. As part of that rulemaking process, DOE conducted a number of regulatory negotiation sessions over the course of the summer of 2013 involving major stakeholders in the commercial refrigeration equipment market.[5] One outcome of these meetings was an agreement on the need for clarification of aspects of the DOE test procedure with respect to the treatment of specific features of commercial refrigeration equipment. This NOPR contains proposed clarifications of the treatment of those features by the DOE test procedure.

EPCA prescribes that if any final rule amends a test procedure, DOE must determine ''to what extent, if any, the proposed test procedure would alter the measured energy efficiency . . . of any covered product as determined under the existing test procedure.'' (42 U.S.C. 6314(a)(6)) Further, if DOE determines that the amended test procedure would alter the measured efficiency of a covered product, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6314(a)(6)) In this NOPR, DOE is proposing edits and additional definitions which are applicable to the DOE test procedure that must currently be used to demonstrate compliance with existing standards (reorganized into appendix A to subpart C of 10 CFR part 431), as well as the test procedure established in the 2012 test procedure final rule that are to be used with any future energy conservation standards for commercial refrigeration equipment (reorganized into appendix B to subpart C of 10 CFR

[3] Night curtains are devices made of an insulating material, typically insulated aluminum fabric, designed to be pulled down over the open front of the case to decrease infiltration and heat transfer into the case when the merchandizing establishment is closed.

[4] Founded in 1944 as the National Sanitation Foundation, the organization is now referred to simply as NSF.

[5] All of the details of the negotiation sessions can be found in the public meeting transcripts that are posted to the docket for the Working Group (*http://www.regulations.gov/#!docketDetail;D=EERE-2013-BT-NOC-0023*).

part 431). DOE does not believe that the test procedure clarifications proposed in this notice of proposed rulemaking would affect the measured energy use of any covered commercial refrigeration equipment under the current DOE test procedure. The additional definitions and amendments to the DOE test procedure for commercial refrigeration equipment would serve only to clarify existing nomenclature, testing provisions, and requirements for certain features and types of commercial refrigeration equipment; they would not establish new requirements with regard to testing commercial refrigeration equipment.

DOE notes that certification for commercial refrigeration equipment is currently not required until December 31, 2013, and DOE is negotiating the certification requirements, including the compliance date, with others in the Working Group for these products (Docket No. EERE–2013–BT–NOC–0023).

On or after the compliance date for any amended energy conservation standards adopted as a result of the ongoing energy conservation standards rulemaking for commercial refrigeration equipment (Docket No. EERE–2010–BT–STD–0003), all commercial refrigeration equipment shall be tested in accordance with appendix B to subpart C of part 431.

III. Discussion

In the 2012 test procedure final rule, DOE amends the test procedure for commercial refrigeration equipment at 10 CFR 431.64. 77 FR 10292, 10318–10321 (Feb. 21, 2012). Since publication of the 2012 test procedure final rule, DOE has received inquiries from interested parties regarding DOE's test procedures, definitions, and the applicability of the existing test procedure and standards to different types of commercial refrigeration equipment. In addition, during its testing of numerous basic models of commercial refrigeration equipment, DOE has encountered several test procedure provisions that require clarification. Lastly, as a result of the negotiated rulemaking currently being conducted by DOE to develop amended certification requirements for commercial refrigeration equipment, DOE is also proposing 17 clarifications regarding how different accessories are treated under the existing test procedure.

In considering inquiries from interested parties, DOE noted several opportunities for clarification of the test procedure, involving:

1. the applicability of the test procedure and related energy conservation standards to certain types of equipment;

2. the definitions of hybrid commercial refrigeration equipment, commercial refrigeration equipment with drawers, and commercial refrigeration equipment with solid and/or transparent doors;

3. the relationship among the rating temperature, operating temperature, and integrated average temperature;

4. the proper configuration and use of energy management systems, lighting controls, and test packages in the DOE test procedure for commercial refrigeration equipment;

5. the treatment of various features and components;

6. the rounding requirements for test results and certified ratings;

7. the provision adopted in the 2012 test procedure final rule to allow testing at the lowest application product temperature for equipment that cannot operate at the prescribed rating temperature for its equipment class;

8. clarifications raised by Interpretations 1, 2, 3, 4, and 5 of AHRI Standard 1200–2010;

9. the methodology used to determine total display area; and

10. the compliance date of certain amendments established in the 2012 test procedure final rule.

A. Scope of Coverage

On October 18, 2005, DOE published a final rule adopting EPCA's definition of commercial refrigeration equipment. This definition includes seven provisions stating the requirements that must be met for a piece of equipment to qualify as commercial refrigeration equipment. These include provisions pertaining to the operational, functional, and design characteristics of the equipment. 70 FR 60407, 60414

This definition forms the basis of the scope of coverage of DOE's regulations for commercial refrigeration equipment. While the definition of commercial refrigeration equipment encompasses a broad cross-section of commercial refrigeration equipment types, DOE has only established energy conservation standards for certain types of covered commercial refrigeration equipment specified at 10 CFR 431.66, and these standards apply to all new equipment distributed into U.S. commerce. 76 FR 12422, 12426 and 12437 (Mar. 7, 2011). There are also several types of equipment that meet the definition of commercial refrigeration equipment for which DOE has not yet set energy conservation standards. These include, for example, buffet tables, salad bars, prep tables, and griddle stands.

EPCA and DOE regulations require manufacturers of commercial refrigeration equipment to use the DOE test procedure for commercial refrigeration equipment to evaluate compliance with any applicable energy conservation standards and to support any representations as to the energy use. The DOE test procedure for commercial refrigeration equipment is set forth at 10 CFR 431.64. The test procedure applies to all commercial refrigeration equipment for which DOE has established energy conservation standards, including commercial refrigerators, freezers, and refrigerator-freezers, with and without doors, with remote or self-contained condensing units, with horizontal, vertical, or semi-vertical configurations, and designed for holding temperature or pull-down application.

Since publication of the 2012 test procedure final rule, DOE has received several inquiries from interested parties regarding the applicability of the current DOE energy conservation standards and test procedure. In the following sections, DOE provides details and specific examples to respond to those inquiries.

1. Salad Bars, Buffet Tables, and Other Refrigerated Holding and Serving Equipment

DOE has received several inquiries from interested parties regarding the application of the current DOE test procedure and standards to salad bars, buffet tables, and other refrigerated holding and serving equipment. Salad bars, buffet tables, and other refrigerated holding and serving equipment are types of commercial refrigeration equipment that store and display perishable items temporarily during food preparation or service. These units typically have specific design attributes, such as easily accessible or open bins that allow convenient and unimpeded access to the refrigerated products. As such, this equipment may operate differently from commercial refrigeration equipment designed for storage or retailing. While salad bars, buffet tables and other refrigerated holding and serving equipment are covered equipment types because they meet the definition of commercial refrigeration equipment in EPCA, the DOE test procedure and current Federal standards do not apply due to their unique operation. Should DOE decide to explicitly consider test procedures or energy conservation standards for salad bars, buffet tables, and other refrigerated

holding and serving equipment, it would do so in a future rulemaking.

2. Chef Bases and Griddle Stands

DOE also received inquiries about chef bases and griddle stands, unique equipment types used in commercial kitchens to store food prior to cooking. Specifically, interested parties inquired as to whether this equipment was covered by the DOE test procedure and if there were applicable standards. Chef bases and griddle stands are designed to be placed directly under cooking equipment, such as a commercial grill. Chef bases and griddle stands are also designed to provide food-safe temperatures in extremely hot environments, and thus are designed with uniquely robust refrigeration systems. These higher-capacity refrigeration systems require larger compressors than equipment with compressors that are appropriately sized for more typical ambient temperatures. As a result, this equipment consumes more energy than similarly sized, standard CRE models.

Based on the current definition of commercial refrigeration equipment, chef bases and griddle stands are commercial refrigeration equipment. Further, DOE believes that chef bases and griddle stands can be tested using the DOE test procedure for commercial refrigeration equipment. While manufacturers are not required to make representations of the energy use or energy efficiency of chef bases or griddle stands, a manufacturer must use the DOE test procedure to make such representations. However, DOE has not considered the energy usage of these types of equipment in its previous rulemakings to set standards for commercial refrigeration equipment, thus, the current DOE energy conservation standards do not apply to chef bases or griddle stands. Additionally, DOE is not considering standards for this equipment at this time, as discussed in section III.A (Docket No. EERE–2010–BT–STD–0003). DOE is proposing additions to § 431.66 to make clear that the current energy conservation standards for CRE do not apply to chef bases and griddle stands.

To clearly differentiate ''chef bases'' and ''griddle stands'' for conventional types of commercial refrigeration equipment that are currently covered by energy conservation standards, DOE proposes to establish a definition for ''chef base'' and/or ''griddle stand.'' DOE proposes to define ''chef base or griddle stand'' as follows:

Chef base or griddle stand means commercial refrigeration equipment that is designed and marketed for the express purpose of having a griddle or other cooking equipment placed on top of it that is capable of reaching temperatures hot enough to cook food.

DOE believes this definition captures the unique operation of chef bases and griddle stands, which are designed to provide food-safe temperatures in extremely warm environments in excess of 200 °F, and thus are designed with uniquely robust refrigeration systems. DOE also notes that these additional design features are specifically marketed by manufacturers and sought after in the market, and add considerable cost to this type of commercial refrigeration equipment. Thus a manufacturer could not produce another type of similar commercial refrigeration equipment and market it as a chef base or griddle stand because that model would not meet the performance requirements a consumer would expect.

DOE requests comment on the proposed definition for chef base or griddle stand.

3. Existing Cases Undergoing Refurbishments or Retrofits

DOE received a stakeholder inquiry as to whether DOE's test procedures and energy conservation standards apply to existing equipment undergoing retrofits and refurbishments. Energy conservation standards apply only to new equipment manufactured after the effective date of the applicable standard, and not to equipment undergoing retrofits or refurbishments. As DOE stated in its certification, compliance and enforcement (CCE) final rule, published on March 7, 2011, manufacturers and private labelers must certify to DOE that each basic model of covered equipment meets the applicable standard before distributing that equipment into U.S. commerce. DOE clarified that its authority covers only newly-manufactured equipment and does not extend to rebuilt and refurbished equipment. 76 FR at 12426 and 12437 (Mar. 7, 2011).

4. Case Doors Shipped as After-Market Additions

DOE has received inquiries regarding the appropriate equipment class and test procedure for open commercial refrigerated display cases that may be shipped without doors installed on the unit, but with doors accompanying the unit (perhaps in a separate package) that are intended to be installed in the field. Stakeholders sought guidance on whether equipment that is produced and shipped in this manner would be subject to the standards applicable to an open case or, rather, subject to the standards applicable to a closed case.

A basic model of commercial refrigeration equipment is tested, rated, and subject to specific standards based on the equipment class(es) to which that basic model belongs. For commercial refrigeration equipment, one of the features that distinguishes the current equipment classes is the presence of doors (*i.e.,* open or closed). In applying the standards required for the equipment categories in 10 CFR 431.66, DOE proposes that when a model of commercial refrigeration equipment is offered for sale with doors as an optional accessory, regardless of how the unit is shipped, such unit must be treated as equivalent to a basic model shipped with doors pre-installed. The model should be certified based on the results of testing in this configuration, which includes the doors. DOE seeks comment on whether, if this same model is offered for sale as a model without doors, it should be tested and rated with no doors installed and meet the corresponding energy conservation standards for open case equipment.

B. Definitions Pertinent to Commercial Refrigeration Equipment

DOE currently categorizes commercial refrigeration equipment by equipment classes based on the following general characteristics of a given basic model:

1. geometry of the case (*i.e.,* vertical, horizontal, or semi-vertical);

2. presence of doors (closed equipment) or no doors (open equipment);

3. door type, if applicable (transparent or solid);

4. condensing unit configuration (self-contained or remote condensing);

5. holding temperature application or pull-down temperature application; and

6. operating temperature (refrigerator, freezer, or ice-cream freezer).

10 CFR 431.62 provides definitions that assist manufacturers in determining which equipment class and associated energy conservation standard applies to a given basic model of commercial refrigeration equipment. However, 10 CFR 431.62 does not provide explicit guidance on how to classify commercial refrigeration equipment with drawers or how to differentiate between a unit with transparent doors and a unit with solid doors. Section III.B.1 through III.C provides additional clarification in this regard.

1. Commercial Refrigeration Equipment With Drawers

DOE has received several inquiries from interested parties regarding the coverage of CRE basic models with

drawers. Specifically, interested parties have inquired whether CRE models with drawers are covered under the existing energy conservation standards for commercial refrigeration equipment and, if so, (1) to which equipment families they belong; and (2) what test procedure applies to these models.

DOE's definition of commercial refrigerator, freezer, and refrigerator-freezer specified at 10 CFR 431.62 includes a requirement that the equipment ''[h]as transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors.'' Based on this definition, DOE interprets the term ''door'' to mean any movable component of the CRE unit that:

1. when closed, separates the interior refrigerated space from the ambient air; and

2. when opened, provides access to the refrigerated products inside the CRE unit.

Thus, DOE considers drawers to be doors for purposes of DOE's regulatory program, including compliance with DOE's energy conservation standards. As such, drawers are treated as doors when conducting the DOE test procedure.

To illustrate the comparable operation of models of commercial refrigeration equipment with drawers as compared to similar models with traditional doors, DOE tested several CRE units with drawers from multiple manufacturers using the current DOE test procedure and compared their performance to nearly identical units with hinged doors (belonging to the vertical closed solid, or VCS, equipment family) from the same manufacturer product lines. During the testing, DOE also studied the effect of drawer-opening distances by testing CRE units with drawers at three different drawer-opening distances: 33 percent, 66 percent, and 100 percent (*i.e.,* the drawers were opened to the maximum extent possible during the test but not removed from the tested unit entirely).

In summary, DOE found that he drawered units performed similarly to the hinged-door units to which they were compared. Test results also indicate minimal variation in measured total daily energy consumption (TDEC) when the drawer opening distance is altered and DOE considers this variation insignificant given input tolerances and other factors in the test. Based upon the data, most of the variation in energy consumption apparently is caused by the opening of the drawer, and is not significantly affected by the amount the drawer is opened.

Thus, DOE confirms that the door-opening requirements in the DOE test procedure apply to basic models of commercial refrigeration equipment with drawers, just as they do for CRE units with other types of hinged or sliding doors. That is, as required by the DOE test procedure at 10 CFR 431.64 for basic models with doors, referencing ASHRAE 72–2005 as incorporated, ''Each door shall be in the fully open position for six seconds, six times per hour for eight consecutive hours. Each door shall be opened sequentially, one at a time.'' DOE reaffirms that current energy conservation standards prescribed for commercial refrigeration equipment are applicable to CRE units with drawers. Likewise, any updated standards proposed for commercial refrigeration equipment with doors as part of the ongoing standards rulemaking are applicable to equipment with drawers.

To clarify how DOE's regulatory scheme applies to basic models of CRE units with drawers, DOE proposes to add language to the definition section at 10 CFR 431.62, defining doors as being inclusive of drawers, as follows:

Door means a movable panel that;

(1) separates the interior volume of a unit of commercial refrigeration equipment from the ambient environment,

(2) is designed to facilitate access to the refrigerated space for the purpose of loading and unloading product, and

(3) is affixed such that it is not removable without the use of tools.

This includes hinged doors, sliding doors, and drawers.

DOE notes that this proposed definition only clarifies that CRE units with drawers are currently covered under DOE's existing standards and test procedures for the vertical, semi-vertical, or horizontal closed equipment categories.

DOE requests comment on its proposed definition of ''door,'' and, in particular, its specification that the term is inclusive of drawers.

2. Transparent and Solid Doors

In reviewing the CRE test procedures for commercial refrigeration equipment, DOE identified certain opportunities for clarification within the definitions and classifications of commercial refrigeration equipment with solid doors versus those with transparent doors. Specifically, DOE identified the following issues in its regulations:

1. The word 'transparent' is not defined,

2. When a door is part transparent and part solid, there is no clear guidance that allows for the door's classification as either a transparent or solid door, and

3. When a commercial refrigerator, freezer or refrigerator-freezer has more than one door such that one or more doors are solid and the remainder of the doors are transparent, there is no clear guidance for the determination of the maximum daily energy consumption of that particular model of commercial refrigerator, freezer or refrigerator-freezer.

As a result of inquiries from stakeholders regarding the characterization of certain types of commercial refrigeration equipment, DOE proposes to establish several new definitions and to clarify the test procedure requirements at 10 CFR 431.64 to ensure appropriate application.

a. Definition of Transparent

The DOE test procedure for commercial refrigeration equipment, as amended by the 2012 test procedure final rule, incorporates by reference AHRI Standard 1200–2010. 77 FR at 10318 (Feb. 21, 2012). AHRI Standard 1200–2010 defines total display area (TDA) as ''the sum of the projected area(s) for visible product expressed in [square feet]'' and provides procedures for calculating the TDA of commercial refrigeration equipment with panels, end enclosures, doors, or other envelope components that have some transparent area(s). Appendix D of AHRI Standard 1200–2010 provides further guidance and examples to clarify the calculation of TDA. The appendix also defines a transparent material as that which allows at least 65 percent light transmittance. Therefore, based on AHRI Standard 1200–2010, a transparent door would be one partially or entirely composed of a material that allows greater than or equal to 65 percent light transmittance.

In adopting a definition for transparent that is applicable to commercial refrigeration equipment, DOE has reviewed the definition of transparent presented in AHRI Standard 1200–2010, as well as other potential definitions. Light transmittance is a measurable property of a material, and a definition of transparent based on light transmittance would be unambiguous. Also, defining a transparent material based on light transmittance is an industry-accepted practice. However, the light transmittance of commercial refrigeration doors is not typically provided when the door is purchased, and requiring this evaluation may add unnecessary burden to the test procedure.

Alternatively, DOE could consider referencing the purpose of a transparent door in commercial refrigeration equipment, which is to view refrigerated product through the closed door. While the alternate definition avoids imposition of additional test burden and addresses the plain language utility of including a transparent material in the construction of commercial refrigeration equipment, the interpretation of ''allows for viewing'' is subjective. For example, doors with special decals or colored glass may be difficult to unambiguously categorize as ''transparent'' or ''solid.''

For this reason, DOE believes that adopting a quantifiable, unambiguous definition is the most effective method for determining transparency of materials for the purposes of categorizing commercial refrigeration equipment. Therefore, in this NOPR, DOE proposes to establish a definition of ''transparent'' based on 65% light transmittance, as follows:

Transparent means greater than or equal to 65 percent light transmittance, as determined in accordance with ASTM Standard E 1084–86 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight'' at normal incidence.

DOE is proposing to incorporate by reference the ASTM E 1084–86 (Reapproved 2009) as the method for determining light transmittance. In selecting this test method, DOE reviewed available test procedures for measuring light transmittance through translucent materials, including methods from ASTM International and the NFRC. DOE determined ASTM E 1084–86 (Reapproved 2009) to be the most widely applicable test method for measuring visible transmittance of transparent doors installed on commercial refrigeration equipment compared to the other ASTM and NFRC standards considered. Namely, DOE also considered ASTM 972–96 (Reapproved 2007), ''Standard test method for solar photometric transmittance of sheet materials using sunlight,'' and NFRC 202–2012, ''Procedure for Determining Translucent Fenestration Product Visible Transmittance at Normal Incidence.''

DOE found that ASTM E 1084–86 (Reapproved 2009) serves as the basis for the ASTM E 972–96 (Reapproved 2007) and NFRC 202–1012, the primary standards for determining visible transmittance through fenestration products. Thus, ASTM E 1084–86 (Reapproved 2009) includes all the methods referenced in ASTM E 972–96 (Reapproved 2007) and NFRC 202–2012, in addition to some products and procedures for which ASTM 972–96 (Reapproved 2007) and NFRC 202–2012 do not apply. ASTM E 1084–86 (Reapproved 2009) is applicable to glass, which is the transparent material commonly used in commercial refrigeration equipment, as well as translucent fiberglass and multicell plastic panels, which cannot be tested with a traditional methods using a spectrophotometer as required by ASTM E 972–96 (Reapproved 2007). Also, ASTM E 1084–86 (Reapproved 2009) applies to textured panels or materials with similar non-flat characteristics, while NFRC 202–2012 is limited to translucent panels that do not have printed patterns or non-flat characteristics. Thus, DOE determined that ASTM E 1084–86 (Reapproved 2009) is widely applicable to transparent materials that would be used to construct commercial refrigeration equipment.

ASTM E 1084–86 (Reapproved 2009) can be used to test the light transmittance of materials at angles up to 60° off normal incidence. For the purposes of determining transparency for materials used in the construction of commercial refrigeration equipment, DOE proposes to specify that materials be tested at normal incidence. This is consistent with the definition of TDA, which references the projected area(s) for visible product where the projection is normal to the plane of the door, and the way customers typically view products through the door of a commercial refrigeration unit.

DOE notes that determination of the light transmittance of a transparent material is not required in all cases to classify a basic model of commercial refrigeration equipment as equipment with transparent doors. Manufacturers may continue to specify equipment as belonging to a transparent equipment class (e.g., vertical closed transparent or horizontal closed transparent) or a solid without testing. In most cases, it will be obvious whether a material is transparent or not, so testing is not required to verify the classification of a material as transparent or not. However, in cases in which the amount of light transmittance is not obviously at least 65%, such as basic models with special decals or opaque glass, the referenced test procedure must be used to determine if a material is transparent or not. Because use of this additional test procedure would not be required to determine the energy consumption of covered equipment in all cases, DOE does not believe this proposed amendment would add additional burden for most manufacturers conducting the DOE test procedure.

DOE requests comments from interested parties on the proposal to define ''transparent'' based on the optical properties of the material, as determined by ASTM E 1084–86 (Reapproved 2009) as incorporated by reference.

b. Definition of Equipment With Transparent Doors Versus Solid Doors

DOE received questions regarding what factors differentiate a CRE basic model as a transparent-door model or a solid-door model. In the energy conservation standards specified at 10 CFR 431.66, DOE refers to equipment families using the terms ''closed solid'' and ''closed transparent'' (for example vertical closed solid (VCS) and vertical closed transparent (VCT)). DOE believes defining terms that are used directly in the description of equipment classes for commercial refrigeration equipment is an appropriate way to differentiate basic models with solid doors from basic models with transparent doors. DOE proposes to add new definitions for ''closed solid'' and ''closed transparent'' to the regulatory text at 10 CFR 431.62 as follows:

Closed transparent means equipment with doors, and in which 75 percent or more of the outer surface area of all doors on the unit are transparent.

Closed solid means equipment with doors, and in which more than 75 percent of the outer surface area of all doors on a unit are not transparent.

These definitions would be used in conjunction with the proposed definition of transparent, as presented in section III.B.2.a, to categorize different basic models of commercial refrigeration equipment.

In determining the fraction of transparent door surface area to qualify a basic model of commercial refrigeration equipment as equipment with transparent doors under the proposal, DOE established a level higher than 50 percent to ensure that only transparent doors with a majority of transparent surface area were considered transparent doors. DOE reviewed the definitions in the ENERGY STAR® [6] ''Version 2.1 Program Requirements for Commercial Refrigerators and Freezers'' [7] (Version

[6] ENERGY STAR is a joint program of the U.S. Environmental Protection Agency and DOE that establishes a voluntary rating, certification, and labeling program for highly energy efficient consumer products and commercial equipment. Information on the program is available at *www.energystar.gov/index.cfm?c=home.index.*

[7] U.S. Environmental Protection Agency. *ENERGY STAR® Program Requirements for Commercial Refrigerators and Freezers: Eligibility Criteria; Version 2.1.* Effective January 1, 2010. (Last accessed August 15, 2013.) *http://*

2.1 Program Requirements), as well as associated stakeholder comments received during the development of the ENERGY STAR Version 2.1 Program Requirements.[8] In response to stakeholder comments, the ENERGY STAR Version 2.1 Program Requirements adopted definitions of ''solid door'' and ''transparent door'' based on a threshold of greater than or equal to 75 percent of front surface. Based on these comments and consistent with the ENERGY STAR requirements, DOE proposes to adopt the 75-percent criterion for differentiating a transparent door from a solid door. DOE believes that 75 percent is a reasonable cutoff to differentiate between a transparent door and a solid door, as it would ensure that only cases, in which a door on at least one side where the majority of the surface area is transparent, would be treated as cases with transparent doors and subject to applicable standards for transparent cases based on TDA.

As an example of how these definitions would apply to a basic model of commercial refrigeration equipment, consider a vertical closed refrigerator with three transparent doors on the front, with a surface area of 9 ft^2 each, and one solid door on the back, with an outer surface area of 9 ft^2. This case's doors have a surface area of 36 ft^2, 75 percent of which is transparent. Thus, this basic model would be treated as a part of the vertical closed transparent equipment family under DOE's proposed definition. On the other hand, if the bottom third of each door were covered by an opaque mullion or covering, this would reduce the transparent surface area of each door to 6 ft^2, or 18 ft^2 in total and increase the solid surface area to 18 ft^2 in total. In this case, the basic model would be treated as part of the vertical closed solid equipment family.

DOE requests comment on its proposed definitions of the terms ''closed transparent'' and ''closed solid.''

3. Hybrid Equipment and Commercial Refrigerator-Freezers

DOE also received a question about the definition of a commercial hybrid refrigerator-freezer and appropriate standards for covered equipment in that class.

At 10 CFR 431.62, DOE defines a commercial hybrid refrigerator, freezer, or refrigerator-freezer as having two or more chilled and/or frozen compartments that are in two or more different equipment families, contained in one cabinet, and sold as a single unit.

In other words, DOE currently defines a commercial hybrid refrigerator, freezer, or refrigerator-freezer as a single unit consisting of two or more distinct refrigerated compartments that do not belong to the same equipment family. For the sake of greater clarity, DOE proposes to replace the definition of ''commercial hybrid refrigerator, freezer, and refrigerator-freezer'' with a definition of ''commercial hybrid,'' and introduce a new definition of ''commercial refrigerator-freezer.'' Currently, there is no definition for commercial refrigerator-freezer at 10 CFR 431.62, and thus DOE proposes one here.

DOE proposes definitions for ''commercial hybrid,'' and ''commercial refrigerator-freezer'' as set out in the proposed amendments to 10 CFR 431.62 in this NOPR.

According to these proposed definitions, a commercial hybrid refrigerator-freezer would be a unit that satisfies the definition of ''commercial hybrid'' and the definition of ''commercial refrigerator-freezer.'' A commercial (non-hybrid) refrigerator-freezer is a unit that satisfies the definition of commercial refrigerator-freezer but does not satisfy the definition of commercial hybrid refrigeration unit.

An example of a commercial hybrid refrigerator, freezer, or refrigerator-freezer is a self-contained CRE basic model with two compartments, one belonging to the vertical closed transparent (VCT) equipment family and the other belonging to the horizontal open (HZO) equipment family. If one compartment (of the VCT–HZO hybrid unit) is designed to operate in the freezer temperature range and the other in the refrigerator temperature range, then the basic model is a commercial hybrid refrigerator-freezer. By contrast, if a basic model of commercial refrigeration equipment contains two compartments, both of them belonging to the VCT equipment family, but one operates in the refrigerator temperature range and the other in the freezer temperature range, the basic model is a commercial (non-hybrid) refrigerator-freezer.

The method to calculate the maximum daily energy consumption of commercial hybrid refrigerators, freezers, and refrigerator-freezers other than (non-hybrid) refrigerator-freezers with solid doors is described at 10 CFR 431.66(d)(2). For (non-hybrid) refrigerator-freezers with solid doors, the standard is specified at 10 CFR 431.66(b).

DOE requests comment on the clarity and sufficiency of the proposed definitions for ''commercial hybrid'' and ''commercial refrigerator-freezer.''

C. Relationship Among Rating Temperature, Operating Temperature, and Integrated Average Temperature

Since publication of the 2012 test procedure final rule, DOE has received inquiries from interested parties regarding the terminology used to describe the operating temperatures and appropriate rating temperatures for commercial refrigeration equipment for which standards have been specified in 10 CFR 431.66. Currently, the table at 10 CFR 431.66(d)(1) describing the energy conservation standards for equipment other than hybrid equipment, refrigerator-freezers, and wedge cases refers to the ''rating temperature'' and ''operating temperature'' of equipment.

The table describing the applicable test procedure for covered equipment at 10 CFR 431.64(b)(3) refers to the term ''integrated average temperature.'' DOE defines ''integrated average temperature'' as ''the average temperature of all the test package measurements taken during the test.'' 10 CFR 431.62 ''[R]ating temperature'' is the integrated average temperature at which a model of commercial refrigeration equipment should be evaluated in accordance with the DOE test procedure. ''[O]perating temperature'' refers to the range of integrated average temperatures at which the unit of commercial refrigeration equipment is capable of operating. The operating temperature provides a means for differentiating among refrigerators, freezers, and ice-cream freezers. For example, a commercial refrigerator has an operating temperature range at or above 32 °F and should be tested, in accordance with the

www.energystar.gov/ia/partners/product_specs/program_reqs/Commercial_Refrigerator_and_Freezer_Program_Requirements.pdf?dae6-ef7c.

[8] *See* Continental Refrigerator, Comments on Specification for Commercial Refrigerators and Freezers, Version 2.0 Draft 3. Dated January 7. 2009. Available at: *https://www.energystar.gov/ia/partners/prod_development/revisions/downloads/refrig/Continental_Comments.pdf?f45c-2369;* Beverage-Air Corporation, Beverage-Air Comments re: ENERGY VERSION 2.0—DRAFT 3, Dated January 8, 2009. Available at: *https://www.energystar.gov/ia/partners/prod_development/revisions/downloads/refrig/Beverage-Air_Comments.pdf?f45c-2369* Anonymous, Comments on Draft 2. Dated September 15, 2008. Available at: *https://www.energystar.gov/ia/partners/prod_development/revisions/downloads/refrig/Anonymous_Comments.pdf?f45c-2369* True Manufacturing, Comments on Draft 2. Dated September 17, 2008. Available at: *https://www.energystar.gov/ia/partners/prod_development/revisions/downloads/refrig/True_Comments.pdf?f45c-2369* Traulsen, Comments on Draft 1. Dated April 18, 2008. Available at: *https://www.energystar.gov/ia/partners/prod_development/revisions/downloads/refrig/Traulsen_Comments.pdf?f45c-2369.*

DOE test procedure, with the integrated average temperature maintained at the rating temperature of 38 °F for refrigerators. A commercial freezer with an operating temperature range below 32 °F should be tested, in accordance with the DOE test procedure, with the integrated average temperature maintained at the rating temperature for freezers of 0 °F. 10 CFR 431.66(d)(1) The ''rating temperature'' in the standards table at 10 CFR 431.66(d)(1) is the same as the rating temperature in the table at 10 CFR 431.64(b)(3), except that the integrated average temperature in the table at 10 CFR 431.64(b)(3) has a tolerance of ±2 °F to account for the inherent variability associated with testing.

The integrated average temperature is determined as a result of testing, while the rating temperature is a nominal value representing the target integrated average temperature for a given test. The intended relationship between these two terms is that, when testing a given unit of commercial refrigeration equipment, the integrated average temperature observed during the test should fall within the allowed tolerance (±2 °F) of the prescribed rating temperature for that unit, based on its designated equipment class. The designated equipment class for a model of commercial refrigeration equipment and, thus, the associated rating temperature, are determined based on the range of operating temperatures for that unit, among other factors.

To clearly articulate the relationship between these terms in the language at 10 CFR part 431, subpart C, DOE proposes to amend 10 CFR 431.64 to state that the integrated average temperature determined as a result of testing a unit shall be within ±2 °F of the prescribed rating temperature for that unit's equipment class, as specified in the table at 10 CFR 431.66(d)(1). DOE also proposes to include definitions for the terms ''rating temperature'' and ''operating temperature'' at 10 CFR 431.62 as follows:

Rating temperature means the integrated average temperature a unit must maintain during testing (i.e., either as listed in the table at 10 CFR 431.66(d)(1) or the lowest application product temperature).

Operating temperature means the range of integrated average temperatures at which a commercial refrigeration unit is capable of operating.

DOE believes that these definitions would provide clarification of the relationship among the terms integrated average temperature, rating temperature, and operating temperature.

While DOE uses the operating temperature range of the equipment to establish the appropriate equipment class for CRE basic models based on the standards table at 10 CFR 431.66(d)(1), only the definition of ''ice-cream freezer'' explicitly identifies the appropriate operating range (*i.e.,* at or below −5 °F). 10 CFR 431.62. In fact, DOE currently does not independently define ''commercial refrigerator'' or ''commercial freezer.'' Therefore, DOE also proposes to establish definitions for ''commercial refrigerator'' and ''commercial freezer'' as set out in the proposed amendments to 10 CFR 431.62 in this NOPR.

DOE has proposed a definition for ''commercial refrigerator-freezer'' above (see section III.B.3), and DOE's definition of ''ice-cream freezer'' can be found at 10 CFR 431.62. The definition of ice-cream freezer specifies additional requirements for a freezer to be classified as an ice-cream freezer. The definition for ice-cream freezer included at 10 CFR 431.62 states that an ice-cream freezer means a commercial freezer that is designed to operate at or below −5 °F (−21 °C) and that the manufacturer designs, markets, or intends for the storing, displaying, or dispensing of ice cream.

DOE recognizes that some basic models may have operating characteristics that include an operating temperature range that spans multiple equipment classes. For example, a CRE model with an operating temperature range of >15 °F and <36 °F meets the definition of both a commercial refrigerator (capable of operating at or above 32 °F) and a commercial freezer (capable of operating below 32 °F). The current language does not make clear how to categorize this model. DOE is proposing language that specifies how to appropriately characterize basic models operating over temperature ranges that span multiple equipment classes. Specifically, DOE proposes that equipment meeting the definition of multiple equipment classes when operated as intended by the manufacturer would have to be tested and certified as each of these equipment classes to demonstrate compliance with DOE's energy conservation standards. The CRE model described above with an operating temperature range of >15 °F and <36 °F would need to be tested and certified as both a commercial refrigerator and a commercial freezer.

DOE requests comment on its proposed definitions for ''operating temperature'' and ''rating temperature,'' and its proposal to clarify the relationship between integrated average temperature and rating temperature.

DOE also requests comment on its proposed definitions of ''commercial refrigerator'' and ''commercial freezer.''

D. Proper Configuration and Use of Components or Features in the DOE Test Procedure

DOE has received several inquiries from interested parties regarding the proper configuration and use of certain components or features specified in the DOE test procedure. Specifically, interested parties have inquired regarding how energy management systems and case lighting are to be operating when conducting the DOE test procedure, and the appropriate temperatures of test packages when loaded into the test unit. These inquiries and DOE's responses are summarized in the subsequent sections.

1. Energy Management Systems

DOE has received inquiries from interested parties regarding how to test CRE units equipped with automated energy management controls, specifically those that turn off merchandising lights and raise the cabinet temperature (in the case of some beverage merchandisers) outside of normal merchandising hours.

The DOE test procedure specifies that all devices that would normally be used in the field must be installed and operated in the same manner during the test unless such installation and operation is inconsistent with any requirement of the test procedure.[9] Such devices include energy management systems. DOE interprets energy management systems as meaning electronic devices that control specific systems in commercial refrigeration equipment to save energy. Moreover, DOE research indicates that applicable energy management systems are permanently installed on the case and configured to operate automatically without the intervention of an operator after configuration is complete. For example, an operator may be required initially to program the energy management device to turn off case lighting based on a particular schedule. However, once programmed, an energy management system would continue to perform the desired function, in this case altering case lighting automatically without further intervention by the operator. Further examples of the functions of energy management systems include, but are not limited to:

[9] ASHRAE 72–2005, section 6.1.1, ''Accessories,'' as incorporated by reference into the DOE test procedure at 10 CFR 431.64.

• Turning off cabinet lights on a predetermined schedule or in response to an external variable;

• increasing the temperature setting of the thermostat (in refrigerators that store non-perishable items) during non-merchandizing hours; and

• activating and deactivating anti-sweat heaters, pan heaters, or defrost heaters.

If normal field installation or operation of any device would be inconsistent with any test procedure requirement, then the specific function of that device that causes inconsistency with the DOE test procedure provisions must be disabled for the duration of the test. If the device is designed for multiple functions, only those functions of the device that cause inconsistency with the DOE test procedure requirements must be disabled.

For example, the DOE test procedure requires that all equipment that can operate at the DOE-specified rating temperatures (*i.e.,* 38 ± 2 °F, 0 ± 2 °F, and −15 ± 2 °F) be operated at those rating temperatures during the test. 10 CFR 431.64 If an energy management system raises or lowers the cabinet temperature such that the applicable integrated average temperature cannot be maintained within the rating temperature ranges, then the function of the energy management system that varies the cabinet temperature must be disabled for the duration of the test. If the energy management system controls other systems, in addition to cabinet temperature, those functions of the energy management system should remain enabled, provided those functions do not violate the requirements of the DOE test procedure. Therefore, if the installed energy management system is not able to disable those functions that violate certain test procedure provisions while other functions remain operational, the entire energy management system must be disabled during testing.

2. Lighting

DOE received an inquiry from an interested party regarding the appropriate position for a manual light switch when testing commercial refrigeration equipment with an operable light switch.

The DOE test procedure specifies that all devices that would normally be used in the field must be installed and operated in the same manner during the test. 10 CFR 431.64. Specifically, ARI Standard 1200–2006 (as incorporated by reference in the 2006 test procedure final rule) and AHRI Standard 1200–2010 (as incorporated by reference in the 2012 test procedure final rule and this proposed test procedure update) specify that the TDEC or combined daily energy consumption (CDEC) for self-contained or remote condensing cases, respectively, ''shall include compressors, evaporator fan motors, condensing fan motors, lighting, anti-condensate loads including fans and heaters, defrost heaters, condensate evaporator pans, and any other suitable electrical loads when they are part of the unit.'' This explicit reference to case lighting loads indicates that the energy consumption associated with lights installed on a model of commercial refrigeration equipment are intended to be captured during testing.

In addition, the DOE test procedure, through AHRI Standard 1200–2010, references ASHRAE 72–2005, ''Method of Testing Commercial Refrigerators and Freezers,'' to specify the appropriate test apparatus and conditions suitable for determining the energy consumption of commercial refrigeration equipment. 10 CFR 431.64. ASHRAE 72–2005 specifies, in section 6.1.1, ''Accessories,'' that ''all standard components, such as shelves, end enclosures, lights, anti-condensate heaters, racks, and similar items that would normally be used during shopping or working periods, shall be installed and used as recommended by the manufacturer.'' DOE interprets this requirement to mean that if lighting is installed on the case, the lighting should be operated as intended to be used in the field. For example, if a vertical solid case has lighting installed within the case that turns on only when the door is opened, but remains off when the doors are closed, the lighting in that case should be left to operate in the same manner during testing. In other words, the lighting should be turned on only during the periods of the test when the door is required to be open.

In the 2012 test procedure final rule, DOE adopts specific provisions for testing lighting control systems that have variable operation, such as lighting occupancy sensors that control lighting based on the presence of customer activity in front of the case and scheduled controls that control case lighting based on a pre-set schedule. 77 FR at 10298–302 (Feb. 21, 2012). Due to the variety of types of lighting controls and schemes available on the market, the existing provisions for ''accessories'' may prove insufficient to yield consistent results during testing. Therefore, in the 2012 test procedure final rule, DOE establishes specific time periods these variable lights may be turned off or dimmed during the test to account for energy savings due to installed occupancy sensors or scheduled lighting controls. 77 FR at 10319–10320 (Feb. 21, 2012).

DOE wishes to clarify that a mechanical light switch does not constitute an energy management system, such as scheduled lighting controls or occupancy sensors. Models of commercial refrigeration equipment with lighting installed on the case and no energy management system should be tested with lights on to their maximum illumination level for the duration of the test, except for models with solid doors in which the manufacturer instructs the use of lighting controls that automatically turn off internal case lighting when the door is closed. For such models, the lighting control should be operated in the automatic setting, consistent with manufacturer recommendations, even if the model has a manual switch that disables the automatic lighting control. In general, except for the case noted above, any lighting controls with a user-selectable setting must be turned on and set to the maximum usage position. Under the current CRE test procedure, models featuring an automatic, non-user adjustable controller, such as a lighting occupancy sensor or scheduled lighting controller, must be disabled such that any case lighting is in its maximum illumination setting during testing. After the provisions adopted in the 2012 test procedure become effective, in association with the compliance date of any amended standards for commercial refrigeration equipment, models with lighting occupancy sensors or scheduled lighting controls should be operated in accordance with the 2012 amendments to the DOE test procedure for commercial refrigeration equipment. 77 FR at 10319–10320 (Feb. 21, 2012). For further discussion of energy management systems, please refer to section III.D.1.

To clarify DOE's existing test procedure, DOE proposes to specify in appendix A to Subpart C that all lighting must be energized to the maximum illumination level for the duration of testing for commercial refrigeration equipment except for closed solid models of commercial refrigeration equipment which includes automatic controls that disable case lighting when the door is closed, the use of which is specified by the manufacturer instructions. DOE also proposes to specify in appendix B to subpart C, which will be required for equipment testing on or after the compliance date of any amended energy conservation standards, that case lighting shall be energized to its maximum illumination level, except for when a model of commercial

refrigeration equipment is equipped with lighting occupancy sensors and/or scheduled controls, or when the a model is outfitted with other permanently installed, automatic energy management systems that control case lighting. If the unit includes an automatic lighting control system, it should be enabled during test. If the unit is equipped with lighting occupancy sensors and controls in should be tested in accordance with the provisions adopted in the 2012 test procedure final rule. 77 FR at 10319–10320 (Feb. 21, 2012).

3. Test Package Temperatures

Some manufacturers have inquired whether the DOE test procedure has specific temperature requirements for the test simulators and filler packages that must be met prior to loading the packages in the commercial refrigeration equipment for testing pursuant to the DOE test procedure found at 10 CFR 431.64. Specifically, several manufacturers have expressed the opinion that test simulators and filler packages should be pre-chilled to the temperature at which the equipment will be tested prior to loading. The manufacturers expressed concern that equipment should not be operating in a pull-down capacity [10] during the test.

The ASHRAE 72–2005 method of test, as referenced by ARI Standard 1200–2006 and AHRI Standard 1200–2010, and thus incorporated by the DOE test procedure at 10 CFR 431.64, provides specific instruction at section 6.2 as to the loading of test simulators and filler packages. ASHRAE 72–2005 also requires temperature stabilization before the formal test period begins, as detailed in Section 7.4. Specifically, the unit must run until ''steady state'' conditions, as defined in section 3, are achieved. ''Steady state'' is defined as ''the condition where the average temperature of all test simulators changes less than 0.2 °C (0.4 °F) from one 24-hour period or refrigeration cycle to the next.'' After steady-state operation is reached, the unit must then operate for another period of 12 hours without any adjustment to the controls before it is deemed to be stabilized and the testing can begin. Based on these established stabilization requirements, the product simulators and test packages would be cooled to the test temperature prior to initiation of the test period and data collection, and the unit of commercial refrigeration equipment under test would not operate in a pull-down application during any part of the DOE test procedure. Thus, DOE does not believe the product simulators or test packages need to be a specified temperature prior to loading in the commercial refrigeration equipment for testing.

E. Treatment of Other Specific Equipment Features and Accessories During Testing

During the ongoing negotiated rulemaking for certification of commercial heating, ventilation, air conditioning, refrigeration, and water heating equipment, a number of issues were raised by stakeholders regarding the treatment during the DOE test procedure of specific features, components, and accessories which may be in place on certain basic models of commercial refrigeration equipment. After discussion with those stakeholders during the negotiation proceedings, DOE seeks to issue clarifications on these subjects. The ensuing sections discuss specific features, components, and accessories and present DOE's proposals regarding how these items should be treated under the existing and any amended DOE test procedure provisions.

1. Customer Display Signs/Lights

Manufacturers stated that some customers, when ordering commercial refrigeration equipment, may wish to add additional exterior signage, outside of the body of the refrigerated cabinet, to certain units of a given model for the purposes of advertising the product inside. This lighting and signage is optional and is not integral to the cabinet. Further, this auxiliary signage does not serve to illuminate product inside the body of the cabinet. During the negotiations, stakeholders inquired regarding how this lighting or signage should be treated during testing.

DOE proposes that under the DOE test procedure, all lighting that is integral to the refrigerated cabinet or illuminates the product contained within must be operational during the test. Under DOE's proposal, supplemental lighting that exists solely for the purposes of advertising or drawing attention to the case and is not integral to the case would not be operated during testing under the DOE test procedure. DOE is proposing to add clarifying language in the regulatory text to address customer display signs/lights.

2. Condensate Pan Heaters and Pumps

Commercial refrigeration equipment captures water from the air entering the cabinet during operation by causing the water to condense and then freeze on the evaporator coil of the equipment. During a defrost cycle, this frost is melted, and the meltwater produced must be removed from the unit. In many types of equipment, this meltwater is collected in a pan beneath the unit. Some models of commercial refrigeration equipment come equipped with electric resistance heaters which evaporate this water out of the pan and into the ambient air. Other models may come equipped with pumps, which pump meltwater to an external drain. Stakeholders inquired regarding the treatment of these condensate pan heaters and condensate pumps under the DOE test procedure.

DOE proposes that, during the DOE test procedure, these electric resistance heaters and condensate pumps must be installed and operational during the entire test (as per section 6.1.1, ''Accessories,'' of ASHRAE 72–2005). The ''entire test'' includes stabilization (including pull-down), steady-state and performance testing periods. Prior to the start of the stabilization period, as defined by ASHRAE 72–2005, the condensate pan should be dry. During the entirety of the period of the test following the start of the stabilization period, any condensate moisture generated should be allowed to accumulate in the pan, as it would during normal operations. Water should not be manually added to or removed from the condensate pan at any time during the entire test.

DOE is aware that manufacturers may offer condensate pan heaters and pumps such that they are shipped separately from, or not installed upon, the specific unit of commercial refrigeration equipment with which they would be used in normal operation. DOE proposes that, if the manufacturer offers a given basic model for sale with an available condensate pan heater or pump, the manufacturer must make representations of the performance of the basic model as tested with the feature in place. DOE is proposing to add clarifying language in the regulatory text to address condensate pan heaters and pumps.

3. Anti-Sweat Door Heaters

Many transparent-door cases come equipped with anti-sweat electric resistance heaters that serve to evaporate any water that condenses on the transparent surface of the door during operation. In some instances, manufacturers may equip their cases with higher-powered anti-sweat heaters in anticipation of potential adverse operation conditions. During the negotiation proceedings, stakeholders

[10] Pull-down capacity refers to a commercial refrigerator, freezer, or refrigerator-freezer, which is not operating in steady-state condition, but is instead actively reducing the temperature of products contained within the refrigerated space.

questioned how cases equipped with high-wattage anti-sweat door heaters should be treated during testing.

DOE proposes that anti-sweat heaters should be operational during testing under the DOE test procedure. Models with a user-selectable setting must be turned on and set to the maximum usage position. Models featuring an automatic, non-user adjustable controller that turns on or off based on environmental conditions must be operating in the automatic state. Additionally, DOE proposes that, if a unit is not shipped with a controller from the point of manufacture, and is intended to be used with a controller, the manufacturer must make representations of the basic model based upon the rated performance of that basic model as tested when equipped with an appropriate controller. DOE is proposing to add clarifying language in the regulatory text to address anti-sweat door heaters.

4. Ultraviolet Lights

Some manufacturers equip certain models of commercial refrigeration equipment with ultraviolet lights, which can be operated by end users to neutralize pathogens and ensure case cleanliness. Manufacturers inquired as to how these should be treated during the DOE test procedure. DOE proposes that ultraviolet lights should not be turned on during the conduct of the test procedure and is adding regulatory text to clarify.

5. Illuminated Temperature Displays and Alarms

Manufacturers may equip some commercial refrigeration equipment models with illuminated displays that provide visual information to the equipment operator regarding, for example, the temperature inside the refrigerated case. Manufacturers may also offer alarms that notify operators if the case temperature falls outside of a specified range. DOE understands these items to be features integral to the design of the given model and proposes that they should be enabled during the test as they would be during normal field operation. DOE is proposing to add clarifying language in the regulatory text to address illuminated temperature displays and alarms.

6. Condenser Filters

Manufacturers may offer models equipped with non-permanent filters over a model's condenser coil to prevent particulates such as flour from blocking the condenser coil and reducing airflow. DOE proposes that these filters should be removed during the DOE test procedure and proposes to add clarifying language as part of the regulatory text.

7. Refrigeration System Security Covers

Manufacturers may offer for sale with a basic model an option to include straps or other devices to secure the condensing unit and prevent theft or tampering. DOE proposes that these security devices should be removed during testing under the DOE test procedure and proposes to add clarifying language as part of the regulatory text.

8. Night Curtains and Covers

During the negotiated rulemaking proceedings, manufacturers inquired regarding the treatment of night curtains and night covers under the DOE test procedure. This feature is defined at 10 CFR 431.62, as a device that is deployed temporarily to decrease air exchange and heat transfer between the refrigerated case and the surrounding environment. Additionally, the proper treatment of these components during the conduct of the DOE test procedure is discussed in the current text of the DOE test procedure, 10 CFR 431.64, as amended by the 2012 DOE test procedure final rule. These provisions are reflected at section 1.2.10 in appendix B. Night curtains may not be used when testing under appendix A.

9. Grill Options

Manufacturers may offer for sale with a basic model optional grills which are used to direct airflow in unique applications, such as when a unit is mounted close to a rear wall and the airflow needs to be directed upwards. DOE proposes that, if present, non-standard grills should be removed during testing under the DOE test procedure and proposes to add clarifying language as part of the regulatory text.

10. Coated Coils

During the negotiations, manufacturers inquired as to whether units featuring coated coils are subject to testing under the DOE test procedure. These coils, generally specified for use in units that will be subjected to environments in which acids or oxidizers are present, are treated with an additional coating (such as a layer of epoxy or polymer) as a barrier to protect the bare metal of the coil from deterioration through environmental contact. DOE believes the existing DOE test procedure accurately accounts for the performance of all types of coils, including those with coatings and that no additional accommodations or clarifications are needed in the test procedure. Commercial refrigeration equipment with coated coils shall be tested in accordance with the DOE test procedure, as specified at appendices A and B to subpart C of 10 CFR part 431, in their entirety.

11. Internal Secondary Coolant Circuits

One manufacturer asked for clarification of the treatment of a unit that features an internal, secondary, working fluid that is cooled by a remote condensing unit. This proprietary design purportedly allows for greater control of unit temperature, and may present other attributes desirable to a customer. Upon discussion and examination of the design during the negotiation proceedings, DOE found no evidence indicating that this design could not be tested using the DOE test procedure as written, as the operation of equipment with internal secondary coolant circuits would be effectively the same as that of a standard remote condensing case from the perspective of the test procedure.

12. Wedge Cases

Wedge cases are models of commercial refrigeration equipment that fit between two other cases to fill a gap (such as in a corner) in a continuous case lineup. They may require air spillover from adjacent cases to meet the manufacturer's design temperatures. During the negotiation proceedings, manufacturers inquired as to how wedge cases should be treated under the DOE test procedure.

DOE considered the coverage and testing of wedge cases in the 2009 energy conservation standards final rule. Based on that assessment, DOE understands that wedge cases meet the definition of commercial refrigeration equipment and fall into existing CRE equipment classes. At this time, DOE is unaware of any technical attributes that prevent wedge cases from being tested using the DOE test procedure, or where the DOE test procedure is not representative of the energy use of a given basic model of wedge case. If manufacturers determine that these circumstances exist, they may seek a test procedure waiver for that model pursuant to DOE regulations at 10 CFR 431.401. Consistent with these regulations, DOE will consider amendments to its test procedure to accommodate such equipment.

13. Misting or Humidification Systems

Manufacturers may offer for sale with a basic model optional misting or humidification systems, which dispense a water mist used to maintain the

optimal quality of products. These are commonly used with cases containing, for example, fresh produce, meat, or seafood. DOE proposes that, if present, these systems should be inactive during testing under the DOE test procedure and proposes to add clarifying language as part of the regulatory text.

14. Air Purifiers

Manufacturers may offer for sale purifying systems to remove contaminants from air recirculated within the interior of a refrigerated case. DOE proposes that air purifiers should be inactive during testing under the DOE test procedure and proposes to add clarifying language as part of the regulatory text.

15. General Purpose Outlets

Some commercial refrigeration equipment may be offered for sale with integrated general purpose electrical outlets, which may be used to power additional equipment such as scales or slicers. During the negotiations, manufacturers inquired as to the treatment of these outlets. DOE proposes that, during testing under the DOE test procedure, no external load should be connected to the general purpose outlets contained within a unit and proposes to add clarifying language as part of the regulatory text.

16. Crankcase Heaters

Some models of self-contained commercial refrigeration equipment feature electric resistance heaters designed to keep the compressor warm in order to maintain the refrigerant contained within at optimal conditions when the unit is operating at low ambient temperatures. DOE proposes that, if present, crankcase heaters should be operational during the test. Under this proposal, if a control system, such as a thermostat or electronic controller, is used to modulate the operation of the crankcase heater, it should be used as intended per the manufacturer's instructions. DOE is proposing to add clarifying language regarding testing units with crankcase heaters.

17. Interior/Exterior Liners

Manufacturers may offer for sale a variety of different interior or exterior liner materials with a given commercial refrigeration equipment basic model. These liners, by virtue of differences in thickness, composition, and other physical attributes, could change the insulative properties of the case walls, and thus alter the energy consumption of the case. Manufacturers inquired during the negotiations regarding the treatment of cases with different interior or exterior liners. The test procedure estimates the heat loss from the refrigerated space to the surroundings by measuring the amount of energy needed to maintain the refrigerated space at the given rating temperature. Consequently, DOE believes that the DOE test procedure adequately accounts for variability in the energy consumption of models with different liner types just as it accounts for the difference energy performance of models with varying levels of insulation. Therefore DOE is not proposing any additional measures to accommodate these equipment features.

F. Rounding of Test Results and Certified Ratings

DOE's requirements for calculating test results and certified ratings for covered commercial refrigeration equipment are found at 10 CFR 431.64 and 10 CFR 429.42, respectively. The DOE test procedure currently prescribes that the daily energy consumption of a unit of commercial refrigeration equipment must be determined in accordance with the DOE test procedure. The current DOE test procedure, which incorporates by reference provisions from ARI Standard 1200–2006 and AHRI Standard 1200–2010, requires that the CDEC, for remote condensing equipment, and the TDEC, for self-contained refrigeration equipment, be expressed in terms of kilowatt-hours (kWh) per day and must be stated in increments of 0.01 kWh per day.

Consequently, DOE is proposing clarifications to 431.64 that all calculations in the DOE test procedure must be carried out using raw, measured values, and the results from the testing of a single unit of a given basic model should be expressed in 0.01 kWh per day.

Similarly, DOE notes that these calculation and rounding requirements are also applicable to reporting certified ratings for a basic model, in accordance with the requirements for certified ratings for commercial refrigeration equipment described at 10 CFR 429.42. Therefore, DOE also proposes to update the language at 10 CFR 429.42 to reflect the same rounding requirements, namely that certified ratings shall be expressed in 0.01 kWh per day increments.

DOE requests comment on its proposed rounding provisions for commercial refrigeration equipment.

G. Testing at the Lowest Application Product Temperature

DOE defines equipment classes for commercial refrigeration equipment based on three distinct operating temperature ranges: (1) Refrigerators that have operating temperatures at or above 32 °F and are tested at a rating temperature of 38 °F (±2 °F); (2) freezers that have operating temperatures below 32 °F and are tested at a rating temperature of 0 °F (±2 °F); and (3) ice-cream freezers that have operating temperatures at or below −5 °F and are tested at a rating temperature of −15 °F (±2 °F). 10 CFR 431.64; *id.* § 431.66(d)(1).

In the 2012 test procedure final rule, DOE establishes provisions for testing equipment that is not capable of achieving the prescribed rating temperature for its respective equipment class. This equipment includes, for example, floral cases, which commonly feature operating temperatures of 40–50 °F, and ice storage cases, which often have operating temperatures near 20 °F. These equipment types do not have operating temperatures that are low enough to meet their respective rating temperature requirements. The 2012 test procedure amendments specify that such equipment must be tested at its lowest application product temperature (LAPT), instead of the specified rating temperature for its given equipment class. 77 FR at 10320 (Feb. 21, 2012). DOE regulations at 10 CFR 431.62 define LAPT as an integrated average temperature closest to the specified rating temperature for a given piece of equipment achievable which is repeatable such that the integrated average temperature of a given unit is within ±2 °F of the average of all integrated average temperature values for that basic model. For cases with thermostats, this will be the lowest thermostat set point. DOE adopted this provision to eliminate the need for waivers for commercial refrigeration equipment that are not capable of operating at the prescribed rating temperature for their equipment class, but that otherwise can be tested in accordance with the DOE test procedure.

To clarify, if a certain basic model of commercial refrigeration equipment cannot be operated at the prescribed rating temperature for its given equipment class, the manufacturer must test the equipment at the LAPT. The equipment must be tested in accordance with all the requirements of the DOE test procedure, except that the rating temperature for this equipment will be the LAPT and the integrated average

temperature measured during the test will be within ±2 °F of the LAPT instead of within ±2 °F of the prescribed rating temperature for that equipment class.

The LAPT is the lowest temperature at which a given basic model is capable of operating. For example, if a basic model of freezer has an operating range from 8 to 28 °F, and thus cannot operate at the prescribed rating temperature of 0 °F, that basic model would be tested at its LAPT. The LAPT for the case in this example would be 8 °F because that is the lowest operating temperature achievable by the basic model. However, 8 °F would be the LAPT for the given basic model only if any unit of this basic model could achieve the specified LAPT of 8 °F ± 2 °F. To elaborate, if DOE were to randomly select a representative unit of this model to test for compliance purposes, DOE should be able to test the unit such that an integrated average temperature between 6 °F and 10 °F is maintained over the duration of the test procedure after setting the unit to maintain an internal refrigerated temperature of 8 °F. The selected unit must not be able to operate at 0 °F.

To clarify the intent and application of the LAPT, DOE proposes to modify the definition of LAPT as follows as set out in the proposed amendments to 10 CFR 431.62 in this NOPR.

Although ASHRAE 72–2005 is currently evoked as the DOE method of test through DOE's incorporation by reference of ARI 1200–2006 and AHRI 1200–2010 as the test procedure for commercial refrigeration equipment, DOE has never specifically incorporated by reference ASHRAE 72–2005. Due to the explicit reference of ASHRAE 72–2005 in the proposed definition of LAPT in this NOPR, DOE proposes to incorporate by reference ASHRAE 72–2005 at 10 CFR 431.63.

DOE requests comment on its proposed modification to the LAPT definition and its proposal to incorporate by reference ASHRAE 72–2005.

As specified in the 2012 test procedure final rule, equipment tested in accordance with the LAPT provisions will still be subject to the relevant energy conservation standards for the designated equipment class. 77 FR at 10302–10303 (Feb 21, 2012). In addition, equipment rated under the LAPT provision will be subject to the same certification requirements as all commercial refrigeration equipment, as specified at 10 CFR 429.42. While DOE did not modify the certification requirements for equipment tested at the LAPT in the 2012 test procedure final rule to require manufacturers to report the temperature at which the unit was tested (if other than the rating temperature), DOE requires that documentation to support the selection of the LAPT the manufacturer used for testing be maintained as part of the test data underlying the certification. 77 FR at 10303 (Feb. 21, 2012). Further, DOE requires that the certified ratings calculated from the test data and applicable sampling plans should reflect the energy consumption measured at the LAPT. 77 FR at 10303 (Feb. 21, 2012).

H. Clarifications in Response to Interpretations to AHRI Standard 1200–2010

In addition to responding to inquiries from interested parties regarding the test procedure for commercial refrigeration equipment, in this NOPR DOE also proposes to clarify its test procedure to respond to issues identified by several recent industry interpretations of the referenced industry test procedure, AHRI Standard 1200–2010.

The 2012 test procedure final rule amends the DOE test procedure for commercial refrigeration equipment to reference AHRI Standard 1200–2010 as the method of test to be used as of the compliance date of any amended standards established as part of the ongoing energy conservation standards rulemaking. 77 FR at 10295–96 (Feb. 21, 2012).

Since publication of the 2012 test procedure final rule, AHRI has published five interpretations to AHRI Standard 1200–2010. Interpretations 1 through 4 to AHRI Standard 1200–2010 were issued by AHRI to clarify the method for calculation of TDA. While both ARI Standard 1200–2006 and AHRI Standard 1200–2010 provide instructions for calculation of TDA for standard equipment configurations, Interpretations 1, 2, 3, and 4 to AHRI Standard 1200–2010 extend this guidance to certain configurations for which AHRI believes the current industry standard may be inadequate. Interpretation 5 to AHRI Standard 1200–2010 clarifies the approach for testing commercial refrigeration equipment with two independent refrigeration sections.

A summary of the five AHRI interpretations is laid out below:

Interpretation 1 clarifies that the height measurement should be representative of the visible area of merchandise inside the case and should not include glass area if the ''view'' is blocked by solid features, such as a honeycomb area or deck pans[11].

Interpretation 2 clarifies that, for a refrigerator or freezer with multiple glass doors, the length measurement for TDA should be taken from inside wall to inside wall, including the door mullions and door frames.

Interpretation 3 clarifies that silk screen-coated transparent material should be treated as transparent and included in TDA if the silk screen provides at least 65 percent light transmittance or if at least 65 percent of the screen area is transparent; otherwise, the silk screen-coated area should be treated as non-transparent and excluded.

Interpretation 4 clarifies how to calculate the area and length of commercial refrigerators, freezers, and refrigerator-freezers with curved fronts.

Interpretation 5 clarifies that for commercial refrigeration equipment with two independent refrigeration sections that each cool a separate compartment, each compartment and refrigeration system should be evaluated independently.

For further details, AHRI's Interpretations 1 through 5 of ANSI/AHRI Standard 1200 (I–P)—2010 are available at *www.ahrinet.org/search+standards.aspx*.

Test procedure guidance developed and issued by industry regarding referenced industry standards can be helpful in identifying areas where DOE's existing test procedures may be misinterpreted. As such, DOE has reviewed Interpretations 1, 2, 3, 4, and 5 to AHRI Standard 1200–2010, which provide guidance on how to calculate TDA for certain unique equipment configurations, and believes Interpretations 1, 3, 4, and 5 of the AHRI Interpretations also apply to ARI Standard 1200–2006, which is incorporated by reference in the DOE test procedure. However, DOE finds that Interpretation 2 is inconsistent with the way DOE determines TDA for the purposes of compliance with energy conservation standards.

DOE believes the figures provided in ARI Standard 1200–2006 and AHRI 1200–2010, as incorporated by reference in the DOE test procedure, demonstrate how to calculate TDA for many specific equipment geometries. However, DOE recognizes that there is no clear statement of the principles one should apply when determining the TDA of a model in general. Accordingly, DOE is

[11] Honeycomb area and deck pans are examples of internal, solid components of commercial refrigeration equipment that are integral to operation of the unit, but may impact the view of product for open to closed transparent cases. ''Honeycomb'' is a term in trade for the material of which air grilles are often built, and deck pans are solid structures used to hold product stored inside a case.

considering clarifying the method for calculating TDA in the DOE test procedure. DOE's method is based on defining TDA as the ''projected visible area'' and, as such, is consistent with Interpretation 1, which specifies that TDA should be the and should not include any transparent areas where the view is blocked by solid features. However, DOE's method is not consistent with Interpretation 2, which includes solid features in the calculation of TDA, such as door frames and mullions. DOE's method and the proposed clarifications are laid out in more detail below, in section III.I.

Interpretation 3 describes how to treat silk screens and other semi-transparent coverings on transparent doors or panels. This interpretation relies on AHRI's definition of transparent as greater than or equal to 65 percent light transmittance. DOE is not proposing additional modifications to the DOE test procedure beyond the definition of ''transparent'' proposed in section III.B.2.i.

Interpretation 4 provides guidance to determine the area and length of commercial refrigeration equipment with curved fronts. While DOE agrees with the interpretation, DOE notes that there are theoretically many cases with unusual geometries for which the existing language and diagrams in ARI Standard 1200–2006 and AHRI Standard 1200–2010 (as incorporated by reference into the DOE test procedure) are sufficient even though they are not depicted explicitly. Specifically, these standards contain appendices, such as appendix D of ARI 1200–2006, which provide, by means of detailed diagrams, instructions on how to measure the dimensions of a wide variety of commercial refrigeration equipment geometries. As a result, DOE does not propose further clarification of the DOE test procedure based on Interpretation 4.

DOE also reviewed Interpretation 5, which clarifies the method for evaluating commercial refrigeration equipment with more than one refrigerated section and finds that AHRI's Interpretation 5 is consistent with the DOE test procedure for these systems, as specified at 10 CFR 431.66(d)(2)(i). This provision explains how to test commercial refrigeration equipment with more than one refrigerated sector; however, DOE welcomes comment on whether additional clarification in the regulatory text is necessary.

I. Clarification of Methodology for Measuring Total Display Area

In light of the publication of Interpretations 1, 2, and 4 to AHRI 1200–2010, and as mentioned in section H, DOE recognizes that there may be ambiguity regarding the proper method for measuring the value of TDA under the DOE test procedure, which is used in calculating a given unit's allowable maximum daily energy consumption under the applicable standard. ARI Standard 1200–2006 appendix D, as incorporated by reference by the DOE at 10 CFR 431.63, provides a definition and instructions on measurement of TDA. Appendix D of ARI Standard 1200–2006 defines TDA as follows:

''Total Display Area (TDA) is the sum of the projected area(s) for visible product.''

Moreover, the standard provides a general equation for calculating the ''projected area(s),'' in the form of:

$$TDA = Dh*L + Ae,$$

where

Ae = Projected area from visible product through end walls
Dh = Dimension of projected visible product
L = Length of Commercial Refrigerated Display Merchandiser

For the end walls (or sides) of display merchandisers, the projected area for visible products is represented by Ae. Figures D13 through D16 of appendix D of ARI Standard 1200–2006 and AHRI Standard 1200–2010 provide instructions on the measurement of Ae for various end wall types present in commercial refrigerated display merchandisers. These figures show that the area included in TDA includes only those areas through which displayed product is visible, irrespective of the presence of other transparent areas through which product cannot be viewed. These figures illustrate that the area to be included in the TDA calculation is the sum of the ''projected area(s) for visible products.''

For the front, back, or top faces of display merchandisers, the projected area for visible product is represented by Dh*L. In ARI Standard 1200–2006 and AHRI Standard 1200–2010 Standards, Figures D1 through D12 provide instructions on the measurement of Dh for various equipment configurations, including different types of open cases and vertical multi-deck cases with transparent doors. However, they do not provide explicit instruction on the measurement of Dh for some case types, including horizontal single-deck merchandisers with transparent doors (*i.e.,* those of the DOE equipment family ''horizontal closed transparent'' or HCT). For case types not depicted in the figures, Dh should be measured consistently with the method described in the other figures and with the definition given in the introduction to the appendix. That is, Dh and L should be measured as the dimension of the projected visible product, representing the dimension through which product can be viewed irrespective of the presence of any additional transparent area through which product cannot be viewed. An example of this is a vertical multi-deck base with transparent doors, where the transparent areas of the door through which no transparent area is projected onto the product zone [12] (*i.e.,* the areas through which no product loaded into the case could be directly seen when viewed in the plane; the upper and lower portions of the transparent area) are not to be included in Dh.

The converse is also true—areas of the product zone which cannot be viewed as part of a direct projection through a transparent area are not to be included in any measurement of Dh. The term ''direct projection'' refers to the view at an angle perpendicular to the plane of product presentation (facing area). Figure III.1 and Figure III.2 illustrate this concept, as they show configurations in which the product zone extends beyond the projected visible area and is thus not included in the measurement of Dh. The measurement of Dh in practice should be consistent with its definition as solely the ''dimension of projected visible product.''

[12] The ''product zone'' is a term used to denote the geometric region of a case which can be filled with product using the included racks, shelves, or other storage structures and without violating the manufacturer's instructions regarding load limits or other constraints on product placement.

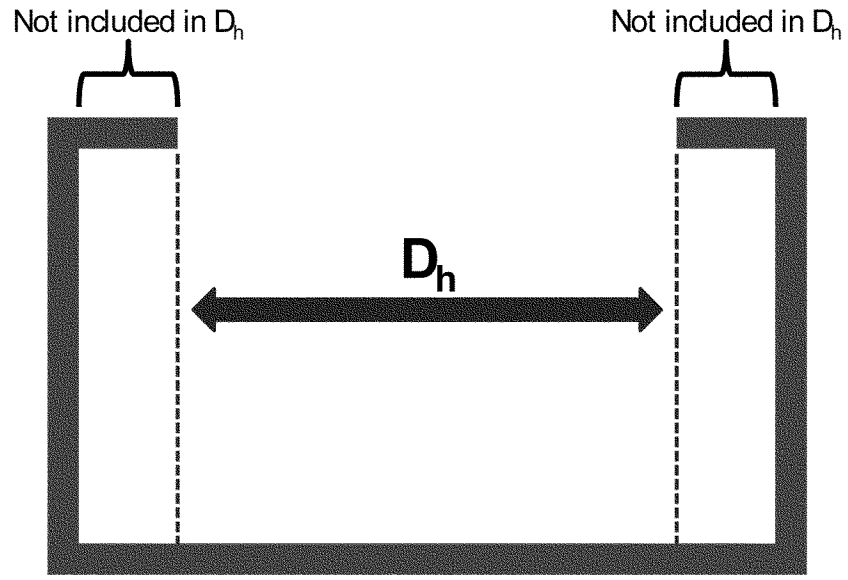

Figure III.1 In the above end view of a horizontal open display case, the distance "D_h" is the dimension of the projected visible product, that being the dimension transverse to the length of the case through which product can be viewed. Note that areas of the product zone which cannot be viewed as part of a direct projection through the open top are not included in the measurement of D_h.

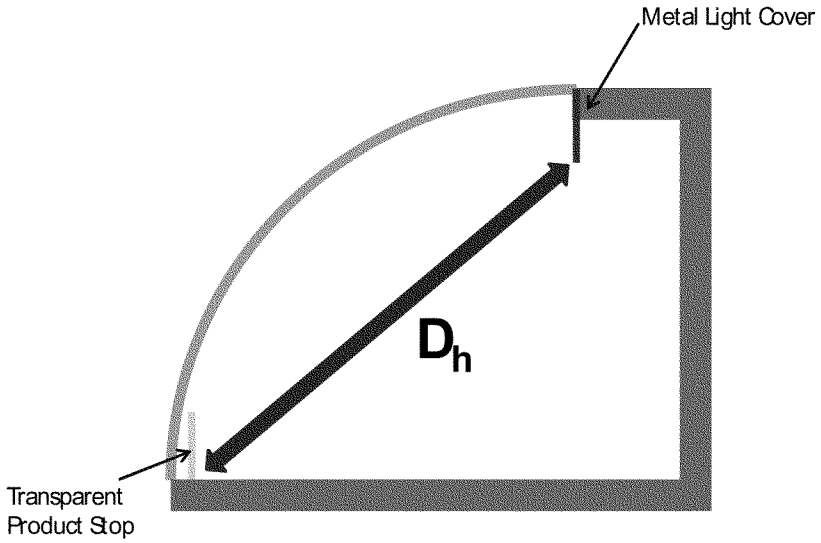

Figure III.2 In the above end view of a service over counter display case, the distance "D_h" is the dimension of the projected visible product, that being the dimension transverse to the length of the case through which product can be viewed. Note that areas of the product zone that cannot be viewed as part of a direct projection through the glass front, specifically that area obscured by the metal light cover, are not included in the measurement of D_h. Conversely, note that the area visible through the transparent product stop is included, because product can be seen through it.

ARI Standard 1200–2006 defines the third variable, ''L'', as the ''length of commercial refrigerated display merchandiser''. While the definition contains no figures or illustrations instructing a user how to perform this measurement, the value of L should be measured in a manner consistent with the definition of TDA that includes only

the ''projected area(s) for visible product.'' Therefore, the length L should be measured consistent with the methods given above for Dh, in that L should correspond to the total length of the transparent area of the merchandiser through which product can be seen. That is, L should be the total length, along the axis of the merchandiser, of portions through which product can be viewed from an angle normal to the transparent area (*i.e.,* the projected linear dimension(s) of visible product). Areas of opaque material which overhang the product zone, as well as areas of transparent material which do not project upon a zone occupied by product, should not be included in this length. This method of measurement is depicted in Figure III.3, and is consistent with the instruction given for calculation of Dh by Figure III.1 and Figure III.2.

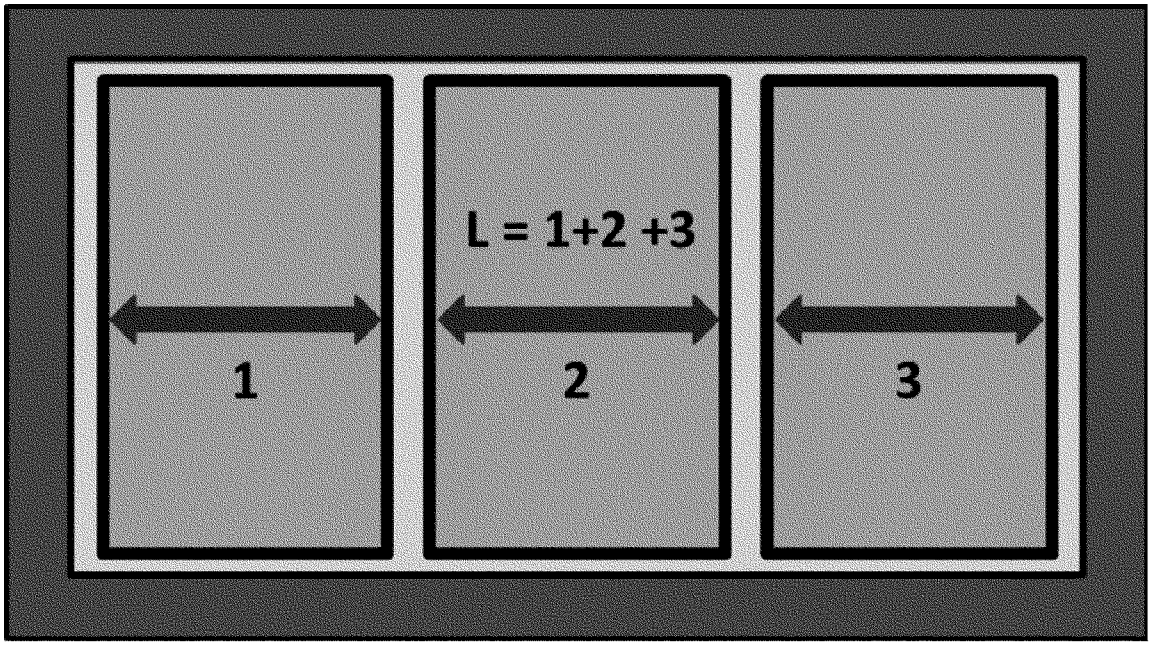

Figure III.3 In the above frontal view of a three-door VCT display case, the distance "L" is the collective length of portions of the merchandiser through which product can be seen.

To clarify the calculation of TDA for the purposes of conducting the DOE test procedure, DOE proposes to add clarifying text to the test procedure explaining that the measurement of TDA should be representative of the ''dimension of projected visible product'' and that no opaque materials or areas of transparent material through which product cannot be viewed should be included in the calculation of TDA. DOE also proposes to add Figure III.1, Figure III.2, and Figure III.3 to the regulatory text in the CFR.

DOE believes that this proposal is a clarification of DOE's existing test procedure and should not change the measured energy consumption of covered equipment. Therefore, DOE proposes to include these amendments in both appendix A, which is the test procedure currently required for equipment testing, and appendix B, which will be required for testing on the compliance date of any amended energy conservation standards established as part of the ongoing CRE energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0003).

J. Compliance Date of Test Procedure Amendments

In this NOPR, DOE also proposes to reorganize the test procedure requirements at 10 CFR 431.64 so they are easier to understand and to update the compliance date to reflect the fact that the publication of the final rule for the ongoing energy conservation standards rulemaking has been extended. (Docket No. EERE–2010–BT–STD–0003).

EPCA prescribes that if any rulemaking amends a test procedure, DOE must determine to what extent, if any, the proposed test procedure would alter the measured energy efficiency of any covered equipment as determined under the existing test procedure. (42 U.S.C. 6314(a)(6)) Further, if DOE determines that the amended test procedure would alter the measured efficiency of covered equipment, DOE must amend the applicable energy conservation standard accordingly. (42 U.S.C. 6314(a)(6))

In the 2012 test procedure final rule, DOE states that some test procedure amendments will change the measured energy consumption of some covered equipment. 77 FR at 10295 and 10309 (Feb. 21, 2012). Specifically, DOE determined the provisions to accommodate testing of night curtains and lighting occupancy sensors and controls altered the measured energy consumption of covered equipment. 77 FR at 10309 (Feb. 21, 2012). As such, DOE establishes in the 2012 test procedure final rule that use of the amended test procedure for compliance with DOE energy conservation standards or representations with respect to energy consumption of commercial refrigeration equipment would be required on the compliance date of any revised energy conservation standards, which are being considered in an ongoing energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0003). 77 FR at 10309 (Feb. 21, 2012).

To improve clarity, DOE is proposing to reorganize the language at 10 CFR 431.64 into appendices A and B. Appendix A contains the test procedure for commercial refrigeration equipment established in the 2006 test procedure final rule. DOE proposes to include the amended test procedure, established in the 2012 test procedure final rule, in appendix B, which will be required to be used on the compliance date of any amended standards established in the ongoing energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0003).

DOE believes this reorganization will help clarify the applicability of various test procedure provisions with respect to the standards compliance dates. DOE requests comment on the reorganization of the test procedure requirements at 10 CFR 431.64 into appendix A and appendix B.

The test procedure amendments established in the 2012 test procedure final rule became effective on March 22, 2012. 77 FR at 10292 (Feb. 21, 2012). However, as previously mentioned, the 2012 amendments are to be used in conjunction with any amended standards promulgated as a result of the ongoing energy conservation standards rulemaking (Docket No. EERE–2010–BT–STD–0003). As such, use of the amended test procedure in appendix B will be required to show compliance with DOE energy conservation standards or to make representations with respect to energy consumption of commercial refrigeration equipment on the compliance date of any revised energy conservation standards established as part of the ongoing energy conservation standards rulemaking. (Docket No. EERE–2010–BT–STD–0003). DOE proposes to update the compliance date referenced in 10 CFR 431.64 to be consistent with the compliance date of any amended standards adopted as a result of the ongoing energy conservation standards rulemaking. DOE will clarify the compliance date of the test procedure amendments proposed in appendix B in the appropriate rulemaking document.

IV. Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the 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 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel*.

DOE reviewed today's proposed rule to amend the test procedure for commercial refrigeration equipment, under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE certifies that the proposed rule, if adopted, would not result in a significant impact on a substantial number of small entities. The factual basis for this certification is set forth below.

For the commercial refrigeration industry, the Small Business Association (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 *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*. Commercial refrigeration equipment manufacturing is classified under NAICS 333415, ''Air-Conditioning and Warm Air Heating Equipment and Commercial and Industrial Refrigeration Equipment Manufacturing.'' Small entities within this industry description are those with 750 employees or fewer.

DOE conducted a market survey to determine whether any small business manufacturers of equipment would be 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 AHRI), equipment 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.,* Dunn and Bradstreet reports, Manta) to create a list of companies that manufacture or sell commercial refrigeration equipment covered by this rulemaking. DOE also referred to a list of small businesses that manufacture commercial refrigeration equipment, supplied by Traulsen in a written comment provided in response to the NOPR proposing amendments to the DOE test procedure for commercial refrigeration equipment published November 24, 2010 (Docket No. EERE–2010–BT–TP–0034, Traulsen, No. 9 at pp. 4–5). Using these sources, DOE identified 61 manufacturers of commercial refrigeration equipment.

DOE then reviewed this data to determine whether the entities met the SBA's definition of a small business manufacturer of commercial refrigeration equipment and screened out companies that do not offer equipment 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 26 companies that would be considered small manufacturers and will be directly regulated by this rule, which represents 43% of national CRE manufacturers. Although 43% would be considered a substantial number of small entities, further analysis of incremental costs associated with this rulemaking determined no significant impact on these manufacturers. Specifically, the proposed changes to the test procedure consist only of clarifications regarding:

1. The applicability of the test procedure and related energy conservation standards to certain types of equipment;

2. the definitions of hybrid commercial refrigeration equipment, commercial refrigeration equipment with drawers, and commercial refrigeration equipment with solid and/or transparent doors;

3. the relationship among the rating temperature, operating temperature, and integrated average temperature;

4. the proper configuration and use of energy management systems, lighting controls, and test packages in the DOE test procedure for commercial refrigeration equipment;

5. the treatment of various features, components, and accessories under the DOE test procedure;

6. the rounding requirements for test results and certified ratings;

7. the provision adopted in the 2012 test procedure final rule to allow testing at the lowest application product temperature for equipment that cannot operate at the prescribed rating temperature for its equipment class;

8. clarifications raised by Interpretations 1, 2, 3, 4, and 5 of AHRI Standard 1200–2010;

9. the methodology used to determine total display area; and

10. the compliance date of certain amendments established in the 2012 test procedure final rule.

All commercial refrigeration equipment covered by this rule is currently required to be tested using the DOE test procedure to show compliance with established energy conservation standards. The DOE test procedure manufacturers must use to demonstrate compliance with existing standards is that established in the 2006 test procedure final rule, which references AHRI Standard 1200–2006 and AHAM HRF–1–2004. This test procedure consists of one 24-hour test at standard rating conditions to determine daily energy consumption.

The 2012 test procedure final rule amends the test procedure for commercial refrigeration equipment to update the referenced industry test procedures to their most current versions (AHRI Standard 1200–2010 and AHAM HRF–1–2008); incorporates provisions for testing certain energy efficiency features, including night curtains and lighting occupancy sensor and scheduled controls; and provides a test procedure for specialty equipment that cannot be tested at the prescribed rating temperature. As part of that rulemaking, DOE considered the burden associated with the test procedure amendments and certified that the rule would not have a ''significant economic impact on a substantial number of small entities,'' and the preparation of a regulatory flexibility analysis was not warranted. 77 FR 10292, 10314–10316 (Feb. 21, 2012).

The test procedure amendments proposed in today's notice of proposed rulemaking serve only to reorganize and clarify the existing requirements in the DOE test procedure, both those established in the 2006 test procedure final rule and those established in the 2012 test procedure final rule; they do not alter or affect any of the test procedure requirements or provisions in any way. DOE does not believe that the proposed test procedure amendments would affect the way in which any covered commercial refrigeration equipment is tested, nor would they impact the burden of conducting such a test. Based on this factual basis, DOE believes that the proposed test procedure amendments would not have a significant economic impact on a substantial number of small entities, and the preparation of a regulatory flexibility analysis is not required. 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).

DOE requests comment on its certification that the proposed test procedure changes will not have a significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act

Manufacturers of commercial refrigeration equipment must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedure for commercial refrigeration equipment, including any amendments adopted for that test procedure. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including commercial refrigeration equipment. 76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB Control Number 1910–1400. Public reporting burden for the certification is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act

In this proposed rule, DOE proposes amendments its test procedure for commercial refrigeration equipment that may be used to implement future energy conservation standards or for certification of equipment under current energy conservation standards. 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 (NEPA; 42 U.S.C. 4321 *et seq.*). The rule is covered by Categorical Exclusion A5, for rulemakings that interpret or amend an existing rule without changing the environmental effect, as set forth in DOE's NEPA regulations in appendix A to subpart D, 10 CFR part 1021. This rule will not affect the quality or distribution of energy usage and therefore will not result in any environmental impacts. 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 (Aug. 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it 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. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of today's proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice

Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed 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; Pub. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. For proposed regulatory actions likely to result in a rule that may cause expenditures 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 estimates of 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. (This policy is also available at *http://energy.gov/gc/office-general-counsel.*) DOE reviewed today's proposed rule pursuant to UMRA and its 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 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 15, 1988), that this proposed regulation, if promulgated as a final rule, 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 agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. The OMB's guidelines were published in 67 FR 8452 (February 22, 2002), and DOE's guidelines were published in 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's proposed 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, Office of Management and Budget, a Statement of Energy Effects for any proposed 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 proposed 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. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and therefore it is not a significant energy action. 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), DOE must comply with section 32 of the Federal Energy Administration Act of 1974 (Pub. L. 93–275), as amended by the Federal Energy Administration Authorization Act of 1977. When a proposed rule contains or involves use of commercial standards, the rulemaking must inform the public of the use and background of such standards. (15 U.S.C. 788 Section 32)

The proposed rule incorporates testing methods contained in ASTM Standard E 1084–86 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight'' and ASHRAE 72–2005, ''Method of Testing Commercial Refrigerators and Freezers.'' DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 323(b) of the Federal Energy Administration Act (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review).

As required by section 32(c) of the Federal Energy Administration Act of 1974 as amended, DOE will consult with the Attorney General and the Chairman of the Federal Trade Commission about the impact on competition of using the methods contained in these standards before prescribing a final rule.

V. Public Participation

A. Attendance at Public Meeting

The time, date and location of the public meeting are listed in the **DATES** and **ADDRESSES** sections at the beginning of this document. If you plan to attend the public meeting, please notify Ms. Brenda Edwards at (202) 586–2945 or *Brenda.Edwards@ee.doe.gov.*

Please note that foreign nationals visiting DOE Headquarters are subject to advance security screening procedures. Any foreign national wishing to participate in the meeting should advise DOE as soon as possible by contacting Ms. Edwards to initiate the necessary procedures. Please also note that those wishing to bring laptops into the Forrestal Building will be required to obtain a property pass. Visitors should avoid bringing laptops, or allow an extra 45 minutes.

In addition, you can attend the public meeting via webinar. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's Web site *https://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/52.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements For Distribution

Any person who has plans to present a prepared general statement may request that copies of his or her statement be made available at the public meeting. Such persons may submit requests, along with an advance electronic copy of their statement in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format, to the appropriate address shown in the **ADDRESSES** section at the beginning of this notice of proposed rulemaking. The request and advance copy of statements must be received at least one week before the public meeting and may be emailed, hand-delivered, or sent by mail. DOE prefers to receive requests and advance copies via email. Please include a telephone number to enable DOE staff to make a follow-up contact, if needed.

C. Conduct of Public Meeting

DOE will designate a DOE official to preside at the public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the public meeting. After the public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The public meeting will be conducted in an informal, conference style. DOE will present summaries of comments received before the public meeting, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly and comment on statements made by others. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the public meeting will be included in the docket, which can be viewed as described in the Docket section at the beginning of this notice of proposed rulemaking. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule before or after the public meeting, but no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice of proposed rulemaking.

Any comments submitted must identify the NOPR for Test Procedure for Commercial Refrigeration Equipment and provide docket number EERE–2013–BT–TP–0025 and/or regulatory information number (RIN) number 1904–AC99.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email

address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: one copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comment on the proposed definition for chef base or griddle stand.

2. DOE requests comment on its proposed definition of ''door,'' and, in particular, its specification that the term is inclusive of drawers.

3. DOE requests comments from interested parties on the proposal to define ''transparent'' based on the optical properties of the material, as determined by ASTM E 1084–86 (Reapproved 2009) as incorporated by reference.

4. DOE requests comment on its proposed definitions of the terms ''closed transparent'' and ''closed solid.''

5. DOE requests comment on the clarity and sufficiency of the proposed definitions for ''commercial hybrid'' and ''commercial refrigerator-freezer.''

6. DOE requests comment on its proposed definitions for ''operating temperature'' and ''rating temperature,'' and its proposal to clarify the relationship between integrated average temperature and rating temperature. DOE also requests comment on its proposed definitions of ''commercial refrigerator'' and ''commercial freezer.''

7. DOE requests comment on its proposed rounding provisions for commercial refrigeration equipment.

8. DOE requests comment on its proposed modification to the definition of LAPT and its proposal to incorporate by reference ASHRAE 72–2005.

9. DOE requests comment on the reorganization of the test procedure requirements at 10 CFR 431.64 into appendix A and appendix B to subpart C of 10 CFR part 431.

10. DOE requests comment on its certification that the proposed test procedure changes will not have a significant impact on a substantial number of small entities.

VI. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Parts 429 and 431

Administrative practice and procedure, Confidential business information, Test procedures, Incorporation by reference, Reporting and recordkeeping requirements.

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 set forth in the preamble, DOE proposes to amend part 429 and 431 of chapter II of title 10, of the Code of Federal Regulations, to read 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.

§ 429.42 [Amended]

■ 2. Section 429.42 is amended by adding in paragraphs (b)(2)(i), (ii), and (iii), the words ''increments of 0.01'' before the phrase ''kilowatt hours per day (kWh/day).''

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

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

Authority: 42 U.S.C. 6291–6317.

■ 4. Section 431.62 is amended by:

■ a. Removing the definition for ''commercial hybrid refrigerator, freezer, and refrigerator-freezer;''

■ b. Adding in alphabetical order the definitions for ''chef base or griddle stand,'' ''closed solid,'' ''closed transparent,'' ''commercial freezer,'' ''commercial hybrid,'' ''commercial refrigerator,'' ''commercial refrigerator-freezer,'' ''door,'' ''operating temperature,'' ''rating temperature,'' and ''transparent;''

■ c . Revising the definition for ''lowest application product temperature.''

The additions and revision read as follows:

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

* * * * *

Chef base or griddle stand means commercial refrigeration equipment that

is designed and marketed for the express purpose of having a griddle or other cooking equipment placed on top of it that is capable of reaching temperatures hot enough to cook food.

Closed solid means equipment with doors, and in which more than 75 percent of the outer surface area of all doors on a unit are not transparent.

Closed transparent means equipment with doors, and in which 75 percent or more of the outer surface area of all doors on the unit are transparent.

Commercial freezer means a unit of commercial refrigeration equipment in which all refrigerated compartments in the unit are capable of operating below 32 °F.

Commercial hybrid means a unit of commercial refrigeration equipment

(1) Consisting of two or more refrigerated compartments that are in two or more different equipment families, and

(2) Which is sold as a single unit.

Commercial refrigerator means a unit of commercial refrigeration equipment in which all refrigerated compartments in the unit are capable of operating at or above 32 °F.

Commercial refrigerator-freezer means a unit of commercial refrigeration equipment consisting of two or more refrigerated compartments where at least one refrigerated compartment is capable of operating at or above 32 °F and at least one refrigerated compartment is capable of operating below 32 °F.

* * * * *

Door. (1) *Door* means a movable panel that:

(i) Separates the interior volume of a unit of commercial refrigeration equipment from the ambient environment,

(ii) Is designed to facilitate access to the refrigerated space for the purpose of loading and unloading product, and

(iii) Is affixed such that it is not removable without the use of tools.

(2) This includes hinged doors, sliding doors, and drawers.

* * * * *

Lowest application product temperature means the lowest integrated average temperature at which a given basic model is capable of consistently operating (*i.e.,* maintaining so as to comply with the steady-state stabilization requirements specified in ASHRAE 72–2005 (as incorporated by reference, see § 431.63) for the purposes of testing under the DOE test procedure).

* * * * *

Operating temperature means the range of integrated average temperatures at which a commercial refrigeration unit is capable of operating.

* * * * *

Rating temperature means the integrated average temperature a unit must maintain during testing (i.e., either as listed in the table at § 431.66(d)(1) or the lowest application product temperature).

* * * * *

Transparent means greater than or equal to 65 percent light transmittance, as determined in accordance with the ASTM Standard E 1084–86 (Reapproved 2009), ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight,'' (as incorporated by reference, see § 431.63) at normal incidence.

* * * * *

■ 5. Section 431.63 is amended by adding paragraphs (d) and (e) to read as follows:

§ 431.63 Materials incorporated by reference.

* * * * *

(d) *ASTM.* ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA, 19428, (877) 909–2786, or go to *http://www.astm.org/.*

(1) ASTM Standard E 1084, ''Standard Test Method for Solar Transmittance (Terrestrial) of Sheet Materials Using Sunlight,'' 1986 (Reapproved 2009), IBR approved for § 431.62.

(2) [Reserved]

(e) *ASHRAE.* The American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1971 Tullie Circle, NE., Atlanta, GA 30329, or *http://www.ashrae.org/.*

(1) ASHRAE 72, ''Method of Testing Commercial Refrigerators and Freezers,'' 2005, IBR approved for §§ 431.62 and 431.64.

(2) [Reserved]

■ 6. Section 431.64 is amended by revising paragraph (b) to read as follows:

§ 431.64 Uniform test method for the measurement of energy consumption of commercial refrigerators, freezers, and refrigerator-freezers.

* * * * *

(b) *Testing and calculations.* Determine the daily energy consumption of each covered commercial refrigerator, freezer, or refrigerator-freezer by conducting the appropriate test procedure set forth below, in appendix A or B to this subpart. The daily energy consumption of commercial refrigeration equipment shall be calculated using raw measured values and the final test results shall be reported in increments of 0.01 kWh/day.

■ 7. Section 431.66 is amended by adding paragraph (f) to read as follows:

§ 431.66 Energy conservation standards and their effective dates.

* * * * *

(f) *Exclusions.* The energy conservation standards in paragraphs (b) through (e) of this section do not apply to salad bars, buffet tables, and chef bases or griddle stands.

■ 8. Add Appendixes A and B to Subpart C to read as follows:

Appendix A to Subpart C of Part 431—Uniform Test Method for the Measurement of Energy Consumption of Commercial Refrigerators, Freezers, and Refrigerator-Freezers

Note: After [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], any representations made with respect to the energy use or efficiency of commercial refrigeration equipment must be made in accordance with the results of testing pursuant to this appendix.

Manufacturers conducting tests of commercial refrigeration equipment after [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] and prior to [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], must conduct such test in accordance with either this appendix or § 431.64 as it appeared at 10 CFR part 430, subpart B, in the 10 CFR parts 200 to 499 edition revised as of January 1, 2013. Any representations made with respect to the energy use or efficiency of such commercial refrigeration equipment must be in accordance with whichever version is selected. Given that after [DATE 180 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER] representations with respect to the energy use or efficiency of dehumidifiers 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.

1. Test Procedure

1.1. Determination of Daily Energy Consumption. Determine the daily energy consumption of each covered commercial refrigerator, freezer, refrigerator-freezer or ice-cream freezer by conducting the test procedure set forth in the Air-Conditioning and Refrigeration Institute (ARI) Standard 1200–2006, ''Performance Rating of Commercial Refrigerated Display Merchandisers and Storage Cabinets,'' section 3, ''Definitions,'' section 4, ''Test Requirements,'' and section 7, ''Symbols and Subscripts'' (incorporated by reference, see § 431.63). For each commercial refrigerator, freezer, or refrigerator-freezer with a self-contained condensing unit, also use ARI Standard 1200–2006, section 6, ''Rating Requirements for Self-contained Commercial Refrigerated Display Merchandisers and Storage Cabinets.'' For each commercial refrigerator, freezer, or refrigerator-freezer with a remote condensing unit, also use ARI Standard 1200–2006, section 5, ''Rating Requirements for Remote Commercial

Refrigerated Display Merchandisers and Storage Cabinets.''

1.2. Additional Specifications for Testing of Components and Accessories. All standard components that would be used during normal operation of the basic model in the field shall be installed and used during testing as recommended by the manufacturer and representative of their typical operation in the field unless such installation and operation is inconsistent with any requirement of the test procedure. The specific components and accessories listed in the subsequent sections shall be operated as stated during the test.

1.2.1. Energy Management Systems. Applicable energy management systems may be activated during the test procedure provided they are permanently installed on the case, configured as sold in such a manner so as to operate automatically without the intervention of the operator, and do not conflict with any of other requirements for a valid test as specified in this appendix.

1.2.2. Lighting. Energize all lighting, except customer display signs/lights as described in section 1.2.3 and UV lighting as described in section 1.2.6 of this appendix, to the maximum illumination level for the duration of testing. However, if a closed solid unit of commercial refrigeration equipment includes an automatic lighting control system which can turn of internal case lighting when the door is closed, and the manufacturer recommends the use of this system, then the lighting control should be operated in the automatic setting, even if the model has a manual switch that disables the automatic lighting control.

1.2.3. Customer display signs/lights. Do not energize supplemental lighting that exists solely for the purposes of advertising or drawing attention to the case and is not integral to the case.

1.2.4 Condensate pan heaters and pumps. All electric resistance condensate heaters and condensate pumps must be installed and operational during the test. This includes the stabilization period (including pull-down), steady-state, and performance testing periods. Prior to the start of the stabilization period as defined by ASHRAE 72–2005 (incorporated by reference, see § 431.63), the condensate pan must be dry. Following the start of the stabilization period, allow any condensate moisture generated to accumulate in the pan. Do not manually add or remove water from the condensate pan at any time during the test.

1.2.5 Anti-sweat door heaters. Anti-sweat door heaters must be operational during the entirety of the test procedure. Models with a user-selectable setting must have the heaters energized and set to the maximum usage position. Models featuring an automatic, non-user-adjustable controller that turns on or off based on environmental conditions must be operating in the automatic state. If a unit is not shipped with a controller from the point of manufacture and is intended to be used with an automatic, non-user-adjustable controller, test the unit with a manufacturer-recommended controller that turns on or off based on environmental conditions.

1.2.6 Ultraviolet lights. Do not energize ultraviolet lights during the test.

1.2.7 Illuminated temperature displays and alarms. All illuminated temperature displays and alarms shall be energized and operated during the test as they would be during normal field operation.

1.2.8 Condenser filters. Remove any nonpermanent filters provided to prevent particulates from blocking a model's condenser coil.

1.2.9 Refrigeration system security covers. Remove any devices used to secure the condensing unit.

1.2.10 Night curtains and covers. Do not deploy night curtains or covers.

1.2.11 Grill options. Remove any optional, non-standard grills used to direct airflow.

1.2.12 Misting or humidification systems. Misting or humidification systems must be inactive during the test.

1.2.13 Air purifiers. Air purifiers must be inactive during the test.

1.2.14 General purpose outlets. During the test, do not connect any external load to any general purpose outlets contained within a unit.

1.2.15 Crankcase heaters. Crankcase heaters must be operational during the test. If a control system, such as a thermostat or electronic controller, is used to modulate the operation of the crankcase heater, it must be activated during the test.

2. Test Conditions

2.1. Integrated Average Temperatures. Conduct the testing required in section 1 and 2 of this appendix A, and determine the daily energy consumption at the applicable integrated average temperature as found in the following table.

Category	Test procedure	Integrated average temperature
(i) Refrigerator with Solid Door(s)	ARI Standard 1200–2006[1]	38 °F (±2 °F).
(ii) Refrigerator with Transparent Door(s)	ARI Standard 1200–2006[1]	38 °F (±2 °F).
(iii) Freezer with Solid Door(s)	ARI Standard 1200–2006[1]	0 °F (±2 °F).
(iv) Freezer with Transparent Door(s)	ARI Standard 1200–2006[1]	0 °F (±2 °F).
(v) Refrigerator-Freezer with Solid Door(s)	ARI Standard 1200–2006[1]	38 °F (±2 °F) for refrigerator compartment. 0 °F (±2 °F) for freezer compartment.
(vi) Commercial Refrigerator with a Self-Contained Condensing Unit Designed for Pull-Down Temperature Applications and Transparent Doors.	ARI Standard 1200–2006[1]	38 °F (±2 °F).
(vii) Ice-Cream Freezer	ARI Standard 1200–2006[1]	−15.0 °F (±2 °F).
(viii) Commercial Refrigerator, Freezer, and Refrigerator-Freezer with a Self-Contained Condensing Unit and without Doors.	ARI Standard 1200–2006[1]	(A) 0 °F (±2 °F) for low temperature applications. (B) 38 °F (±2 °F) for medium temperature applications.
(ix) Commercial Refrigerator, Freezer, and Refrigerator-Freezer with a Remote Condensing Unit.	ARI Standard 1200–2006[1]	(A) 0 °F (±2 °F) for low temperature applications. (B) 38 °F (±2 °F) for medium temperature applications.

[1]Incorporated by reference, see § 431.63.

2.2. Lowest Application Product Temperature. If a unit of commercial refrigeration equipment is not able to be operated at the integrated average temperature specified in the table in paragraph 2.1, test the unit at the lowest application product temperature (LAPT), as defined in § 431.62. For units equipped with a thermostat, LAPT is the lowest thermostat setting. For remote condensing equipment without a thermostat or other means of controlling temperature at the case, the lowest application product temperature is the temperature achieved with the adjusted dew point temperature (as defined in AHRI Standard 1200 (I–P)-2010) set to 5 degrees colder than that required to maintain the manufacturer's lowest specified operating temperature.

3. Volume and Total Display Area

3.1. Determination of Volume. Determine the volume of a commercial refrigerator, freezer, refrigerator-freezer, or ice-cream freezer using the method set forth in the ANSI/AHAM HRF–1–2004, ''Energy, Performance and Capacity of Household Refrigerators, Refrigerator-Freezers and Freezers'' (incorporated by reference, see § 431.63), section 3.21, ''Volume,'' sections 4.1 through 4.3, ''Method for Computing Total Refrigerated Volume and Total Shelf Area of Household Refrigerators and Household Wine Chillers,'' and sections 5.1 through 5.3, ''Method for Computing Total Refrigerated Volume and Total Shelf Area of Household Freezers.''

3.2 Determination of Total Display Area. Determine the total display area of a commercial refrigerator, freezer, refrigerator-freezer, or ice-cream freezer using the method set forth in ARI Standard 1200–2006 (Incorporated by reference, see § 431.63). Specifically, total display area shall be the sum of the projected area(s) of visible product, expressed in ft^2 (*i.e.,* portions through which product can be viewed from an angle normal to the transparent area). See

Figures A3.1, A3.2, and A3.3 as examples of how to calculate the dimensions associated with calculation of total display area. In the diagrams, D_h and L represent the dimensions of the projected visible product.

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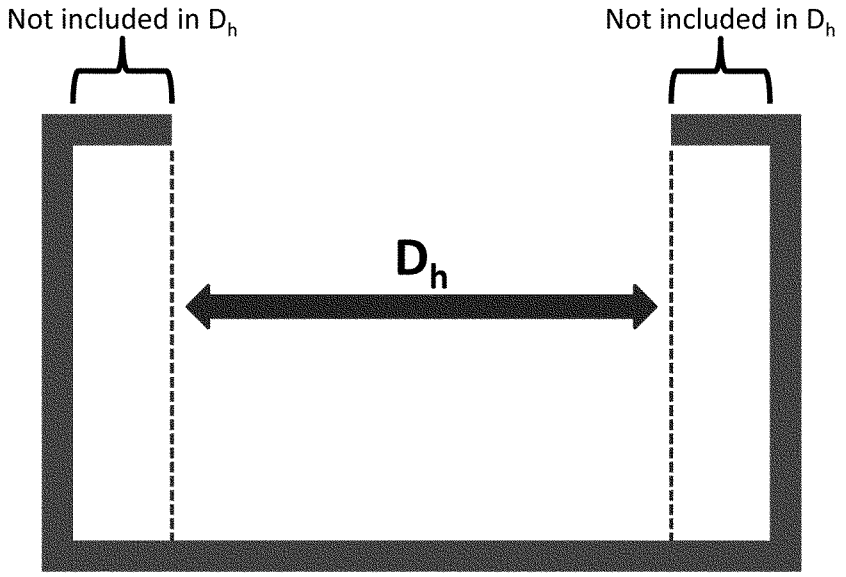

Figure A3.1 Horizontal open display case, where the distance "D_h" is the dimension of the projected visible product.

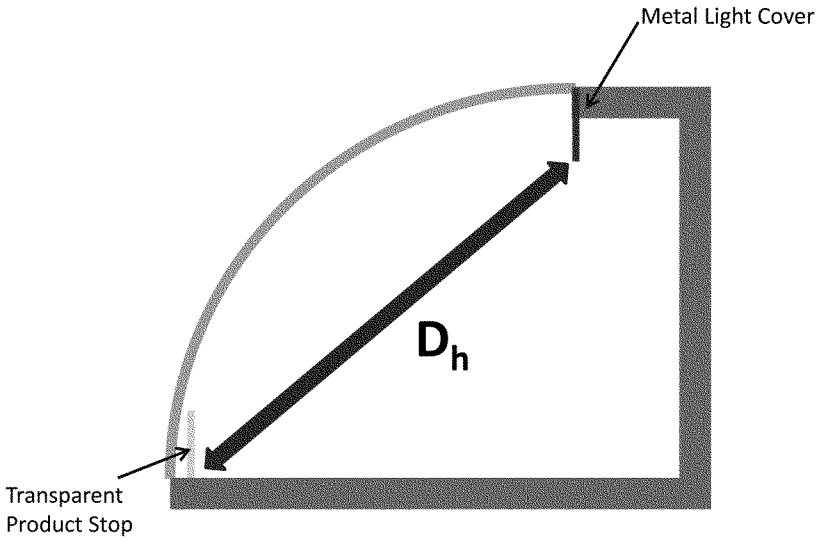

Figure A3.2 Service over counter display case, the distance "D_h" is the dimension of the projected visible product, that being the dimension transverse to the length of the case through which product can be viewed, excluding areas of the product zone that cannot be viewed as part of a direct projection through the glass front.

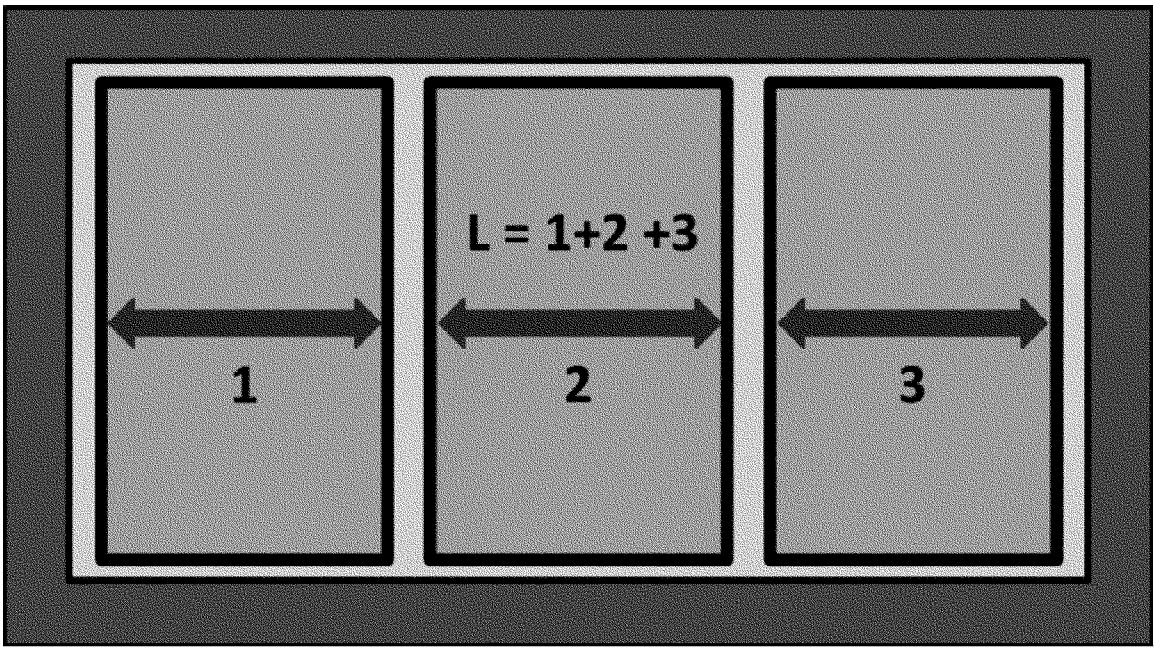

Figure A3.3 Three-door vertical closed transparent display case, where the distance "L" is the collective length of portions of the merchandiser through which product can be seen.

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Appendix B to Subpart C of Part 431—Amended Uniform Test Method for the Measurement of Energy Consumption of Commercial Refrigerators, Freezers, and Refrigerator-Freezers

Note: On or after the compliance date for any amended energy conservation standards for commercial refrigeration equipment, all testing must be conducted in accordance with this appendix for the purposes of determining energy consumption and making representations as to the energy use of covered equipment.

1. Test Procedure

1.1. Determination of Daily Energy Consumption. Determine the daily energy consumption of each covered commercial refrigerator, freezer, refrigerator-freezer or ice-cream freezer by conducting the test procedure set forth in the AHRI Standard 1200 (I–P)–2010, section 3, ''Definitions,'' section 4, ''Test Requirements,'' and section 7, ''Symbols and Subscripts'' (incorporated by reference, see § 431.63). For each commercial refrigerator, freezer, or refrigerator-freezer with a self-contained condensing unit, also use AHRI Standard 1200 (I–P)–2010, section 6, ''Rating Requirements for Self-contained Commercial Refrigerated Display Merchandisers and Storage Cabinets.'' For each commercial refrigerator, freezer, or refrigerator-freezer with a remote condensing unit, also use AHRI Standard 1200 (I–P)–2010, section 5, ''Rating Requirements for Remote Commercial Refrigerated Display Merchandisers and Storage Cabinets.''

1.2. Additional Specifications for Testing of Components and Accessories. All standard components that would be used during normal operation of the basic model in the field shall be installed and used during testing as recommended by the manufacturer and representative of their typical operation in the field unless such installation and operation is inconsistent with any requirement of the test procedure. The specific components and accessories listed in the subsequent sections shall be operated as stated during the test.

1.2.1. Energy Management Systems. Applicable energy management systems may be activated during the test procedure provided they are permanently installed on the case, configured in such a manner so as to operate automatically without the intervention of the operator, and do not conflict with any of other requirements for a valid test as specified in this appendix.

1.2.2. Lighting. All lighting except for customer display signs/lights as described in section 1.2.3 and UV lighting as described in section 1.2.6 of this appendix shall be energized to the maximum illumination level for the duration of testing for commercial refrigeration equipment with lighting except when the unit is equipped with lighting occupancy sensors and controls. If the unit includes an automatic lighting control system, it should be enabled during test. If the unit is equipped with lighting occupancy sensors and controls in should be tested in accordance with paragraph 1.2.2.1 of this appendix.

1.2.2.1. Lighting Occupancy Sensors and Controls. For units with lighting occupancy sensors and/or scheduled lighting controls installed on the unit, determine the effect of the controls/sensors on daily energy consumption by either a physical test or a calculation method and using the variables that are defined as:

CEC_A is the alternate compressor energy consumption (kilowatt-hours);

LEC_{sc} is the lighting energy consumption of internal case lights with lighting occupancy sensors and controls deployed (kilowatt-hours);

P_{li} is the rated power of lights when they are fully on (watts);

$P_{li(off)}$ is the power of lights when they are off (watts);

$P_{li(dim)}$ is the power of lights when they are dimmed (watts);

$TDEC_o$ is the total daily energy consumption with lights fully on, as measured by AHRI Standard 1200 (I–P)–2010 (kilowatt-hours);

t_{dim} is the time period during which the lights are dimmed due to the use of lighting occupancy sensors or scheduled lighting controls (hours);

$t_{dim,controls}$ is the time case lighting is dimmed due to the use of lighting controls (hours);

$t_{dim,sensors}$ is the time case lighting is dimmed due to the use of lighting occupancy sensors (hours);

t_l is the time period when lights would be on without lighting occupancy sensors and/or scheduled lighting controls (24 hours);

t_{off} is the time period during which the lights are off due to the use of lighting occupancy sensors and/or scheduled lighting controls (hours);

$t_{off,controls}$ is the time case lighting is off due to the use of scheduled lighting controls (hours);

$t_{off,sensors}$ is the time case lighting is off due to the use of lighting occupancy sensors (hours); and

t_{sc} is the time period when lighting is fully on with lighting occupancy sensors and scheduled lighting controls enabled (hours).

1.2.2.1.i. For both a physical test and a calculation method, determine the estimated time off or dimmed, t_{off} or t_{dim}, as the sum of contributions from lighting occupancy sensors and scheduled lighting controls that dim or turn off lighting, respectively, as shown in the following equation:

$t_{off.} = t_{off,sensors} + t_{off,controls}$

$t_{dim} = t_{dim,sensors} + t_{dim,controls}$

The sum of t_{sc}, t_{off}, and t_{dim} should equal 24 hours and the total time period during which the lights are off or dimmed shall not exceed 10.8 hours. For cases with scheduled lighting controls, the time the case lighting is off and/or dimmed due to scheduled lighting controls ($t_{off,controls}$ and/or $t_{dim,controls}$, as applicable) shall not exceed 8 hours. For cases with lighting occupancy sensors installed, the time the case lighting is off and/or dimmed due to lighting occupancy sensors ($t_{off,sensors}$ and/or $t_{dim,sensors}$, as applicable) shall not exceed 10.8 hours. For cases with lighting occupancy sensors and scheduled lighting controls installed, the time the case lighting is off and/or dimmed due to lighting occupancy sensors ($t_{off,sensors}$ and/or $t_{dim,sensors}$, as applicable) shall not exceed 2.8 hours and the time the case lighting is off and/or dimmed due to scheduled lighting controls ($t_{off,controls}$ and/or $t_{dim,controls}$, as applicable) shall not exceed 8 hours.

1.2.2.1.ii. If using a physical test to determine the daily energy consumption, turn off the lights for a time period equivalent to t_{off} and dim the lights for a time period equal to t_{dim}. If night curtains are also being tested on the case, the period of lights off and/or dimmed shall begin at the same time that the night curtain is being deployed and shall continue consecutively, in that order, for the appropriate number of hours.

1.2.2.1.iii. If using a calculation method to determine the daily energy consumption–

1.2.2.1.iii.A. Calculate the LEC_{sc} using the following equation:

$$LEC_{sc} = \frac{\left((P_{li} \times t_{sc}) + \left(P_{li(off)} \times t_{off}\right) + \left(P_{li(dim)} \times t_{dim}\right)\right)}{(1000)}$$

1.2.2.1.iii.B. Calculate the CEC_A using the following equation:

$$CEC_A = 0.75 \times \frac{3.4121 \times \left(LEC_{sc} - P_{li} \times {}^{t_l}/_{1000}\right)}{EER}$$

Where EER represents the energy efficiency ratio from Table 1 in AHRI Standard 1200 (I–P)–2010 (incorporated by reference, see § 431.63) for remote condensing equipment or the values shown in the following table for self-contained equipment:

EER FOR SELF-CONTAINED COMMERCIAL REFRIGERATED DISPLAY MERCHANDISERS AND STORAGE CABINETS

Operating temperature class	EER Btu/W
Medium	11
Low	7

EER FOR SELF-CONTAINED COMMERCIAL REFRIGERATED DISPLAY MERCHANDISERS AND STORAGE CABINETS—Continued

Operating temperature class	EER Btu/W
Ice Cream	5

1.2.2.1.iii.C. For remote condensing units, calculate the revised compressor energy consumption (CEC_R) by adding the CEC_A to the compressor energy consumption (CEC) measured in AHRI Standard 1200 (I–P)–2010 (incorporated by reference, see § 431.63). The CDEC for the entire case is the sum of the CEC_R and LEC_{sc} (as calculated above) and the fan energy consumption (FEC), anti-condensate energy consumption (AEC), defrost energy consumption (DEC), and condensate evaporator pan energy consumption (PEC) (as measured in AHRI Standard 1200 (I–P)–2010).

1.2.2.1.iii.D. For self-contained units, the TDEC for the entire case is the sum of total daily energy consumption as measured by the AHRI Standard 1200 (I–P)–2010 (incorporated by reference, see § 431.63) test with the lights fully on ($TDEC_o$) and CEC_A, less the decrease in lighting energy use due to lighting occupancy sensors and scheduled lighting controls, as shown in following equation.

$$TDEC = TDEC_o + CEC_A - \left({}^{[(P]_{li} \times t_l)}/_{1000} - LEC_{sc}\right)$$

1.2.3. Customer display signs/lights. Do not energize supplemental lighting that exists solely for the purposes of advertising or drawing attention to the case and is not integral to the case.

1.2.4 Condensate pan heaters and pumps. All electric resistance condensate heaters and condensate pumps must be installed and operational during the test. This includes the stabilization period (including pull-down), steady-state, and performance testing periods. Prior to the start of the stabilization period as defined by ASHRAE 72–2005, the condensate pan must be dry. Following the start of the stabilization period, allow any condensate moisture generated to accumulate in the pan. Do not manually add or remove water to or from the condensate pan at any time during the test.

1.2.5 Anti-sweat door heaters. Anti-sweat door heaters must be operational during the entirety of the test procedure. Models with a user-selectable setting must have the heaters energized and set to the maximum usage position. Models featuring an automatic, non-user-adjustable controller that turns on or off based on environmental conditions must be operating in the automatic state. If a unit is not shipped with a controller from the point of manufacture and is intended to be used with an automatic, non-user-adjustable controller, test the unit with a manufacturer-recommended controller that turns on or off based on environmental conditions.

1.2.6 Ultraviolet lights. Do not energize ultraviolet lights during the test.

1.2.7 Illuminated temperature displays and alarms. All illuminated temperature displays and alarms shall be energized and operated during the test as they would be during normal field operation.

1.2.8 Condenser filters. Remove any nonpermanent filters provided to prevent particulates from blocking a model's condenser coil.

1.2.9 Refrigeration system security covers. Remove any devices used to secure the condensing unit.

1.2.10 Night curtains and covers. For display cases sold with night curtains installed, the night curtain shall be employed for 6 hours; beginning 3 hours after the start

of the first defrost period. Upon the completion of the 6-hour period, the night curtain shall be raised until the completion of the 24-hour test period.

1.2.11 Grill options. Remove any optional non-standard grills used to direct airflow.

1.2.12 Misting or humidification systems. Misting or humidification systems must be inactive during the test.

1.2.13 Air purifiers. Air purifiers must be inactive during the test.

1.2.14 General purpose outlets. During the test, do not connect any external load to any general purpose outlets contained within a unit.

1.2.15 Crankcase heaters. Crankcase heaters must be operational during the test. If a control system, such as a thermostat or electronic controller, is used to modulate the operation of the crankcase heater, it must be utilized during the test.

2. Test Conditions

2.1. Integrated Average Temperatures. Conduct the testing required in section 1 of this appendix B, and determine the daily energy consumption at the applicable integrated average temperature in the following table.

Category	Test procedure	Integrated average temperature
(i) Refrigerator with Solid Door(s)	AHRI Standard 1200 (I–P)–2010 [1]	38 °F (±2 °F).
(ii) Refrigerator with Transparent Door(s)	AHRI Standard 1200 (I–P)–2010 [1]	38 °F (±2 °F).
(iii) Freezer with Solid Door(s)	AHRI Standard 1200 (I–P)–2010 [1]	0 °F (±2 °F).
(iv) Freezer with Transparent Door(s)	AHRI Standard 1200 (I–P)–2010 [1]	0 °F (±2 °F).
(v) Refrigerator-Freezer with Solid Door(s)	AHRI Standard 1200 (I–P)–2010 [1]	38 °F (±2 °F) for refrigerator compartment. 0 °F (±2 °F) for freezer compartment.
(vi) Commercial Refrigerator with a Self-Contained Condensing Unit Designed for Pull-Down Temperature Applications and Transparent Doors.	AHRI Standard 1200 (I–P)–2010 [1]	38 °F (±2 °F).
(vii) Ice-Cream Freezer	AHRI Standard 1200 (I–P)–2010 [1]	−15.0 °F (±2 °F).
(viii) Commercial Refrigerator, Freezer, and Refrigerator-Freezer with a Self-Contained Condensing Unit and without Doors.	AHRI Standard 1200 (I–P)–2010 [1]	(A) 0 °F (±2 °F) for low temperature applications. (B) 38.0 °F (±2 °F) for medium temperature applications.
(ix) Commercial Refrigerator, Freezer, and Refrigerator-Freezer with a Remote Condensing Unit.	AHRI Standard 1200 (I–P)–2010 [1]	(A) 0 °F (±2 °F) for low temperature applications. (B) 38.0 °F (±2 °F) for medium temperature applications.

[1] Incorporated by reference, see § 431.63.

2.2. Lowest Application Product Temperature. If a unit of commercial refrigeration equipment is not able to be operated at the integrated average temperature specified in the table in paragraph 2.1 of this appendix, test the unit at the lowest application product temperature (LAPT), as defined in § 431.62. For many units of equipment, LAPT is the lowest thermostat setting. For remote condensing equipment without a thermostat or other means of controlling temperature at the case, the lowest application product temperature is the temperature achieved with the adjusted dew point temperature (as defined in AHRI Standard 1200 (I–P)–2010) set to 5 degrees colder than that required to maintain the manufacturer's lowest specified application temperature.

2.3. Testing at NSF Test Conditions. For commercial refrigeration equipment that is also tested in accordance with NSF test procedures (Type I and Type II), integrated average temperatures and ambient conditions used for NSF testing may be used in place of the DOE-prescribed integrated average temperatures and ambient conditions provided they result in a more stringent test. That is, the measured daily energy consumption of the same unit, when tested at the rating temperatures and/or ambient conditions specified in the DOE test procedure, must be lower than or equal to the measured daily energy consumption of the unit when tested with the rating temperatures or ambient conditions used for NSF testing. The integrated average temperature measured during the test may be lower than the range specified by the DOE applicable temperature specification provided in paragraph 2.1 of this appendix, but may not exceed the upper value of the specified range. Ambient temperatures and/or humidity values may be higher than those specified in the DOE test procedure.

3. Volume and Total Display Area

3.1. Determination of Volume. Determine the volume of a commercial refrigerator, freezer, refrigerator-freezer, or ice-cream freezer using the method set forth in the HRF–1–2008 (incorporated by reference, see § 431.63), section 3.30, ''Volume,'' and sections 4.1 through 4.3, ''Method for Computing Refrigerated Volume of Refrigerators, Refrigerator-Freezers, Wine Chillers and Freezers.''

3.2 Determination of Total Display Area. Determine the total display area of a commercial refrigerator, freezer, refrigerator-freezer, or ice-cream freezer using the method set forth in AHRI Standard 1200 (I–P)–2010 (Incorporated by reference, see § 431.63). Specifically, total display area shall be the sum of the projects area(s) for visible product, expressed in ft^2 (*i.e.,* portions through which product can be viewed from an angle normal to the transparent area). See Figures B3.1, B3.2, and B3.3 as examples of how to calculate the dimensions associated with calculation of total display area. In the diagrams, D_h and L represent the dimensions of the projected visible product.

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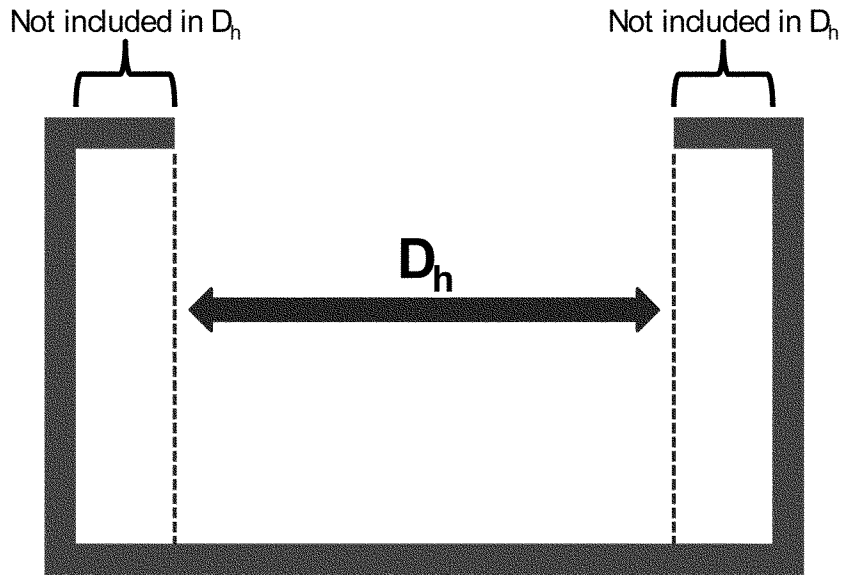

Figure B3.4 Horizontal open display case, where the distance "D_h" is the dimension of the projected visible product.

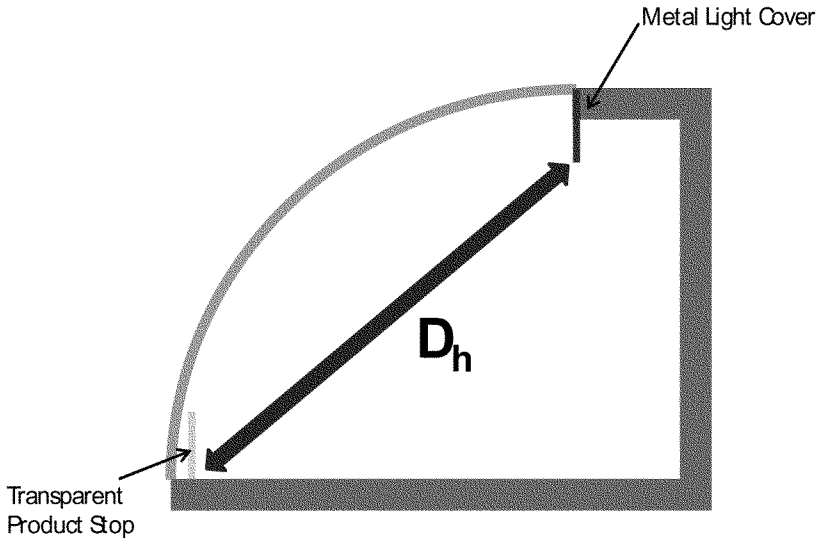

Figure B3.5 Service over counter display case, the distance "D_h" is the dimension of the projected visible product, that being the dimension transverse to the length of the case through which product can be viewed, excluding areas of the product zone that cannot be viewed as part of a direct projection through the glass front.

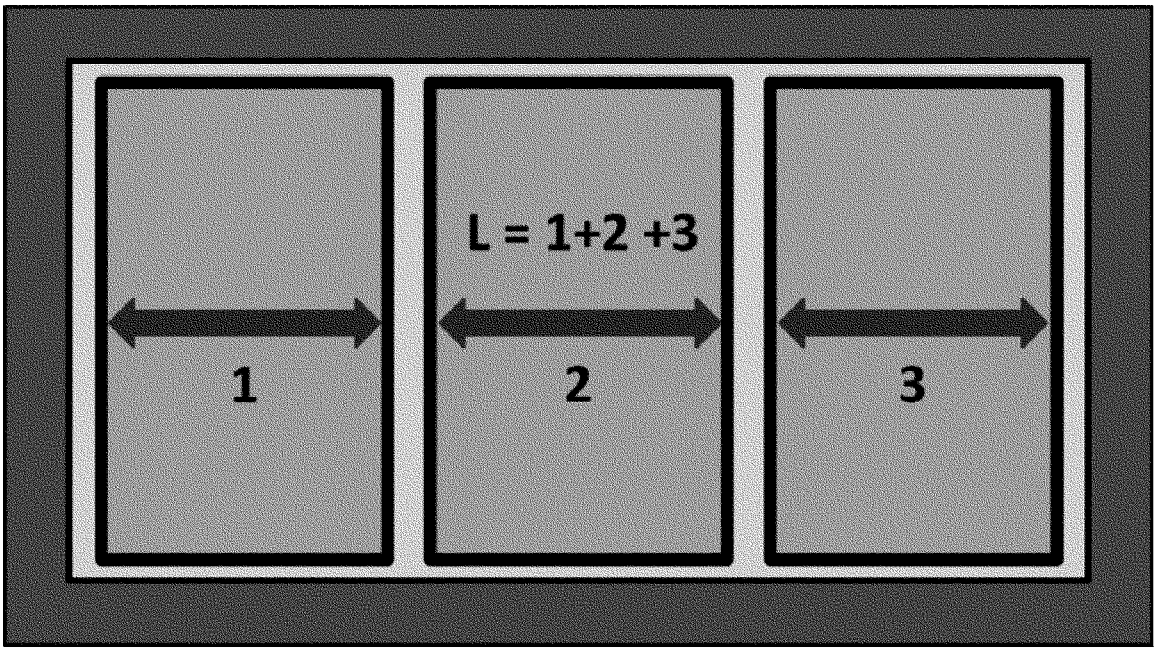

Figure B3.6 Three-door vertical closed transparent display case, where the distance "L" is the collective length of portions of the merchandiser through which product can be seen.

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–2013–0042; 4500030114]

RIN 1018–AZ70

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Bi-State Distinct Population Segment of Greater Sage-Grouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to designate critical habitat for the the Bi-State distinct population segment (DPS) of greater sage-grouse (*Centrocercus urophasianus*) under the Endangered Species Act (Act). In total, approximately 755,960 hectares (1,868,017 acres) fall within the boundaries of the proposed critical habitat designation in Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties, Nevada, and Alpine, Mono, and Inyo Counties, California. If we finalize this rule as proposed, it would extend the Act's protections to this DPS's critical habitat.

DATES: *Comment Submission:* We will accept comments received or postmarked on or before December 27, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by December 12, 2013. *Public Meeting:* Two public meetings will be held on this proposed rule: (1) November 5, 2013, from 4:00 p.m. to 6:00 p.m. (Pacific Time); and (2) November 6, 2013, from 1:00 p.m. to 3:00 p.m. (Pacific Time). People needing reasonable accommodations in order to attend and participate in the public hearing should contact Jeannie Stafford, Nevada Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *Comment Submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter FWS–R8–ES–2013–0042, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0042; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

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

Public Meetings: The November 5, 2013, public meeting will be held at the Tri-County Fairgrounds, Home Economics Room, Sierra Street and Fair Drive, Bishop, CA 93514. The November 6, 2013, public meeting will be held at the Smith Valley Community Center, 2783 State Route 208, Wellington, NV 89444.

Details of Units: The coordinates or plot points or both from which the maps are generated are included in the administrative record for this critical habitat designation and are available at *www.regulations.gov* at Docket No. FWS–R8–ES–2013–0042, the Reno Fish and Wildlife Office or on their Web site at *http://www.fws.gov/nevada/*, and at the Ventura Fish and Wildlife Office or on their Web site at *http://www.fws.gov/ventura/* (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 sites and Field Offices set out above, and may also be included in the preamble or at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For general information on the proposed critical habitat designation as well as information about the proposed critical habitat specific to Nevada (Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties), contact Edward D. Koch, State Supervisor, U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; or facsimile 775–861–6301. For information about the proposed critical habitat specific to California (Alpine, Mono, and Inyo Counties), contact Diane Noda, Field Supervisor, or Carl Benz, Assistant Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003; telephone 805–644–1766; facsimile 805–644–3958. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Elsewhere in today's **Federal Register**, we propose to list the Bi-State DPS of greater sage-grouse as a threatened species under the Endangered Species Act. Under the Act, critical habitat shall be designated, to the maximum extent prudent and determinable, for any species determined to be an endangered or threatened species under the Act. Designations and revisions of critical habitat can be completed only by issuing a rule.

This rule proposes to designate critical habitat for the Bi-State DPS of greater sage-grouse (hereafter referred to as the Bi-State DPS of greater sage-grouse or the Bi-State DPS). Based on our proposal to list the Bi-State DPS as a threatened species, we are proposing critical habitat for the Bi-State DPS under the Act. In total, approximately 755,960 hectares (ha) (1,868,017 acres (ac)) are being proposed for designation as critical habitat in Carson City, Lyon, Douglas, Mineral, and Esmeralda Counties in Nevada, and Alpine, Mono, and Inyo Counties in California.

The basis for our action. Under the Endangered Species Act, any species that is determined to be an endangered or threatened species shall, to the maximum extent prudent and determinable, have habitat designated that is considered to be critical habitat.

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.

We are preparing an economic analysis of the proposed designation of critical habitat. In order to consider economic impacts, we are preparing an

analysis of the economic impacts of the proposed critical habitat designation and related factors. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek additional public review and comment.

We will seek peer review. We are seeking comments from independent specialists to ensure that our critical habitat proposal is based on scientifically sound data and analyses. We have invited these peer reviewers to comment on our specific assumptions and conclusions in this listing proposal. A thorough review of information that we relied on in making this determination—including information on taxonomy, habitat, distribution, population estimates and trends, and potential threats—is presented in the Bi-State DPS Species Report available at *http://www.regulations.gov* (Docket No. FWS–R8–ES–2013–0042). A summary of this analysis is found within the proposed listing rule published elsewhere in today's **Federal Register**. Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned government agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The amount and distribution of the Bi-State DPS's habitat;

(b) What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the DPS, should be included in the designation and why;

(c) The features essential to the conservation of the Bi-State DPS as described in the *Physical and Biological Features* section of this rule, in particular the currently unsuitable or less than suitable habitat that accommodates restoration identified in the Bi-State Action Plan (i.e., actions HIR1–1–PN, HIR–1–2–PN, HIR1–1–DCF, HIR1–2–DCF, HIR1–1–MG, HIR1–1–B, and HIR1–3–SM) (Bi-State Technical Advisory Committee (TAC) 2012, pp. 93–95).

(d) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(e) What areas not occupied at the time of listing are essential for the conservation of the DPS and why.

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Information on the projected and reasonably likely impacts of climate change on the Bi-State DPS and proposed critical habitat.

(5) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, we seek information on any impacts on small entities or families, and the benefits of including or excluding areas that exhibit these impacts.

(6) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act, in particular lands managed or utilized by the Department of Defense (U.S. Marine Corps' Mountain Warfare Training Center) and by the Los Angeles Water and Power District (LAPWD).

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

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in the **ADDRESSES** section.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* You may request at the top of your document that we withhold personal information such as your street address, phone number, or email address from public review; however, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Previous Federal Actions

All previous Federal actions are described in the proposal to list the Bi-State DPS as a threatened species under the Act, which is published elsewhere in today's **Federal Register**.

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 is 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 those specific elements of the 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. We designate critical habitat in areas outside the geographical area presently occupied by a species only when a designation limited to its present 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, would 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) section 9 of the Act's prohibitions on taking any individual of the species, including taking caused by actions that affect habitat. 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 would 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 would 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.

For the purposes of this proposed rule, we discuss the biology of the Bi-State DPS, its habitat, population abundance information, and other physical, biological, or geographical information within the context of the local management units (Population Management Units (PMUs)) used by the various land management agencies within the range of the DPS. Six PMUs were established in 2001 as management tools for defining and monitoring sage-grouse distribution in the Bi-State area (Sage-Grouse Conservation Planning Team 2001, p. 31). The PMU boundaries are based on aggregations of leks (communal breeding areas), known seasonal habitats, and telemetry data, which represent generalized subpopulations or local breeding complexes. The six PMUs (north to south) include: Pine Nut, Desert Creek-Fales, Bodie, Mount Grant, South Mono, and White Mountains PMUs. These six PMUs represent a total of four to eight demographically independent populations with a combined total of approximately 43 active leks (Service 2013a, pp. 17–20). Please see the proposed listing rule published elsewhere in today's **Federal Register** or the Species Report (Service 2013a, entire) available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0042 for more background information related to these PMUs. Additionally, the PMUs are identified in the Proposed Regulation Promulgation section of this proposed rule.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12), require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist:

(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or

(2) Such designation of critical habitat would not be beneficial to the species.

There is currently no imminent threat of take attributed to collection or vandalism according to the analysis presented in the Species Report (Service 2013a, entire) and summarized in our proposed rule to list the Bi-State DPS as threatened (published elsewhere in today's **Federal Register**). Identification and mapping of critical habitat is not expected to initiate any such threat. In the absence of finding that the designation of critical habitat would increase threats to a species, if there are any benefits to a critical habitat designation, then a prudent finding is warranted. Here, the potential benefits of designation include: (1) Triggering consultation under section 7 of the Act in new areas for actions in which there may be a Federal nexus where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential features and areas; (3) providing educational benefits to State or county governments or private entities; and (4) preventing people from causing inadvertent harm to the DPS. Therefore, because we have determined that the designation of critical habitat will not likely increase the degree of threat to the DPS and may provide some measure of benefit, we find that designation of critical habitat is prudent for the Bi-State DPS.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the eight species is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Information sufficient to perform required analyses of the impacts of the designation is lacking, or

(ii) The biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat.

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where the Bi-State DPS is located. This and other information represent the best scientific data available and lead us to conclude that the designation of critical habitat is determinable for the Bi-State DPS.

Physical or Biological Features

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), 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 historic, geographical, and ecological distributions of a species.

We derive the specific physical or biological features essential for the Bi-State DPS from studies of this species' habitat, ecology, and life history as summarized in the proposed listing rule published elsewhere in today's **Federal Register**, and in greater detail in the Species Report (Service 2013a, entire) available at *http://www.regulations.gov* (in the Search box, enter FWS–R8–ES–2013–0042, which is the docket number for this rulemaking). We have determined that the following physical or biological features are essential to the conservation of the Bi-State DPS of greater sage-grouse:

Space for Individual and Population Growth and for Normal Behavior

The Bi-State DPS of greater sage-grouse require large, interconnected expanses of sagebrush plant communities that contain a healthy understory composed primarily of native, herbaceous vegetation (Patterson 1952, p. 9; Knick *et al.* 2003, p. 623; Connelly *et al.* 2004, pp. 4–15; Pyke 2011, p. 532; Wisdom *et al.* 2011, entire). The Bi-State DPS uses a variety of habitats throughout its lifecycle, such as riparian and upland meadows, riparian areas with a shrub component, agricultural lands, and steppe dominated by native grasses and forbs. However, the Bi-State DPS of greater sage-grouse is considered a sagebrush obligate because of its near complete reliance on sagebrush as forage during the winter. In addition, the use of non-sagebrush habitats is contingent on the presence of sagebrush habitats in close proximity (Patterson 1952, p. 42; Braun *et al.* 1976, p. 168; Schroeder *et al.* 1999, pp. 4, 5; Connelly *et al.* 2000a, pp. 970–972; Connelly *et al.* 2004, pp. 4–1, 4–18, and references therein; Connelly *et al.* 2011b, p. 80; Casazza *et al.* 2011, p. 159).

The Bi-State DPS of greater sage-grouse moves seasonally among various sagebrush-dominated vegetation communities. These moves are driven by breeding activities, nest and brood-rearing site requirements (such as mesic meadows or spring habitats (see also the ''Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements'' section below)), seasonal changes in the availability of food resources, and response to weather conditions. Research findings have parsed the annual life cycle of greater sage-grouse into more or less unique seasonal habitat requirement categories, but in general annual habitat use can be categorized into three seasons (although these do not have to be mutually exclusive): (1) Breeding, (2) brood-rearing summer, and (3) winter, as well as the pathways that link these habitats together (Connelly *et al.* 2011b, pp. 71–80). Research on greater sage-grouse suggests the species exhibits strong site fidelity (loyalty to a particular area) to migration corridors and seasonal habitats, including breeding, nesting, brood-rearing, and wintering areas, even when a particular area may no longer be of value (Connelly *et al.* 2004, p. 3–1; Connelly *et al.* 2011b, p. 82). Available data suggest birds within the Bi-State DPS appear to conform with this understanding (Weichman 2012, unpublished data; P. Coates 2012, pers. comm.). Adult greater sage-grouse rarely switch inter-annual use among these seasonal habitats once they have been selected, limiting the species' adaptability to habitat changes (Berry and Eng 1985, pp. 238–240; Fischer *et al.* 1993, p. 1039; Holloran and Anderson 2005, p. 749; Connelly *et al.* 2011b, p. 82).

Estimating an average annual home range size for the Bi-State DPS is difficult due to the large variation in sage-grouse movements both within and among populations. These variations are related to the spatial availability of habitats required for seasonal use as well as individual bird behavior. The pattern and scale of annual movements among populations of greater sage-grouse within the Bi-State area, and the degree to which a given habitat patch can fulfill the species' annual habitat needs, are dependent on the arrangement and quality of habitats across the landscape. Habitat structure and quality vary spatially over the

landscape; therefore, some areas may provide habitat for a single season, while other areas may provide habitat for one or more seasons (Connelly *et al.* 2011a; p. 59). In addition, plant community dynamics and natural or anthropogenic disturbance also result in a temporal component of habitat variability and suitability. Across the DPS, fine-scale habitat structure data on which to delineate seasonal habitats currently do not exist.

In the Bi-State area, greater sage-grouse home range size varies from 608 to 24,800 ha (0.9 to over 94.9 square miles) (Casazza *et al.* 2009, p. 8; U.S. Geological Survey (USGS) 2012, unpublished data). Variation occurs among individuals as well as among populations, presumably due in part to behavior and juxtaposition of seasonal habitats (Connelly *et al.* 2011a, p. 59). Migratory movements (defined in Connelly *et al.* (2000a, p. 969) as moving more than 10 kilometers (km) (6 miles (mi)) between seasonal habitats) are uncommon among most individuals in the Desert Creek-Fales, Bodie, South Mono, and White Mountains PMUs; however, within these areas some individuals make seasonal movements that exceed this migratory definition (Casazza *et al.* 2009, p. 8). Further, recent research in the Pine Nut PMU has documented typical movements between breeding and brood-rearing summer habitats of greater than 40 km (24 mi), with at least one individual moving in excess of 160 km (100 mi) from its lek of capture to summer and winter habitats (USGS 2012, unpublished data).

While not typical, the extensive migratory movements in the the Pine Nut PMU demonstrate the importance of migratory behaviors for the Bi-State DPS and the potential large-scale annual habitat requirements of the species. Migratory behavior is generally slow and meandering (flying or walking less than 1 km (0.6 mi) per day); however, more rapid movements are known and local migratory flights can occur (Dunn and Braun 1986, p. 89), including in the Bi-State area (USGS 2012, unpublished data). Migratory behavior in a population can have important ramifications on population dynamics (Berryman 2002, p. 441). Juvenile sage-grouse that moved farther distances to seasonal habitats had lower overall survival than did juveniles that moved relatively short distances (Beck *et al.* 2006, p. 1076). Thus, in populations where large movements are necessary to access seasonal habitat, an increased cost in terms of increased mortality may be incurred (Connelly *et al.* 2011a, p. 67).

Therefore, based on the species' year-round reliance on sagebrush and the various seasonal habitat requirements discussed above, we identify sagebrush plant communities and interspersed mesic areas of sufficient size and configuration to be a physical or biological feature essential to the conservation of this species.

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Food resources used by the Bi-State DPS vary throughout the year because of seasonal changes in food availability and specific dietary requirements of adults and chicks. Greater sage-grouse diet is composed of nearly 100 percent sagebrush in the winter, while forbs, insects, and sagebrush are important dietary components during the remainder of the year (Wallestad *et al.* 1975, p. 629; Barnett and Crawford 1994, p. 117; Schroeder *et al.* 1999, p. 5; Gregg *et al.* 2006, pp. 475–476).

Pre-laying hens are particularly dependent on forbs and the insects supported by native herbaceous understories (Drut *et al.* 1994, pp. 173–175; Barnett and Crawford 1994, p. 117; Coggins 1998, p. 30). This pre-laying period is from approximately late-March to early April. While limited information is available on pre-nesting habitat selection, pre-laying habitats for female sage-grouse need to provide a diversity of vegetation including forbs that are rich in calcium, phosphorous, and protein to meet the nutritional needs of females during the egg development period (Barnett and Crawford 1994, p. 117; Connelly *et al.* 2000a, p. 970). During the pre-laying period, female sage-grouse select forbs that generally have higher amounts of calcium and crude protein than sagebrush (Barnett and Crawford 1994, p. 117).

Forbs and insects are essential nutritional components for Bi-State DPS sage-grouse chicks and for brood-rearing sage-grouse (Klebenow and Gray 1968, pp. 81–83; Peterson 1970, pp. 149–151; Johnson and Boyce 1991, p. 90; Connelly *et al.* 2004, p. 3–3; Dahlgren *et al.* 2006, p. 981; Aldridge and Boyce 2007, pp. 522–523; Casazza *et al.* 2011, pp. 158–159). During the first 3 weeks after hatching, insects are a critical food source of chicks (Patterson 1952, p. 201; Klebenow and Gray 1968, p. 81; Peterson 1970, pp. 150–151; Johnson and Boyce 1990, pp. 90–91; Johnson and Boyce 1991, p. 92; Drut *et al.* 1994, p. 93; Pyle and Crawford 1996, p. 320; Fischer *et al.* 1996a, p. 194). Diets of 4- to 8-week-old greater sage-grouse chicks were found to have more plant material as the chicks matured (Peterson 1970, p. 151). Succulent forbs are predominant in the diet until chicks exceed 3 months of age, at which time sagebrush becomes a major dietary component (Klebenow 1969, pp. 665–656; Connelly and Markham 1983, pp. 171–173; Fischer *et al.* 1996b, p. 871; Schroeder *et al.* 1999, p. 5).

Decreased availability of forbs corresponds to a decrease in the probability of successfully fledging offspring, number of chicks per female, and brood size (Barnett and Crawford 1994, p. 117; Dahlgren *et al.* 2006, p. 981; Aldridge and Boyce 2007, pp. 522–523; Casazza *et al.* 2011, pp. 158–159). Population dynamics of greater sage-grouse are sensitive to adult survival, female reproductive success, and chick survival (Blomberg *et al.* 2012, pp. 11–12). Therefore, habitats that support sagebrush vegetation as well as a vegetative understory composed of native grasses and forbs are essential to key demographic rates.

In most areas within the range of Bi-State DPS, the herbaceous understory component of sagebrush plant communities dries out as summer progresses. Habitats used by greater sage-grouse in summer through late fall are typically more mesic than surrounding habitats. These areas are used primarily for foraging because they provide reliable sources of green, herbaceous vegetation when this resource is seasonally limited on the landscape (Connelly *et al.* 2011b, pp. 76–77 and references therein). Specifically, these areas include: non-wooded riparian communities, springs, seeps, mesic upland meadows, or the margins of irrigated hay meadows and alfalfa fields (Casazza *et al.* 2011, pp. 162–163; Connelly *et al.* 2011b, pp. 76–77 and references therein). However, brood-rearing habitats are selected for and provide for an increased probability of successful recruitment when sites have adequate perennial forb cover and plant species richness, adequate meadow to sagebrush edge (ratio of perimeter to area), and are farther from woodlands (Casazza *et al.* 2011, pp. 162–163).

In winter, greater sage-grouse diet is almost exclusively sagebrush, although various species of sagebrush can be consumed (Rasmussen and Griner 1938, p. 855; Batterson and Morse 1948, p. 20; Patterson 1952, pp. 197–198; Wallestad *et al.* 1975, pp. 628–629; Remington and Braun 1985, pp. 1056–1057; Welch *et al.* 1988, p. 276; Welch *et al.* 1991, p. 462; Myers 1992, p. 55; Connelly *et al.* 2000a, p. 972). While limited data are available on winter habitat use in the Bi-State area, characteristics appear similar

to those identified across the range of greater sage-grouse (P. Coates 2012, pers. comm.). Habitats used by greater sage-grouse during winter typically consist of 10 to 30 percent sagebrush cover and sagebrush heights of 25 to 35 centimeters (cm) (10 to 14 inches (in)), regardless of snow depth (Connelly *et al.* 2000a, p. 972). In all suitable winter habitats, the height of sagebrush must be tall enough so that leaves remain exposed when wintering areas are largely covered with snow (Connelly *et al.* 2011b, p. 79).

Based on the information above, we identify sagebrush plant communities that contain herbaceous vegetation consisting of a diversity and abundance of forbs, insects, and grasses that fulfill all of the Bi-State DPS's seasonal dietary requirements to be a physical or biological feature essential to the conservation of this DPS. We also identify non-sagebrush habitats located adjacent to sagebrush plant communities that are used by sage-grouse for foraging during seasonally dry periods to be a physical or biological feature essential to the conservation of this DPS. These habitats are generally more mesic than surrounding habitat, and include wet meadows, riparian areas, and irrigated pastures.

Cover or Shelter

Predation is the most commonly identified cause of direct mortality for greater sage-grouse during all life stages and the species relies on sagebrush and herbaceous vegetation yearlong for escape and hiding cover (Schroeder *et al.* 1999, p. 9; Connelly *et al.* 2000b, p. 228; Connelly *et al.* 2011a, p. 66). While limited data are available on specific predators in the Bi-State area, known and potential predators of adult birds include golden eagle (*Aquila chrysaetos*), coyote (*Canis latrans*), American badger (*Taxidea taxus*), and bobcat (*Felis rufus*) (Hartzler 1974, pp. 532–536; Schroeder *et al.* 1999, pp. 10–11; Schroeder and Baydack 2001, p. 25; Rowland and Wisdom 2002, p. 14; Hagen 2011, p. 97). Most raptor predation of greater sage-grouse is on juveniles and adult age classes during the breeding and late brood-rearing periods when birds are more conspicuous and associated with more sparsely vegetated sites (Hagen 2011, p. 96). Juvenile greater sage-grouse also are killed by common ravens (*Corvus corax*), American badgers, coyotes, and weasels (*Mustela* spp.) (Braun 1995, entire; Schroeder *et al.* 1999, p. 10). Nest predators in the Bi-State area may include badgers, weasels, coyotes, common ravens, American crows (*Corvus brachyrhynchos*), magpies (*Pica* spp.), and domestic cows (*Bovus* spp.) (Coates *et al.* 2008, pp. 425–426). Coates (2012, pers. comm.) suggests that common ravens are likely the most prolific nest predator in the Bi-State area.

While greater sage-grouse in the Bi-State DPS are depredated by a variety of predators across all life stages, they are not considered primary-prey for any one predator species. The top predators in the Bi-State area (i.e., golden eagles, coyotes, bobcats, and common ravens) are considered generalists and focus more heavily on small mammals.

Nest predation is influenced by the amount of cover surrounding the nest (Gregg *et al.* 1994, p. 164; Braun 1995, pp. 1–2; DeLong *et al.* 1995, p. 90; Braun 1998, p. 149; Coggins 1998, p. 30; Connelly *et al.* 2000a, p. 975; Schroeder and Baydack 2001, p. 25; Coates and Delehanty 2008, p. 636; Kolada *et al.* 2009b, p. 1343). Females actively select nest sites with the presence of big sagebrush (*Artemisia tridentata* Nutt. ssp.), grass, and forb cover (Connelly *et al.* 2000a, p. 971), and nesting success of greater sage-grouse is positively correlated with these qualities (Schroeder and Baydack 2001, p. 25; Hagen *et al.* 2007, p. 46; Kolada *et al.* 2009b, p. 1343). In general, vegetation characteristics of successful nest sites include sagebrush canopy cover of greater than 15 percent, sagebrush heights of 30 to 80 centimeters (cm) (11.8 to 31.5 in), grass and forb heights of 18 cm (7.1 in), and grass and forb cover of greater than 15 percent (Connelly *et al.* 2000a, p. 977). While cover (canopy cover or shrubs, and understory cover or herbaceous plants) positively influences nesting success, the most important type of cover appears variable across the range of the greater sage-grouse (Connelly *et al.* 2000a, p. 971; Coates 2007, p. 148). In the Bi-State area, shrub canopy cover appears to be most influential to both nest-site selection and nesting success (Kolada *et al.* 2009a, p. 1336; Kolada *et al.* 2009b, p. 1343).

Furthermore, vegetation other than sagebrush (i.e., understory vegetation and other herbaceous cover) have a significant positive impact on nest success (Kolada *et al.* 2009b, p. 1343). While not readily apparent in the Bi-State area (Kolada *et al.* 2009b, p. 1344), both understory cover and height has been shown to influence nest success across the range of the greater sage-grouse (Gregg 1994, p. 164; Hagen *et al.* 2007, p. 46). Additionally, reduced herbaceous cover for young chicks can increase their rate of predation (Schroeder and Baydack 2001, p. 27; Aldridge and Boyce 2008, p. 402). These studies taken collectively indicate the importance of sufficient cover to nest and brood success of sage-grouse in the Bi-State area.

Fragmentation of large, intact habitats into smaller units due to anthropogenic or natural causes has been implicated to affect the Bi-State DPS's susceptibility to mortality through predation. Local attraction of common ravens to nesting females may be facilitated by loss and fragmentation of native shrublands, which increases exposure of nests to potential predation (Aldridge and Boyce 2007, p. 522; Bui 2009, p. 32; P. Coates 2012, pers. comm.). Reduction in patch size and diversity of sagebrush habitat, and increased edge, as well as the construction of fences, power lines, and other infrastructure also are likely to encourage the presence of the common raven (Coates *et al.* 2008, p. 426; Bui 2009, p. 4). Greater sage-grouse are adapted to minimize predation by cryptic plumage and behavior (Hagen 2011, p. 96). Because sage-grouse are prey, predation will continue to have an effect on the Bi-State DPS; however, where habitat is not limited and is of good quality, predation appears to be less influential on population demographic rates (Coates 2007, pp. 154, 155; Hagen 2011, p. 100). Landscape fragmentation, habitat degradation, and human populations have the potential to increase predator populations through increasing ease of securing prey and subsidizing food sources and nest or den sites. Thus, otherwise suitable habitat may, in fact, act as a population sink, whereby predation affects mortality more quickly than the beneficial aspects of the habitat can affect recruitment (Aldridge and Boyce 2007, p. 517). Most sage-grouse research has failed to quantify predation rates in relation to habitat structure at a landscape level. Thus, while it is not currently possible to completely understand the relationships among habitat structure, sage-grouse demographic rates, and predator communities, available information suggests fragmentation of habitat can facilitate an increase in predation rates.

Bi-State DPS of greater sage-grouse use sagebrush plant communities during the winter season for thermal cover and to meet nutritional needs. Sagebrush stand selection in winter is influenced by snow depth and available literature suggests sagebrush canopy cover should be greater than 10 percent and shrubs should have at least 25 cm exposed above the snow (Patterson 1952, pp. 188–189; Connelly 1982 as cited in Connelly *et al.* 2000a, p. 980). In some areas, topography influences sagebrush

stand selection (Beck 1977, p. 22; Crawford *et al.* 2004, p. 5). Winter sagebrush use areas are associated with drainages, ridges, or southwest aspects with slopes less than 15 percent (Beck 1977, p. 22). Lower, flat areas and shorter sagebrush along ridge tops provide roosting areas. In extreme winter conditions, greater sage-grouse will spend nights and portions of the day burrowed into ''snow burrows'' (Back *et al.* 1987, p. 488), and we expect the Bi-State DPS to exhibit the same behavior. During severe winters in the Bi-State area, significant percentages of birds from the various PMUs can be highly concentrated in localized sites. In these conditions, tall, late-seral sagebrush stands are an especially important food source and in some instances birds have been observed digging through several inches of snow to access shrubs (Casazza *et al.* 2009, p. 33).

Therefore, based on the information above, we identify sagebrush plant communities consisting of adequate shrub and herbaceous structure to provide year-round escape and hiding cover, as well as areas that provide concealment of nests and broods during the breeding season, and winter season thermal cover to be a physical or biological feature essential to the conservation of this DPS. Quantitative information on cover can be found in the *Primary Constituent Elements for the Bi-State DPS* section, below.

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Lek Sites. Lek sites can be located on areas of bare soil, wind-swept ridges, exposed knolls, low-statured sagebrush communities, meadows, and other relatively open sites with good visibility and low-vegetation structure (Connelly *et al.* 1981, pp. 153–154; Gates 1985, pp. 219–221; Klott and Lindzey 1989, pp. 276–277; Connelly *et al.* 2004, p. 3–7 and references therein). In addition, leks are usually located on flat to gently sloping areas of less than 15 percent grade (Patterson 1952, p. 83; Giezentanner and Clark 1974, p. 218; Wallestad 1975, p. 17; Autenrieth 1981, p. 13). Leks are often surrounded by denser shrub-steppe cover, which is used for escape, and thermal and feeding cover. Leks can be formed opportunistically at any appropriate site within or adjacent to nesting habitat (Connelly *et al.* 2000a, p. 970). However, adult male sage-grouse demonstrate strong yearly fidelity to lek sites (Patterson 1952, p. 91; Dalke *et al.* 1963, pp. 817–818), and some leks in the Bi-State area have been used since the 1950s. Across the entire Bi-State DPS, approximately 35 to 45 leks are considered active as of 2013. In general, lek habitat availability is not considered to be a limiting factor for sage-grouse (Schroeder 1997, p. 939).

Nesting Habitat. Greater sage-grouse typically select nest sites under sagebrush cover with some forb and grass cover, and successful nests are found in areas with higher shrub density and greater forb and grass cover than unsuccessful nests (Connelly *et al.* 2011b, p. 73). While the importance of nesting cover remains apparent in the Bi-State area, local data suggest slight deviations from the generally accepted standards for the greater sage-grouse, which were largely derived from research conducted outside the southern Great Basin. Specifically, Kolada *et al.* (2009a, p. 1336; 2009b, p. 1343) found that nesting success improved when nesting habitat contained greater than 20 percent sagebrush canopy cover and greater than 40 percent total shrub cover while shrub height did not appear to influence nesting success. This canopy cover standard in the Bi-State area is generally greater than those reported elsewhere across the range of the species. Additionally, there is currently little support in the Bi-State area for a positive influence of understory cover and height on either nest site selection or nest success (Kolada *et al.* 2009a, p. 1336; Kolada *et al.* 2009b, p. 1343). Similar findings are apparent in other locations in Nevada, but these investigations also suggest a trade-off between overstory and understory cover (Coates and Delehanty 2010, pp. 245–246). This implies that the need for understory cover diminishes as overstory cover increases, and vice versa. Thus, while shrub canopy and grass cover provide concealment for sage-grouse nests and young and are critical for reproductive success, the composition of these cover components appears to vary regionally (Barnett and Crawford 1994, pp. 116–117; Gregg *et al.* 1994, pp. 164–165; DeLong *et al.* 1995, pp. 90–91; Connelly *et al.* 2004, p. 4–4, Kolada *et al.* 2009a, p. 1336; Kolada *et al.* 2009b, p. 1343). In the southern Great Basin and in the Bi-State area specifically, there is strong support for the importance of greater shrub canopy cover on nesting success.

Female greater sage-grouse exhibit strong fidelity to nesting locations (Lyon 2000, p. 20; Connelly *et al.* 2004, pp. 4–5; Holloran and Anderson 2005, p. 747). Interannual distances between nests are frequently less than 1 km and often much less than this (Connelly *et al.* 2011b, p. 74 and references therein). Additionally, re-nesting attempts are also frequently in close proximity to the original nest (Weichman 2012, unpublished data).

Brood-rearing Habitat. Early brood-rearing habitat is found close to nest sites (Connelly *et al.* 2000a, p. 971), although individual females with broods may move large distances (Connelly 1982, as cited in Connelly *et al.* 2000a, p. 971). These sites typically contain a greater amount of perennial forbs, with horizontal and vertical structural diversity that provides an insect prey base and herbaceous forage for newly hatched chicks but additionally for pre-laying and nesting hens (Schroeder *et al.* 1999, p. 11; Connelly *et al.* 2000a, p. 971; Connelly *et al.* 2004, pp. 4–5—4–8; Casazza *et al.* 2011, pp. 158–159). By mid-summer and into early fall, birds move to mesic sagebrush plant communities that continue to provide green forbs. Casazza *et al.* (2011, pp. 158–163) found that sage-grouse in the Bi-State area with broods selected areas with increased plant species richness, greater forb cover, and increased meadow edge, and they avoided areas in proximity to trees (e.g., riparian sites, conifer encroached sites). While broods are known to utilize edges of hay meadows, data indicate that small, irregularly shaped meadows are of greater importance to broods than are large agricultural fields (Casazza *et al.* 2011, p. 163). However, due to relatively limited meadow habitat in the Bi-State area, the edges of irrigated agricultural fields are likely important in brood production.

Therefore, based on the information above, we identify sagebrush plant communities with the appropriate shrub and herbaceous vegetation structure to meet all the needs for all the Bi-State DPS of greater sage-grouse reproductive activities (including lekking, nesting, and brood-rearing) to be a physical or biological feature essential to the conservation of this DPS. Quantitative information on appropriate levels of vegetation structure and composition can be found in the *Primary Constituent Elements for the Bi-State DPS* section, below.

Habitats Protected From Disturbance or Representative of the Historical, Geographical, and Ecological Distributions of the Species

Greater sage-grouse in the Bi-State area historically occurred from at least the Pine Nut Mountains area to south of the Mono County and Inyo County border near Bishop, California. Additionally, there are areas that are presumed to have been historically occupied that are no longer occupied and are now unsuitable for sage-grouse occupancy (i.e., Smith Valley,

Gardnerville, and Bridgeport). Suitable habitat for the Bi-State DPS within the geographic area currently occupied by the species is approximately 590,184 ha (1,458,381 ac) (Service 2013a, Table 1 p. 20). The remaining habitat within the Bi-State area is fragmented, resulting in varying degrees of isolation among local breeding populations. Many of these fragmented areas serve as unused corridors/sites between seasonal habitats for a given population of sage-grouse contained within the Bi-State DPS. These corridors are a physical or biological feature essential to the conservation of this DPS based on greater sage-grouse research, which suggests that sage-grouse exhibit strong site fidelity (loyalty to a particular area) to migration corridors and seasonal habitats, including breeding, nesting, brood-rearing, and wintering areas, even when a particular area may seemingly no longer be of value (Connelly *et al.* 2004, p. 3–1; Connelly *et al.* 2011b, p. 82)

The currently suitable sagebrush plant communities and the intervening or adjacent fragmented areas (including corridors/sites between seasonal habitat areas) that are proposed for designation contain physical and biological features that are representative of the historical and geographical distribution of the Bi-State DPS. We believe the currently unused corridors/sites that contain plant communities (primarily woodland encroached sites that are not suitable for use) that are proposed for designation were all likely historically used by the DPS and also represent historic biological and ecological distribution within the the DPS's present range. These corridors/sites are intermixed within suitable habitat areas currently utilized by the Bi-State DPS during various life stages, as described above. These corridors/sites are limiting the extent of sagebrush habitat throughout the current range of the DPS, especially in the PMUs with the smallest populations (i.e., Pine Nut, Mount Grant, Desert Creek-Fales, and White Mountain PMUs), and are creating varying degrees of isolation among local breeding populations. Restoration of these corridors/sites can facilitate movements among populations and allow the DPS to recovery its historical distribution within its present range. To inform our decision on specific locations of these corridors/sites, we used the 2012 Bi-State Action Plan (Bi-State TAC 2012a, entire). The Bi-State Action Plan identifies areas for possible restoration activity within the present range of the species that would improve overall habitat quality and quantity and provide improved connectivity among local breeding populations across the Bi-State DPS.

Therefore, based on the information above, we identify corridors/sites that currently contain unsuitable/unused plant communities that are interspersed with sagebrush habitats that exhibit one or more of the physical or biological features described above, to be a physical or biological feature essential to the conservation of the Bi-State DPS. Once special management designed to improve the condition of these interspersed corridors/sites has been implemented, they will help ensure long-term conservation of the DPS, and most importantly provide connectivity between currently fragmented areas.

Climate Change

Climate change projections in the Great Basin suggest a hotter and stable-to-declining level of precipitation, and a shift in precipitation events to the summer months; fire frequency is expected to accelerate, fires may become larger and more severe, and fire seasons will be longer (Brown *et al.* 2004, pp. 382–383; Neilson *et al.* 2005, p. 150; Chambers and Pellant 2008, p. 31; Global Climate Change Impacts in the United States 2009, p. 83). With these projections, drought (which is a natural part of the sagebrush ecosystem) is likely to be exacerbated.

Specifically within the Bi-State area, we anticipate climate change will act synergistically with other impacts to the Bi-State DPS to further diminish habitat, including features such as water, food, cover or shelter, and sites for breeding and reproduction. Predicting the impact of global climate change on sage-grouse populations is challenging due to the relatively small spatial extent of the Bi-State area. It is likely that vegetation communities will not remain static and the amount of sagebrush shrub habitat will decrease. Further, increased variation in drought cycles due to climate change will likely place additional stress on the populations. However, while it is reasonable to assume the Bi-State area will experience vegetation changes into the future, we do not know with precision the nature of these changes or ultimately the effect this will have on the Bi-State DPS. Regardless, we anticipate the area will likely become generally less suitable to invasion by *Bromus tectorum* (cheatgrass). It is similarly likely that the current extent of suitable shrub habitat (e.g., areas for cover, shelt, breeding, and reproduction) will decrease, as the conditions that make the reduction in cheatgrass possible also suggest a less suitable climate condition for sagebrush and improved suitability for woodland and drier vegetation communities, which are not favorable to sage-grouse in the Bi-State DPS. For additional discussion on this topic, see the ''Climate Change'' section of the proposed listing rule published elsewhere in today's **Federal Register**.

Primary Constituent Elements for the Bi-State DPS

According to 50 CFR 424.12(b), we are required to identify the physical or biological features essential to the conservation of the Bi-State DPS in areas occupied at the time of listing, focusing on the features' primary constituent elements (PCEs). We consider primary constituent elements to be those specific elements of the physical or biological features that provide for a species' life-history processes and are essential to the conservation of the species.

We only consider areas as critical habitat if they meet the ''Landscape-scale Primary Constituent Element'' (PCE 1) because small, isolated patches of sagebrush do not support the Bi-State DPS. If an area meets the landscape scale requirement, then a particular site is considered critical habitat if it contains one or more of the ''Site-scale Primary Constituent Elements'' (PCEs 2 through 4); Landscape scale may also contain the plant communities discussed above.

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 PCEs specific to the Bi-State DPS of greater sage-grouse are:

Landscape-scale Primary Constituent Element

Primary Constituent Element 1—Areas with vegetation composed primarily of sagebrush plant communities of sufficient size and configuration to encompass all seasonal habitats for a given population of greater sage-grouse, or facilitate movements within and among populations. This includes former sagebrush communities in specific locations that are currently primarily woodland encroached sites that potentially provide connectivity between populations.

Site-Scale Primary Constituent Elements

Primary Constituent Element 2—Breeding habitat composed of sagebrush plant communities with structural characteristics within the ranges described in Table 1, below. Habitat structure values are average values.

TABLE 1—BI-STATE DPS OF GREATER SAGE-GROUSE STRUCTURAL GUIDELINES FOR BREEDING HABITAT

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	>20 percent.
Non-sagebrush Canopy Cover.	>20 percent.
Total Shrub Canopy Cover.	>40 percent.
Sagebrush Height	>30 cm (12 in).
Perennial Grass Cover.	No less than 5 percent but >10 percent if total shrub cover <25 percent.
Annual Grass Cover	<5 percent.
Forb Cover	>10 percent.
Grass/Forb Height	>18 cm (7 in).

Primary Constituent Element 3—Brood-rearing habitat composed of sagebrush plant communities and mesic habitats used primarily in the summer to late fall season. These sites include, but are not limited to, riparian communities, springs, seeps, and mesic meadows with structural characteristics within the ranges described in Table 2, below.

TABLE 2—BI-STATE DPS OF GREATER SAGE-GROUSE STRUCTURAL GUIDELINES FOR BROOD-REARING HABITAT

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	10 to 25 percent.
Total Shrub Canopy Cover.	14 to 25 percent.
Sagebrush Height	>30 cm (12 in).
Perennial Grass Cover.	>7 percent.
Perennial Forb Diversity.	>5 species present.
Forb Cover	>7 percent.
Grass/Forb Height	18 cm (7 in).
Meadow Edge (ratio perimeter to area).	>0.015.
Species Richness	>5 species.

Primary Constituent Element 4—Winter habitat composed of sagebrush plant communities with sagebrush canopy cover greater than 10 percent and sagebrush height of greater than 25 cm (9.8 in) above snow level.

For the PCEs 2 through 4, we adopt the values from the literature on greater sage-grouse, but we modify them where available with specific research conducted in the Bi-State area and southern Great Basin. These data combined provide structural habitat values for Bi-State DPS of greater sage-grouse in all seasonal habitats. Source data include structural vegetation data collected in the breeding season (Connelly *et al.* 2000a; Hagen *et al.* 2007; Kolada *et al.* 2009a; Kolada *et al.* 2009b; Coates and Delehanty 2010; Blomberg *et al.* 2012), summer-fall (Casazza *et al.* 2011; Coates *et al. in prep.* a), and winter (Connelly *et al.* 2000a; Coates *et al. in prep.* b). To the greatest extent possible, these structural habitat values are representative of the southern Great Basin and the Bi-State area specifically, and reflect the shrub structure, understory structure, and understory composition selected for by greater sage-grouse in this region. As such, these values are based on the most current and comprehensive assessment of the Bi-State DPS habitat structure. We consider an area critical habitat if its average vegetation values are within the values for the majority of structural categories for any given PCE (see Tables 1 and 2, above).

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. All units proposed for designation as critical habitat, as described below, require some level of management to address the current and future threats to the physical and biological features essential to the conservation of Bi-State DPS of greater sage-grouse. In all of the described units, special management may be required to ensure that the habitat is able to provide for the biological needs of this DPS.

A detailed discussion of the current and future threats to the Bi-State DPS of greater sage grouse can found in the Species Report available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0042 and summarized in the proposed listing rule to list the species as threatened, which is published elsewhere in today's **Federal Register**, in the section entitled *Summary of Factors Affecting the Species.* In general, the features essential to the conservation of the Bi-State DPS may require special management considerations or protection to reduce the following individual threats and their interactions: The spread of invasive plant species and associated changes in sagebrush plant community structure and dynamics; wildfire and altered fire regime; residential and commercial development, including associated land-clearing activities for the construction of access roads, utilities, and fences; increased recreational use of roads and trails; the proliferation of predators; improper grazing management; and other activities that result in the loss or degradation of sagebrush plant communities. The largest, overarching concern to the Bi-State DPS is multiple threats acting upon the landscape that are resulting in habitat fragmentation. The aforementioned activities are having direct and indirect effects on the birds' habitat and behavior, and are cumulatively and individually increasing habitat fragmentation.

The physical and biological features contained within the units designated as critical habitat may require special management considerations or protection to address the threats mentioned above. Based on our analysis of threats to the Bi-State DPS of greater sage-grouse, management activities that could ameliorate these threats include, but are not limited to:

(1) Comprehensive land-use planning and implementation that prevents a net decrease in the extent and quality of the DPS's habitat through the prioritization and protection of habitats and monitoring; protection of lands by fee title acquisition or the establishment of permanent conservation easements;

(2) Management of recreational use to minimize direct disturbance and habitat loss;

(3) Control of nonnative, invasive plants and native, invasive plants to reduce further habitat loss and reduce the potential for wildfires;

(4) Management of domestic and wild ungulate use to ensure the suitable sage-grouse habitat meets or exceeds the structural habitat components required by sage-grouse;

(5) Monitoring and management of predator communities to determine impacts and help reduce potential predation;

(6) Coordinated and monitored habitat restoration or improvement projects to increase the amount of suitable habitat, particularly within fragemented areas and migration corridors; and

(7) Implementation of wildfire suppression, particularly in big sagebrush plant associations, to reduce further loss of big sagebrush communities that sage-grouse rely on for multiple life stages.

Such special management activities may be required to protect the physical and biological features essential to the conservation of the DPS, and support the conservation of the DPS by preventing or reducing the loss, degradation, and fragmentation of sagebrush landscapes. Additionally, management of critical habitat features can increase the amount of suitable

habitat and enhance connectivity among sage-grouse populations in the Bi-State area through the restoration of lands that were previously composed of sagebrush plant communities. The limited extent of sagebrush habitat throughout the DPS's current range (as well as the significantly fragemented nature of the remaining sagebrush habitat) emphasizes the need for special management of these corridors/sites for the Bi-State DPS' use, thus potentially providing unfragmented habitat needed to survive and recover.

In some cases, continuing current land management practices may be appropriate and beneficial for the Bi-State DPS. For instance, continued irrigation and maintenance of hay and alfalfa fields on private lands near sagebrush habitats may help provide or enhance brood-rearing, mesic habitats for the Bi-State DPS. We acknowledge the ongoing and proposed conservation efforts of many entities across the range of the Bi-State DPS, such as the Natural Resource Conservation Service (NRCS) Sage Grouse Initiative (*http://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/*), that include many partners to implement conservation actions. We are currently coordinating with Federal agencies to ensure a seamless continuation of conservation practices if final rules are published for a listing determination and critical habitat designation.

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 and identify specific areas within the geographical area occupied at the time of listing that contain the features essential to the conservation of the species. If, after identifying these specific areas, a determination is made whether these areas are inadequate to ensure conservation of the species, in accordance with the Act and our implementing regulations at 50 CFR 424.12(e), we then consider whether designating additional areas—outside of the geographical area currently occupied—are essential for the conservation of the species. As a result of this analysis, we are proposing to designate critical habitat within the geographical area occupied by the species at the time of listing (currently occupied) on which are found those physical or biological features essential to the conservation of the DPS and which may require special management considerations or protection. Some of the units we are proposing to designate as critical habitat contain corridors/sites that are currently unsuitable for use because of woodland encroachment. These corridors/sites are interspersed within sutiable habitat that is currently used by the DPS. These sites provide essential connectivity corridors and habitat extent necessary for the conservation and recovery of the DPS (see the Physical or Biological Features section above). Once special management designed to improve the condition of these interspersed corridors/sites has been implemented, they will help ensure long-term conservation of the DPS and provide connectivity between currently fragmented areas. We are not proposing to designate specific areas outside the geographical area currently occupied by the DPS.

We delineated the critical habitat unit boundaries as follows:

We based our identification of lands that contain physical and biological features essential to the conservation of the Bi-State DPS of greater sage-grouse on polygons delineated and defined by the Bi-State TAC during the development of the 2012 Bi-State greater sage-grouse Preliminary Priority Habitat (PPH) Map (Bi-State TAC 2012b), and a map product depicting occupied habitat developed by the Bureau of Land Management (BLM) in conjunction with the U.S. Forest Service in 2008 (BLM 2008). The Bi-State TAC is comprised of biologists representing the California Department of Fish and Wildlife (CDFW), Nevada Department of Wildlife (NDOW), BLM, the U.S. Forest Service, NRCS, USGS, and our offices (i.e., the Service). Both of these products (i.e., the PPH map and BLM map) largely correlate with one another, although the combined map encompasses more area than either product individually. The PPH map developed in 2012, was largely informed by Resource Selection Function (RSF) equations. RSFs are ranked habitat suitability factors that predict what areas an animal will use or avoid. We consider polygons derived through modeling RSFs to be the area currently suitable for sage-grouse in the Bi-State area. RSFs predict suitable habitat and thus likely overestimate the currently utilized habitat; however, a significant amount of sage-grouse population and habitat use data specific to the Bi-State area were used to develop these data layers, thus resulting in a high-quality mapping product for use as the best available information. Ground-truthing of many of these areas confirms this mapping effort is accurate for predicting use by sage-grouse (Coates 2012, pers. comm.). Thus, we consider the polygons delineated through this process to be currently occupied. The 2008 BLM map was informed by the delineation of existing vegetation and expert opinion, and similarly we consider the polygons delineated through this process to be currently suitable habitat in this proposal. Therefore, combining the PPH map derived by RSFs and the 2008 BLM map contributes to our understanding of what constitutes currently suitable and potentially usable habitat.

RSFs are a data-driven approach used to identify suitable habitat. The RSF process used readily available, broad-scale, vegetation maps; more than 7 years of radio telemetry data; and on-the-ground vegetation data collected from across the range of the Bi-State DPS. Specifically, the approach used to identify the critical habitat units includes the following steps:

(1) A land cover map was developed for Nevada and California. This map is a synthesis of multiple, existing, broad-scale, vegetation mapping products (e.g., SynthMap, LANDFIRE, SageStitch, FRAP). Additional map layers were developed for environmental factors thought to be important to the Bi-State DPS, including maps of pinyon-juniper vegetation (dominated by *Pinus edulis* (pinyon pine) and various *Juniperus* (juniper) species that can encroach upon, infill, and eventually replace sagebrush habitat) cover classes used as surrogates for phases of encroachment, topographic variables (i.e., elevation, ruggedness, and slope), agricultural areas, and anthropogenic factors (i.e., urbanization, roads, and recreation).

(2) RSFs were developed by modeling the relative probability of occurrence as a function of different environmental factors. These factors consisted of vegetation types, pinyon-juniper cover classes, agricultural areas, elevation, ruggedness, slope, roads, recreation, and urbanization. The factors were measured at multiple spatial scales that reflect movement patterns of the Bi-State DPS. The modeling process contrasted these environmental factors for sites used by Bi-State DPS of greater sage-grouse (which included more than 12,500 individual sage-grouse telemetry locations) to available sites (which were randomly generated locations distributed throughout each PMU). Contrasting the environmental factors in areas known to be used by the species versus areas available provided information about what factors (e.g., urbanization, pinyon-juniper woodland sites) correlated with the Bi-State DPS's

selection or avoidance of a specific location. The Pine Nut PMU was analyzed separately from the other five PMUs because the population within this PMU exhibits strong differences in behavior and influential environmental factors compared to other greater sage-grouse populations in the Bi-State area.

(3) RSFs were applied to the map layers developed in Step 1 to calculate an overall probability of use per pixel. This created a single habitat suitability map and resulted in a surface of predicted use by sage-grouse across the range of the Bi-State DPS. This surface was represented by probability values that ranged across a continuous spectrum of 0.0 to 1.0.

(4) To identify currently usable habitat, the values from the habitat suitability map were extracted for 1,300 independent sage-grouse telemetry point locations within the Bi-State area. These newly derived habitat suitability values are associated with areas known to be used by the Bi-State DPS based on independent telemetry point data. We then reclassified this data into binary values (i.e., suitable habitat and potentially unsuitable or less than suitable habitat) for each PMU.

(5) The raster cells classified as suitable habitat were converted to polygons and smoothed using a distance of 1 km (0.6 mi). This value was used because it was sufficiently coarse to alleviate pixilation associated with raster data sets but not overly coarse to where the resulting map altered significantly from the original layers. Thus, the resulting map provided a more easily interpretable layer conducive to management.

(6) All urban areas were digitized and based on model performance at multiple scales; large-bodied standing water areas and other areas that exceeded 1 square km (247 ac) were removed because they are not considered suitable habitat.

(7) A second independent telemetry data set (more than 1,000 points) was used to validate the modeling; greater than 99 percent of the telemetry points fell within the mapped PPH areas generated from the RSF. This step validated that this data-driven approach to identify suitable habitat performed well.

A spatially explicit habitat-suitability model developed for the Bi-State DPS (Bi-State Technical Team 2012, unpublished data) predicts the location of usable habitat within the current range of the Bi-State DPS. The best available data from modeling exercises (as discussed above in this section) includes roughly 590,184 ha (1,458,381 ac) of suitable habitat within the range of the DPS.

(8) To identify acres that are currently less than suitable (e.g., areas exhibiting less than optimal habitat conditions within the present range of the DPS that were either known or likely to be historically utilized), we examined information pertaining to potential woodland restoration sites identified in the 2012 Bi-State Action Plan (Bi-State TAC 2012a, pp. 90–95).

We identified potential habitat as unused habitats that could be suitable for occupation of sage-grouse if practical management was applied. These corridors/sites are most commonly former sagebrush areas overtaken by pinyon-juniper woodlands. To further refine these areas, we identified locations that are: (1) Contiguous with currently utilized habitat that occurs within the present range, (2) provide for connectivity between and within populations, and (3) identified within the 2012 Bi-State Action Plan. We consider the size and degree of isolation among various populations contained within the Bi-State DPS to be a significant conservation concern; therefore, regaining historical connectivity among populations is essential to the conservation of the species. The corridors/sites are all contained within the borders of the delineated PMUs.

(9) To match the approach adopted during the development of the RSF product, we adjusted the 2008 BLM map utilizing a similar process by converting the raster cells to polygons and smoothing the polygons using a distance of 1 km (0.6 mi). These three datasets were then merged together into a unified layer within a GIS.

(10) Utilizing the unified data layer, we identified small, isolated, and disjunct polygons that were not considered to meet the intent of the landscape-scale primary constituent element (PCE 1) and were not considered necessary for the recovery of the species. These polygons were removed from the dataset resulting in our proposed critical habitat map. We specifically request comments on this and other criteria described above.

As described in more detail in the Species Report (Service 2013a, pp. 17–29) and the proposed listing rule for the Bi-State DPS of greater sage-grouse (published elsewhere in today's **Federal Register**), there are currently six PMUs delineated in the Bi-State area: (1) Pine Nut, (2) Desert Creek–Fales, (3) Bodie, (4) Mount Grant, (5) South Mono, and (6) White Mountains (see Background section above, and the Background section of the proposed listing rule published elsewhere in today's **Federal Register**).

Proposed critical habitat units for the Bi-State DPS collectively contain relatively small and discrete populations that are needed to ensure resilience in the face of environmental fluctuations and catastrophic events, and to ensure the continuation of evolutionary process (see ''Species Information'' section of the proposed listing rule published elsewhere in today's **Federal Register**, and the ''Current Range/Distribution and Population Estimates/Annual Lek Counts'' section of the Species Report (Service 2013a, pp. 17–28). Thus, the units contain the physical and biological features that are essential to the conservation of the species. The corridors/sites that are currently experiencing woodland encroachment are contiguous with the suitable habitat, and are a feature that is essential to the conservation of the Bi-State DPS. These corridors/sites provide connectivity between the current populations and reduce habitat fragmentation, which in turn impacts sage-grouse population dynamics. Once special management designed to improve the condition of these corridors/sites has been implemented, they would provide needed connectivity among currently disjunct populations and additional habitat extent, thereby increasing overall habitat redundancy. The best available information indicates that, with proper protection and management, the proposed critical habitat units are sufficient to provide for the conservation of the species.

While there are six PMUs, we are proposing four units as critical habitat for the Bi-State DPS. Units are proposed for designation based on sufficient elements of physical or biological features being present to support the Bi-State DPS's life-history processes. All units individually contain all of the identified elements of physical and biological features, and each unit as a whole supports multiple life-history processes.

We are proposing for designation of critical habitat lands that we have determined are within the geographical area occupied at the time of listing and contain the physical or biological features essential to the conservation of the DPS.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the Bi-State DPS. 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 proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, 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.

The proposed 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 rule portion. 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 at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0042, on our Internet sites (Reno Fish and Wildlife Office (*http://www.fws.gov/nevada/*) and Ventura Fish and Wildlife Office (*http://www.fws.gov/ventura/*)), and at the field office responsible for the designation (see **FOR FURTHER INFORMATION CONTACT** above).

Proposed Critical Habitat Designation

We are proposing to designate approximately 755,960 ha (1,868,017 ac) in four units as critical habitat for the Bi-State DPS of greater sage-grouse, all of which are considered currently occupied. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the Bi-State DPS. The four units we propose as critical habitat correspond to the four populations recognized by the Western Association of Fish and Wildlife Agencies (WAFWA), which include: (1) Pine Nut, (2) North Mono Lake, (3) South Mono Lake, and (4) White Mountains. These units are contained within the PMU boundaries (which are identified on the maps in the Proposed Regulation Promulgation section of this proposed rule); however, the proposed North Mono Lake Unit (Unit 2) combines three PMUs (Desert Creek–Fales, Bodie, and Mount Grant PMUs) into a single unit. Approximately 75 percent (about 564,578 ha (1,395,103 ac)) of the area within the four units is currently suitable habitat and approximately 25 percent (about 191,381 ha (472,914 ac)) is contiguous with currently suitable habitat but is considered less than suitable for current use. Table 3 shows land ownership and approximate areas of the proposed designated areas for the Bi-State DPS.

TABLE 3—PROPOSED CRITICAL HABITAT UNITS FOR THE BI-STATE DPS IN NEVADA AND CALIFORNIA

[Area estimates reflect all land within critical habitat unit boundaries.]

Critical habitat unit	Land ownership by type	Size of unit in hectares (acres)
1. Pine Nut	Tribal	10,401 (25,701)
	Federal	92,324 (228,137)
	State	4,822 (11,917)
	Private	14,197 (35,081)
Subtotal Unit 1		121,744 (300,836)
2. North Mono Lake	Tribal	16 (40)
	Federal	294,775 (728,404)
	State	3,374 (8,338)
	Local Agency	1,295 (3,200)
	Private	46,031 (113,744)
Subtotal Unit 2		345,491 (853,726)
3. South Mono Lake	Tribal	161 (398)
	Federal	138,905 (343,242)
	State	1,345 (3,323)
	Local Agency	13,312 (32,894)
	Private	7,750 (19,151)
Subtotal Unit 3		161,473 (399,008)
4. White Mountains	Tribal	521 (1,286)
	Federal	123,831 (305,994)
	Private	2,901 (7,167)
Subtotal Unit 4		127,252 (314,447)
Subtotal	Tribal	11,099 (27,425)
	Federal	526,128 (1,605,777)
	State	9,541 (23,578)
	Local Agency	14,607 (36,094)
	Private	70,878 (175,143)
GRAND TOTAL		755,960 (1,868,017)

Note: Area sizes may not sum due to rounding.

We present brief descriptions of the four units and reasons why they meet the definition of critical habitat for the Bi-State DPS, below.

Unit 1: Pine Nut

The Pine Nut Unit consists of approximately 121,744 ha (300,836 ac) and is located in Mono and Alpine Counties, California, and Douglas, Lyon, and Carson City Counties, Nevada. The unit encompasses the Pine Nut Mountains and represents the northern extent of the DPS. It extends from the Carson River south to the West Fork Walker River. The southwestern boundary extends into California encompassing Slinkard Valley near

Woodford, California. Land ownership within this unit consists of approximately 92,324 ha (228,137 ac) of Federal land, 4,822 ha (11,917 ac) of State land, 10,401 ha (25,701 ac) of Washoe Tribe of Nevada and California tribal land, and 14,197 ha (35,081 ac) of private land. The Pine Nut Unit includes lands in the Humboldt-Toiyabe National Forest and lands managed by the Carson City District Office of the BLM. State lands within this unit include Slinkard/Little Antelope Valley Wildlife Area.

This unit is considered to be within the geographical area occupied by the species at the time of listing and contains the physical or biological features essential to the conservation of the DPS. This unit is important for the conservation of the DPS due to the redundancy and additional distributional extent it affords the remainder of the Bi-State DPS. The physical or biological features essential to the conservation of the Bi-State DPS in the Pine Nut Unit may require special management considerations or protection due to the presence of fire; woodland encroachment; nonnative, invasive species; urbanization and human disturbance; infrastructure; feral horses; predation; and additional localized and less severe impacts.

Unit 2: North Mono Lake

The North Mono Lake Unit consists of approximately 345,491 ha (853,726 ac) and is located in Alpine and Mono Counties, California and Lyon, Douglas, and Mineral Counties, Nevada. The unit extends from southern Smith Valley, Nevada in the north to Mono Lake, California in the south, and the Wassuk Range in Nevada in the east to the foothills of the Sierra Nevada mountain range in the west. Land ownership within this unit consists of approximately 294,775 ha (728,404 ac) of Federal land, 3,374 ha (8,338 ac) of State land, 1,295 ha (3,200 ac) of local agency (County or City) lands, 16 ha (40 ac) of Bridgeport Paiute Indian Colony tribal lands, and 46,031 ha (113,744 ac) of private land. The North Mono Lake Unit includes lands in the Humboldt-Toiyabe National Forest (including Forest Service lands utilized for military readiness via a 40-year special use permit with the Marine Corps' Mountain Warfare Training Center), and BLM's Bishop Field Office and Carson City District Office. State lands within this unit include the Green Creek, East Walker River, Slinkard/Little Antelope Valley, and Pickel Meadow Wildlife Areas.

This unit is considered to be within the geographical area occupied by the DPS at the time of listing and contains the physical or biological features essential to the conservation of the DPS. The Bodie Hills population contained within this unit represents one of the two largest (core) populations within the Bi-State DPS and as such, the habitat in this unit is important for the conservation of the DPS. The Bodie Hills population harbors greater than 30 percent of the entire Bi-State DPS sage-grouse population, providing both resiliency and redundancy to the DPS. In addition, several peripheral populations in the Desert Creek-Fales and Mount Grant PMUs are contained within this unit and afford additional redundancy and distributional extent. The physical or biological features essential to the conservation of the Bi-State DPS in the North Mono Lake Unit may require special management considerations or protection due to the risk posed by fire; woodland encroachment; infrastructure; urbanization; mineral and energy development; feral horses; nonnative, invasive species; human disturbance; and other localized and less severe threats.

Unit 3: South Mono Lake

The South Mono Lake Unit consists of approximately 161,473 ha (399,008 ac), and is located entirely within Mono County, California. The unit extends from Mono Lake in the north to Lake Crowley in the south, and from the Nevada and California border in the east to the foothills of the Sierra Nevada Mountains in the west. Land ownership within this unit consists of approximately 138,905 ha (343,242 ac) of Federal land, 1,345 ha (3,323 ac) of State land, 13,312 ha (32,894 ac) of local agency land, 161 ha (398 ac) of Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation (California), and 7,750 ha (19,151 ac) of private land. The South Mono Lake Unit includes lands in the Inyo National Forest and the BLM Bishop Field Office. The majority of City lands within this unit are owned by the City of Los Angeles and managed by the Los Angeles Department of Water and Power.

This unit is considered to be within the geographical area occupied by the species at the time of listing and contains the physical or biological features essential to the conservation of the DPS. The Long Valley population contained within this unit represents one of the two largest remaining populations within the Bi-State DPS and as such habitat in this unit is important for the conservation of the DPS. The Long Valley population harbors approximately 30 percent of the entire Bi-State DPS sage-grouse population, providing both resiliency and redundancy to the DPS. The physical or biological features essential to the conservation of the Bi-State DPS in the South Mono Lake Unit may require special management considerations or protection due to the risk presented by fire, human footprint (e.g., urbanization (such as mesic areas for late sage-grouse brood-rearing), infrastructure, recreation), woodland expansion, and other localized and less severe threats.

Unit 4: White Mountains

The White Mountains Unit consists of approximately 127,252 ha (314,447 ac) and is located in Inyo and Mono Counties, California and Esmeralda and Mineral Counties, Nevada. The White Mountains Unit is situated in the southern extent of the Bi-State DPS's range. The unit extends from the Candelaria Hills and Truman Meadows areas in the north to California Highway 168 in the south, and from California Highway 6 in the west to the Silver Peak Range in Nevada. Land ownership within this unit consists of approximately 123,831 ha (305,994 ac) of Federal land, 521 ha (1,286 ac) of Death Valley Timbi-sha Shoshone tribal land, and 2,901 ha (7,167 ac) of private land. The White Mountains Unit includes lands in the Inyo and Humboldt-Toiyabe National Forests, and the Bishop, Tonopah, and Stillwater Field Offices of the BLM.

This unit is considered to be within the geographical area occupied by the species at the time of listing and contains the physical or biological features essential to the conservation of the DPS. This unit is important for the conservation of the DPS due to the redundancy, resiliency, and representation it affords the remainder of the Bi-State DPS. The population represents approximately 5 to 10 percent of the entire DPS. The unit remains generally remote and isolated and lacks many of the immediate anthropogenic stressors apparent in other portions of the DPS; thus the additional redundancy and resiliency afforded by this area may influence conservation of the entire DPS in the future. Additionally, this population has a unique genetic signature and occurs at high elevation on the extreme southwest portion of the DPS's range, thereby adding ecological and genetic representation not found elsewhere across the DPS's range. The physical or biological features essential to the conservation of the Bi-State DPS in the White Mountains Unit may require special management considerations or protection due to the presence of

woodland expansion; urbanization; feral horses; nonnative, invasive species; fire; and limited population size among other more localized and less severe stressors.

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 that is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed 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.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other manmade structures because such lands lack physical and biological features necessary for greater sage-grouse. 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 sites. Therefore, if the critical habitat is finalized as proposed, 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 and biological features in the adjacent critical habitat.

Likewise, due to past land uses, vegetation changes, or a number of other natural or manmade factors, some areas within the mapped proposed critical habitat may currently lack the site-specific physical and biological features (primary constituent elements) necessary to support bi-state DPS of greater sage-grouse (see section, Primary Constituent Elements for Bi-state DPS of Greater Sage-grouse). If critical habitat is designated, for actions involving lands that lack the primary constituent elements for this species, section 7 consultation as it relates to critical habitat would not be required.

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 Bi-State DPS. 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 Bi-State

DPS. These activities include, but are not limited to:

(1) Actions that would result in the loss of sagebrush overstory plant cover or height. Such activities could include, but are not limited to, the removal of native shrub vegetation by any means for any infrastructure construction project; direct conversion to agricultural land use; habitat improvement or restoration projects involving actions such as (but not limited to) mowing, brush-beating, disking, plowing, or prescribed burning; and fire suppression activities. These activities could eliminate or reduce the habitat necessary for the growth and reproduction of sage-grouse in the Bi-State area, at least on a short-term basis.

(2) Actions that would result in the loss or reduction in native herbaceous understory plant cover or height; a reduction or loss of associated arthropod communities; or ground disturbance that would result in removal or depletion of surface and ground water resources that impact brood-rearing habitat. Such activities could include, but are not limited to, improper livestock grazing; application of herbicides or insecticides; prescribed burning and fire suppression activities; seeding of nonnative plant species that would compete with native species for water, nutrients, and space; groundwater pumping; and water diversions for irrigation and livestock watering. These activities could eliminate or reduce the quality of the habitat necessary for the growth and reproduction of sage-grouse in the Bi-State area through a reduction in food quality and quantity, and increased exposure to predation.

(3) Actions that would result in the Bi-State DPS's avoidance of an area during one or more seasonal periods. Such activities could include, but are not limited to, the construction of vertical structures such as power lines, fences, communication towers, and buildings; motorized and non-motorized recreational use; and activities such as well drilling, operation, and maintenance, which would entail significant human presence, noise, and infrastructure. These activities could result in the direct and functional loss of habitat if sage-grouse avoid or reduce use of otherwise suitable habitat in the vicinity of these structures or concentrated activity centers throughout the Bi-State area.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete an INRMP by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

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 proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for the Bi-State DPS to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. Department of Defense lands with a completed, Service-approved INRMP within the proposed critical habitat designation include the Hawthorne Army Depot. The Marine Corps' Mountain Warfare Training Center occurs outside of the proposed critical habitat boundary but conducts training via a 40-year special use permit on U.S. Forest Service lands within the proposed area (see discussion below under the ''Exclusions Based on National Security Impacts'' section). The Marine Corps does not currently have an INRMP; however, should the Marine Corps' Mountain Warfare Training Center complete an INRMP, we would conduct an analysis to determine if they meet the criteria for exemption from the final critical habitat designation under section 4(a)(3) of the Act.

Approved INRMPs

Hawthorne Army Depot, 5,421 ha (13,397 ac)

The Hawthorne Army Depot is located on lands in Mineral County surrounding the town of Hawthorne, Nevada, approximately 209 km (130 mi) southeast of Reno, Nevada, on the southern shore of Walker Lake. The 59,584-ha (147,236-ac) installation encompasses lands in the Wassuk Range, centered on Mount Grant, where overlap with the Bi-State DPS distribution occurs. The Hawthorne Army Depot's military mission is to test and demilitarize munitions, maintain equipment, provide high-desert training facilities for military units, and provide tenant support while maintaining ecosystem viability to support the military mission.

The U.S. Army's INRMP is a planning document that guides the management and conservation of natural resources under the installation's control, specifically to guide the natural resources management program from 2013 to 2018, and provide a solid foundation for Hawthorne Army Depot on which to build the program beyond 2018 (DOD 2013, p. ES–1). Implementing this INRMP will allow Hawthorne Army Depot to achieve its goal to ensure the sustainability to test and demilitarize munitions, maintain equipment, and provide tenant support while maintaining ecosystem viability (DOD 2013, p. ES–1). Compliance with this INRMP ensures that natural resource conservation measures and Army activities on Hawthorne Army Depot land are integrated and consistent with Federal stewardship requirements (DOD 2013, p. ES–1). The most recent INRMP (updated from previous versions) was approved by the Service on August 28, 2013 (DOD 2013, entire), is currently being implemented, and provides a conservation benefit to the Bi-State DPS. Approximately 5,421 ha (13,397 ac) of lands (occurring within the footprint of Unit 2) within this installation supports habitat currently occupied by the Bi-State DPS that provides a conservation benefit to the DPS.

The INRMP includes Bi-State DPS management as a high priority project, specifically by implementing conservation strategies as identified

through continued multi-agency coordination. Hawthorne Army Depot's primary objective for managing special-status species (including the Bi-State DPS) is to: (1) Maintain conditions that buffer the effects of the military mission on the species and their habitat, (2) support monitoring efforts to document the health of species, and (3) enhance the habitats of the species (DOD 2013, p. 3–17). Management actions that provide a conservation benefit to the Bi-State DPS (i.e., managing and increasing the population of and habitat quality for sage-grouse) include, but are not limited to:

(1) Reducing population loss from poachers.

(2) Improving habitat in the Mount Grant North Cat area by installing rock dikes or similar infrastructure to minimize snowmelt runoff and to create riparian habitat in the meadow area.

(3) Possible removal of pinyon-juniper communities at higher elevations of Mount Grant to increase sage-grouse populations and minimize predation.

(4) Preventing hunting on the installation. And

(5) Implementing conservation strategies identified through multi-agency efforts (e.g., Bi-State Action Plan) (DOD 2013, pp. 3–17–3–18).

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Hawthorne Army Depot INRMP and that conservation efforts identified in the INRMP will provide a benefit to the Bi-State DPS. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3) of the Act. We are not including 5,421 ha (13,397 ac) of habitat in this proposed critical habitat designation because of this exemption.

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.

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.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

When identifying the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan that provides equal to or more conservation than a critical habitat designation would provide.

In the case of the Bi-State DPS, the benefits of critical habitat include public awareness of sage-grouse presence and the importance of habitat protection, and in cases where a Federal nexus exists, increased habitat protection for the Bi-State DPS due to the protection from adverse modification or destruction of critical habitat. In practice, a Federal nexus exists primarily on Federal lands or for projects undertaken by Federal agencies. Since the Bi-State DPS and its habitat primarily occur on Federal lands, we have been coordinating with Federal agencies on their efforts to conserve the Bi-State DPS, and we would anticipate a significant amount of coordination via section 7 consultations if the proposed listing and proposed critical habitat are finalized. The coordination with Federal partners conducted to date has resulted in multiple conservation plans or strategies for Federal lands (and to some extent on private lands) throughout the Bi-State area.

When we evaluate a management plan during our consideration of the benefits of exclusion, we assess a variety of factors, including but not limited to, whether the plan is finalized, how it provides for the conservation of the essential physical or biological features, whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan will be implemented into the future, whether the conservation strategies in the plan are likely to be effective, and whether the plan contains a monitoring program or adaptive management to ensure that the conservation measures are effective and can be adapted in the future in response to new information.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Based on the information provided by entities seeking exclusion, as well as any additional public comments we receive, we will evaluate whether certain lands in the proposed critical habitat units are appropriate for exclusion from the final designation under section 4(b)(2) of the Act. If the analysis indicates that the benefits of excluding lands from the final designation outweigh the benefits of designating those lands as critical habitat, then the Secretary may exercise her discretion to exclude the lands from the final designation.

We are considering excluding the following areas under section 4(b)(2) of the Act from the final critical habitat designation for the Bi-State DPS. Table 4 below provides approximate areas (ha, ac) of lands that meet the definition of critical habitat but are under our consideration for possible exclusion under section 4(b)(2) of the Act from the final critical habitat rule.

TABLE 4—AREAS MEETING THE DEFINITION OF CRITICAL HABITAT AND AREAS BEING CONSIDERED FOR EXCLUSION FROM THE CRITICAL HABITAT DESIGNATION FOR THE BI-STATE DPS

Unit	Area considered for exclusion	Areas meeting the definition of critical habitat, in hectares (acres)	Areas being considered for exclusion, in hectares (acres)
Unit 1. Pine Nut	None	121,744 (300,836)	None
Unit 2. North Mono Lake	Department of Defense, Marine Corps Mountain Warfare Training Center.	345,491 (728,404)	9,818 (26,262)
	Los Angeles Department of Water and Power.		1,002 (2,478)
Unit 3. South Mono Lake	Los Angeles Department of Water and Power.	161,473 (399,008)	14,533 (35,911)
Unit 4. White Mountains	None	127,252 (314,448)	None
TOTAL		755,960 (1,868,017)	25,353 (64,651)

However, we specifically solicit comments on the inclusion or exclusion of the areas shown in Table 4. In the paragraphs below, we provide an analysis of our considered exclusion of these lands under section 4(b)(2) of the Act.

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 are preparing an analysis of the economic impacts of the proposed critical habitat designation and related factors. Although the majority of lands in the proposed critical habitat are federally owned, private lands are also present in all four units. Federal lands include areas with mining leases, geothermal energy development, grazing permits, rights-of-way for utilities and telecommunications, and recreational uses. Several State-owned parcels are included in some units where hunting, wildlife viewing, and other recreational activities occur, and tribal lands are also included. The economic analysis will estimate the economic impact of a potential designation of critical habitat on these activities.

During the development of a final designation, we will consider economic impacts based on information in our economic analysis, public comments, and other new information, and areas may be excluded from the final critical habitat designation under section 4(b)(2) of the Act and our implementing regulations at 50 CFR 424.19.

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. Lands eligible for exclusion include those utilized by the Marine Corps (Mountain Warfare Training Center) for military readiness, as discussed above in Application of Section 4(a)(3) of the Act.

The Marine Corps' Mountain Warfare Training Center is located on lands in Mono County near Sonora Junction, California, approximately 160 km (100 mi) south of Reno, Nevada. The approximately 243-ha (600-ac) installation encompasses lands outside the range of the Bi-State DPS, but military training activities occur on U.S. Forest Service lands contained within our proposed critical habitat boundary. Training activities on U.S. Forest Service lands occur via a special use permit (Forest Service 2012a–d, entire). We have been in support of the requirements established under the special use permit and currently operating greater sage-grouse management direction. The Mountain Warfare Training Center is a training site for Marines preparing to serve in mountainous regions, with an emphasis on training for cold weather and high altitudes. Training activity primarily involves limited personnel pedestrian activities, helicopter landing and deployment sites, and vehicle exercises on established roads. Approximately 9,818 ha (26,262 ac) in Unit 2 of Forest Service land utilized by the Marine Corps for the Mountain Warfare Training Center supports habitat currently occupied by the Bi-State DPS that contains the physical and biological features essential to the conservation of the species, including nesting, brood-rearing, and wintering seasonal habitats.

While we do not have information currently indicating that these lands utilized by the Department of Defense for military readiness and the remaining lands within the proposed designation of critical habitat for the Bi-State DPS will have an impact on national security, we may consider excluding certain lands in the final rule. Consequently, the Secretary does not propose to exert her discretion to exclude any areas from the final designation based on impacts on national security at this time. However, should the Marine Corps' Mountain Warfare Training Center or another entity identify impacts to national security that may result from designating critical habitat on lands owned, managed, or utilized by the Department of Defense, or on the remaining lands within the critical habitat footprint, we may consider excluding those lands in the final rule. Alternatively, should the Marine Corps' Mountain Warfare Training Center complete an INRMP, we would conduct an analysis to determine if it meets the criteria for exemption from the final critical habitat designation under section 4(a)(3) of the Act (see *Application of Section 4(a)(3) of the Act,* above).

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.

Land and Resource Management Plans, Conservation Plans, or Agreements Based on Conservation Partnerships

We consider a current land management or conservation plan (HCPs as well as other types) to provide adequate management or protection if it meets the following criteria:

(1) The plan is complete and provides a conservation benefit for the species and its habitat;

(2) There is a reasonable expectation that the conservation management strategies and actions will be implemented for the foreseeable future, based on past practices, written guidance, or regulations; and

(3) The plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology.

We believe that the Los Angeles Department of Water and Power's (LADWP's) conservation strategy (which includes development of an memorandum of understanding (MOU)), along with our ongoing partnership with this agency, fulfills the above criteria, and we are considering the exclusion of lands covered by this conservation strategy that provides for the conservation of the Bi-State DPS. We are requesting comments on the benefit to the Bi-State DPS from this conservation strategy (see Information Requested section above) for this considered exclusion. At this time, we are not proposing the exclusion of any areas in the proposed critical habitat for the Bi-State DPS.

Los Angeles Department of Water and Power (LADWP) Conservation Strategy

The LADWP owns and manages approximately 15,535 ha (38,389 ac) of the Bi-State DPS's habitat within the Bodie and South Mono PMUs (North Mono Lake Unit 2 and South Mono Lake Unit 3) in Mono County, California. The LADWP has been managing their lands for the conservation of the Bi-State DPS, including implementing measures that enhance the habitat and also reduce threats. Additionally, LADWP is developing an HCP that would provide a conservation benefit to the Bi-State DPS and its habitat. The activities we anticipate to be covered in the HCP are fire and weed (i.e., nonnative, invasive plants) management, livestock grazing, irrigated agriculture (i.e., irrigated pasture management), recreation, road maintenance and closures (i.e., infrastructure—roads), power production, and power transmission (i.e., infrastructure—power lines). Past and current beneficial conservation actions implemented to date include (but are not limited to) the following:

(1) Fire—A fire management plan has been implemented that emphasizes fire prevention and suppression, and follows guidelines developed by LADWP for lands in Inyo County (LADWP and Ecosystem Sciences 2010). This conservation strategy is important for protecting sagebrush communities (i.e., sage-grouse habitat) from its principle disturbance mechanism and preventing wildfires that can cause large-scale habitat loss that leads to fragmentation and isolation of sage-grouse populations. The wildland fire agencies in the area (i.e., CalFire, BLM, and Forest Service) and LADWP have an agreement in place to collaborate on suppressing fires in the region regardless of where the fire is located. If a wildfire starts on LADWP lands in sage-grouse habitat, the response will be a multi-agency effort to suppress the fire. This multi-agency effort means that potentially fewer acres of sage-grouse habitat will be lost during a wildfire event. Additionally, the LADWP reduces the threat of wildfires through implementation of a no campfire/campstove policy outside established, permitted campgrounds, and implementation of temporary closures of key sage-grouse habitat use areas during the July 4th holiday.

(2) Nonnative, Invasive Plants—LADWP has licensed staff that treat noxious weeds. Active treatment of nonnative, invasive plants reduces the likelihood that invasive species will become established in and negatively impact sagebrush ecosystems by altering plant community structure and composition, hydrology, and other aspects of the sage-brush ecosystem on which sage-grouse in the Bi-State area rely.

(3) Energy Development—Although there are no plans for energy development on LADWP lands in sage-grouse habitat, any potential future proposals would consider impacts to the DPS and its habitat (which may result in impacts such as, but not limited to, loss of sagebrush habitat from structure development, reduced water supply in brood-rearing habitats, and sage-grouse behavioral impacts from increased human presence).

(4) Sage-brush Removal—Although sagebrush removal may have occurred in the past, there are no ongoing or future sage-brush removal projects planned on LADWP land. This is important to ensure adequate sagebrush habitat for sage-grouse occurs on LADWP lands.

(5) Grazing—All existing livestock grazing leases have a livestock grazing management plan with upland, riparian, and irrigated pasture management guidelines and monitoring. Approximately 60 percent (9,261 ha (22,884 ac)) of LADWP lands are located in the South Mono Lake Unit 3. Currently, there are no active livestock grazing leases on the remaining 40 percent (6,275 ha (15,505 ac)) of LADWP lands in the Mono Basin watershed, which is located in North Mono Lake Unit 2 and South Mono Lake Unit 3. The implementation of appropriate livestock grazing management plans on those LADWP lands grazed in the South Mono Lake Unit 3 (i.e., leased and grazed areas totaling 7,986 ha (19,734 ac), most of which is sage-grouse habitat) will prevent further loss of sagebrush habitat and/or the reduction of habitat quality for sage-grouse on LADWP lands.

(a) Upland Management—LADWP adopted BLM's livestock forage utilization guidelines for all upland areas (i.e., areas permitted for grazing in the Owens River watershed) in potential sage-grouse habitat (i.e., maximum 40 percent use on perennial bunchgrasses). Additionally, monitoring is conducted using identical protocols to those adapted by the BLM Bishop Field office and NRCS to evaluate land management practices with a focus towards improving sage-grouse habitat.

(b) Riparian Management—Riparian pastures were created along the Upper Owens River, Convict Creek, McGee Creek and Mammoth Creek in the early 1990s with the goal of improving riparian habitat and fisheries (Hill *et al.* 2002, entire). For the past 13 years, livestock have grazed each riparian pasture once every three years. Grazing can begin in June on whichever riparian pasture is most suitable at the time given current climatic conditions. Cattle will be removed from riparian pastures at the end of the grazing period or when the average utilization of herbaceous forage has reached 30 percent, whichever comes first. Monitoring conducted in riparian pastures includes utilization, fixed photopoints, permanent riparian monitoring transects, and channel cross-section monitoring.

(c) Irrigated Pasture Management—Lessees (in areas permitted for grazing activities in the Owens River watershed) are required to maintain irrigated pastures in good to excellent condition. Pastures are monitored and rated using NRCS's *Guide to Pasture Condition* Scoring system (Cosgrove *et al.* 2001, entire). Pastures in good to excellent condition will continue to provide a diverse variety of forbs and insects during the sage-grouse brood-rearing period, whereas pastures in lower

quality condition would be improved, which would benefit sage-grouse.

(6) Mining—There are no current or proposed areas of mining or reclamation occurring on LADWP land in sage-grouse habitat. Any future proposed mining projects would consider impacts to sage-grouse and their habitat, which can include, but is not limited to, loss of sagebrush habitat, water contamination, and invasion of nonnative species.

(7) Recreation—Recreation management follows the general guidelines and practices outlined in the Owens Valley Land Management Plan (LADWP and Ecosystem Sciences 2010). These guidelines direct various recreational activities to reduce potential impacts to sage-grouse and their habitat, including, but not limited to, requiring permission for individual and group events, developing sage-grouse lek-viewing guidelines through cooperation with BLM, and closing redundant roads or rerouting roads that exist in key sage-grouse habitat areas (e.g., Long Valley).

(8) Urban Development—LADWP policy does not promote new urban or agricultural development in the Plan Area (the area covered in the draft HCP and that includes all of LADWP lands in Inyo and Mono Counties). LADWP is developing an HCP to cover its ongoing activities, which include water gathering, water distribution, hydroelectric power production, power transmission activities, and continuation of other land uses. These other land uses include irrigated agriculture, livestock grazing, recreation, fire and weed management, road maintenance and closures, and habitat enhancements for covered species (those species addressed in the draft HCP). One of the covered species in the draft HCP is the Bi-State DPS; therefore, the HCP would provide a conservation benefit to the Bi-State DPS and its habitat. The current draft HCP proposes to conserve all existing sage-grouse habitat for the life of the permit (i.e., 10 years), and possibly longer if the permit is renewed.

(9) Infrastructure (Roads, Power Lines, and Transmission and Communication Towers)—The development of new infrastructure including roads, power lines, transmission towers, and communication towers within sage-grouse habitat will be avoided to the extent practicable. Impacts to sage-grouse will be considered to reduce effects such as habitat fragmentation and increased predator presence, and minimization measures will be implemented if new infrastructure does occur.

(10) Infrastructure (Fencing)—Fences within 2 km (1.25 mi) of occupied leks are evaluated to determine if collisions are occurring or to determine the potential for collisions (following guidelines presented in the Service's *Greater Sage-grouse Conservation Objectives Team (COT) Final Report* (Service 2013b, p. 52). Future fencing will be evaluated for the potential impacts to sage-grouse. Unnecessary fencing in high-risk areas will be removed. Additionally, LADWP has been installing ''let down'' fencing (i.e., permanent metal fence posts with horizontal wire strands that can be effectively removed during the sage-grouse breeding season or when cattle are not present), thus reducing the likelihood of sage-grouse collisions. To date, LADWP has installed approximately 3.2 km (2 mi) of let-down fencing in the vicinity of the largest lek in Long Valley; another 0.8 km (0.5 mi) of fencing will be converted to let-down in 2013.

To ensure the continuation of this management, LADWP has committed to developing and implementing a conservation strategy to proactively manage the Bi-State DPS on their lands within the Bodie and South Mono PMUs (B. Tillemans 2013, *in litt.*). To coordinate these efforts, we anticipate co-signing an MOU with LADWP (until such time as an HCP is completed) for implementing a sage-grouse conservation strategy that will address the threats to sage-grouse in the Bi-State area as outlined in the Service's *COT Final Report* (Service 2013b, entire). As a result, we will consider excluding LADWP lands from the final critical habitat designation based on the protections provided through our partnerhip with LADWP, and to the extent consistent with the requirements of section 4(b)(2) of the Act.

The Secretary is considering exercising her discretion to exclude 15,535 ha (38,389 ac) that meet the definition of critical habitat for the Bi-State DPS in the North Mono Lake Unit 2 and South Mono Lake Unit 3. Habitat-related threats present on LADWP lands that may require special management considerations or proection include, but are not limited to, recreation, rangeland management, and surface water management (see the proposed listing rule for the Bi-State DPS (published elsewhere in today's **Federal Register**) for additional discussion of threats resulting in the present or threatened destruction, modification, or curtailment of the Bi-State DPS's habitat or range). The existing conservation actions being implemented by the LADWP and the proposed MOU help address these threats to the Bi-State DPS. We are considering excluding 15,535 ha (38,389 ac) in Units 2 and 3 based on the protections provided through our partnership with LADWP, to the extent consistent with the requirements of section 4(b)(2) of the Act. We encourage any public comment regarding our consideration to exclude this area in the final critical habitat designation (see Information Requested section above).

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. A thorough review of information that we relied on in making this determination—including information on taxonomy, habitat, distribution, population estimates and trends, and potential threats—is presented in the Bi-State DPS Species Report available at *http://www.regulations.gov* (Docket No. FWS–R8–ES–2013–0042). A summary of this analysis is found within the proposed listing rule published elsewhere in today's **Federal Register**. The purpose of peer review is to ensure that our critical habitat designation is based on scientifically sound data, and analyses. We have invited these peer reviewers to comment during this public comment period.

We will consider all comments and information received during this comment period on this proposed rule during our preparation of a final determination. Accordingly, the final decision may differ from this proposal.

Public Hearings

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of

Management and Budget 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 of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (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.

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 forestry and logging operations with fewer than 500 employees and annual business less than $7 million. To determine whether small entities may be affected, we will 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 proposed 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. Therefore, because Federal agencies are not small entities, the Service certifies that the proposed critical habitat rule will not have a significant economic impact on a substantial number of small entities.

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. 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, including small business entities, where practicable and reasonable. Our draft economic analysis will assess and consider the incremental costs of the proposed designation, to the extent practicable, to fulfill these requirements.

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. Energy distribution facilities (i.e., power lines and one geothermal facility) are present within this proposed critical habitat designation, athough we do not expect the designation of this proposed critical habitat to significantly affect energy supplies, distribution, or use. This is because, under section 7 of the Act, the lead agency for a proposed project would need to consider project modifications only if the project were to reach a threshold of jeopardizing the continued existence of the DPS or destroy or adversely modify its critical habitat, a scenario that is unlikely within the footprint of the existing power lines and geothermal facility for this DPS. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment as warranted.

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 would 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 would significantly or uniquely affect small governments because the majority of lands (i.e., 86 percent) being proposed for designation are Federal lands (including Humboldt-Toiyaba National Forest, Inyo National Forest, Carson City District BLM, Bishop Field Office-BLM, Tonopah Field Office-BLM, and Stillwater Field Office-BLM) and State lands (the Slinkard/Little Antelope Valley, Green Creek, East Walker River, and Pickel Meadow Wildlife Areas) in both Nevada and California. None of these government entities fits the definition of ''small governmental jurisdiction.'' Therefore, a Small Government Agency Plan is not required. However, we will further evaluate this issue (including with regards to the tribal lands (Washoe Tribe of Nevada and California, Bridgeport Paiute Indian Colony, Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation (California), and the Death Valley Timbi-sha Shoshone Tribe) and private lands that represent a significantly smaller proportion of the proposed critical habitat designation) as we conduct our economic analysis, and review and revise this assessment as warranted.

Takings—Executive Order 12630

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), this rule is not anticipated to have significant takings implications. As discussed above, the designation of critical habitat affects only Federal actions. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. Due to current public knowledge of the DPS's protections and, if we list the DPS, the prohibition against take of the DPS both within and outside of the proposed critical habitat units, we do not anticipate that property values will be affected by the critical habitat designation. However, we have not yet completed the economic analysis for this proposed rule. Once the economic analysis is available, we will review and revise this preliminary assessment as warranted, and prepare a takings implication assessment.

Federalism—Executive Order 13132

In accordance with Executive Order 13132 (Federalism), this proposed rule does not have significant Federalism effects. A Federalism summary impact statement is not required. In keeping with Department of the Interior policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Nevada and California. The designation of critical habitat in areas currently occupied by the Bi-State DPS imposes no additional restrictions to those that would be put in place by listing the DPS and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments because the areas that contain the physical or biological features essential to the conservation of the DPS are more clearly defined, and the elements of the features necessary to the conservation of the DPS are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them 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 have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the DPS, the rule identifies the elements of physical or biological features essential to the conservation of the DPS. 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 proposed 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)).

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.

There are tribal lands in Nevada and California included in this proposed designation of critical habitat. These include lands owned or managed by the Washoe Tribe of Nevada and California, Bridgeport Paiute Indian Colony, Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, and the Death Valley Timbi-sha Shoshone Tribe. Using the criteria found in the *Criteria Used To Identify Critical Habitat* section above, we have determined that all of the areas proposed for designation on tribal lands are essential to the conservation of the DPS. We will seek government-to-government consultation with these tribes throughout the proposal process and development of the final designation of critical habitat for the Bi-State DPS. At this time we are not considering any tribal lands for exclusion from final critical habitat designation. We recently informed all four tribes of how we are evaluating section 4(b)(2) of the Act and of our interest in consulting with them on a government-to-government basis.

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

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 Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this package are the staff members of the Pacific Southwest Regional Office, Nevada Fish and Wildlife Office, and Ventura Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 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. In § 17.95, amend paragraph (b) by adding an entry for ''Bi-State Distinct Population Segment of the Greater Sage-grouse (*Centrocercus urophasianus*),'' in the same alphabetical order that the species appears in the table at § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) *Birds.*

* * * * *

Bi-State Distinct Population Segment of the Greater Sage-grouse (*Centrocercus urophasianus*)

(1) Critical habitat units are depicted for Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties, Nevada, and Alpine, Inyo, and Mono Counties, California, on the maps below.

(2) Within these areas, the primary constituent elements of the physical or biological features essential to the conservation of the Bi-State DPS of greater sage-grouse consist of four components:

(i) *Landscape-scale Primary Constituent Element 1.* Areas with vegetation composed primarily of sagebrush plant communities of sufficient size and configuration to encompass all seasonal habitats for a given population of greater sage-grouse, or facilitate movements within and among populations. This includes former sagebrush communities in specific locations that are currently primarily woodland encroached sites that potentially provide connectivity between populations.

(ii) *Site-scale Primary Constituent Element 2.* Breeding habitat composed of sagebrush plant communities with structural characteristics within the following ranges (habitat structure values are average values):

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	>20 percent.
Non-sagebrush Canopy Cover.	>20 percent.
Total Shrub Canopy Cover.	>40 percent.
Sagebrush Height	>30 centimeters (12 inches).
Perennial Grass Cover.	No less than 5 percent but >10 percent if total shrub cover <25 percent.
Annual Grass Cover	<5 percent.
Forb Cover	>10 percent.
Grass/Forb Height	>18 centimeters (7 inches).

(iii) *Site-scale Primary Constituent Element 3.* Brood-rearing habitat composed of sagebrush plant communities and mesic habitats used primarily in the summer to late fall season. These sites include, but are not limited to, riparian communities, springs, seeps, and mesic meadows, with structural characteristics within the following ranges:

Vegetation variable	Amount of occurrence in the habitat
Sagebrush Canopy Cover.	10 to 25 percent.
Total Shrub Canopy Cover.	14 to 25 percent.
Sagebrush Height	>30 cm (12 in).
Perennial Grass Cover.	>7 percent.
Perennial Forb Diversity.	>5 species present.
Forb Cover	>7 percent.
Grass/Forb Height	18 cm (7 in).
Meadow Edge (ratio perimeter to area).	>0.015.
Species Richness	>5 species.

(iv) *Site-scale Primary Constituent Element 4.* Winter habitat composed of sagebrush plant communities with sagebrush canopy cover greater than 10 percent and sagebrush height of greater than 25 centimeters (9.8 inches) above snow level.

(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 within the legal boundaries on [EFFECTIVE DATE OF FINAL RULE].

(4) *Critical habitat map units.* Data layers defining map units were created from a number of geospatial and informational data, including (but not limited to): The 2012 Bi-State greater sage-grouse Preliminary Priority Habitat (PPH) Map (Bi-State TAC PPH 2012b), a map product depicting occupied habitat developed by the Bureau of Land Management (BLM) in 2008 (BLM 2008), the 2012 Bi-State Action Plan (Service 2012b), multiple broad-scale vegetation mapping products, and telemetry data sets. Critical habitat units were then mapped as shapefiles using Universal Transverse Mercator (UTM) Zone 11N coordinates. 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 (*http://www.fws.gov/nevada/* and *http://www.fws.gov/ventura/*), at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0042 and at the field office responsible for this 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.

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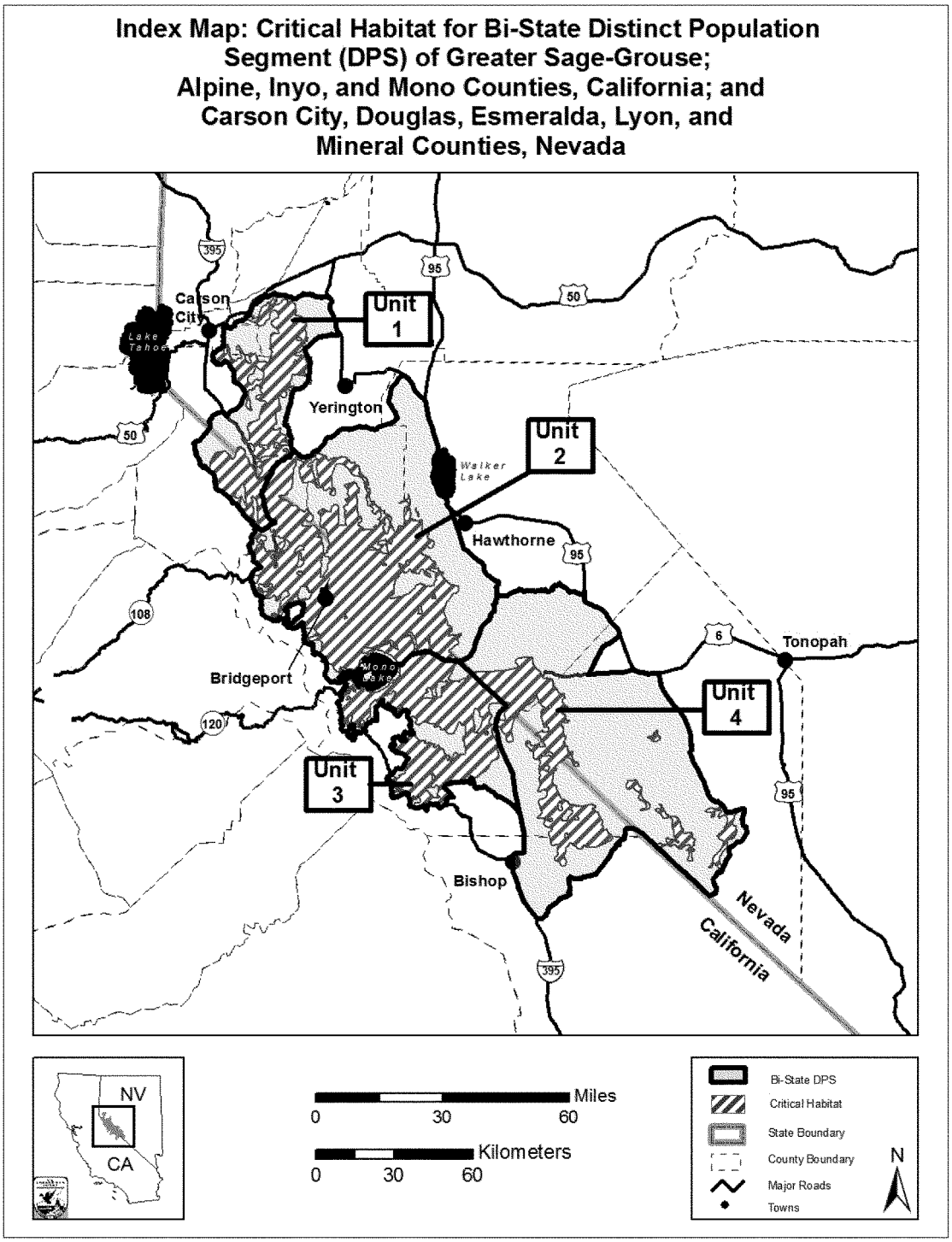
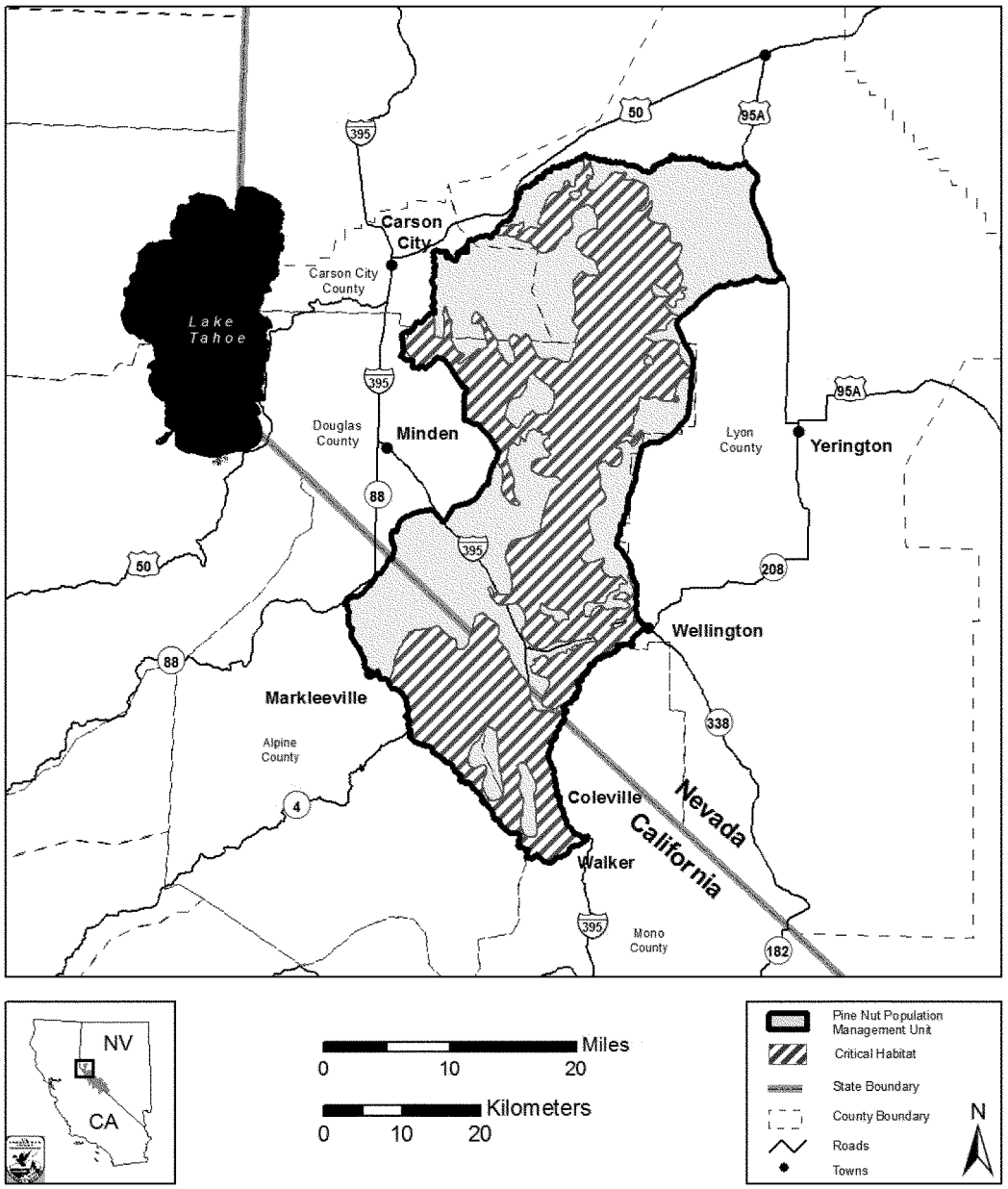
(5) Index map follows:

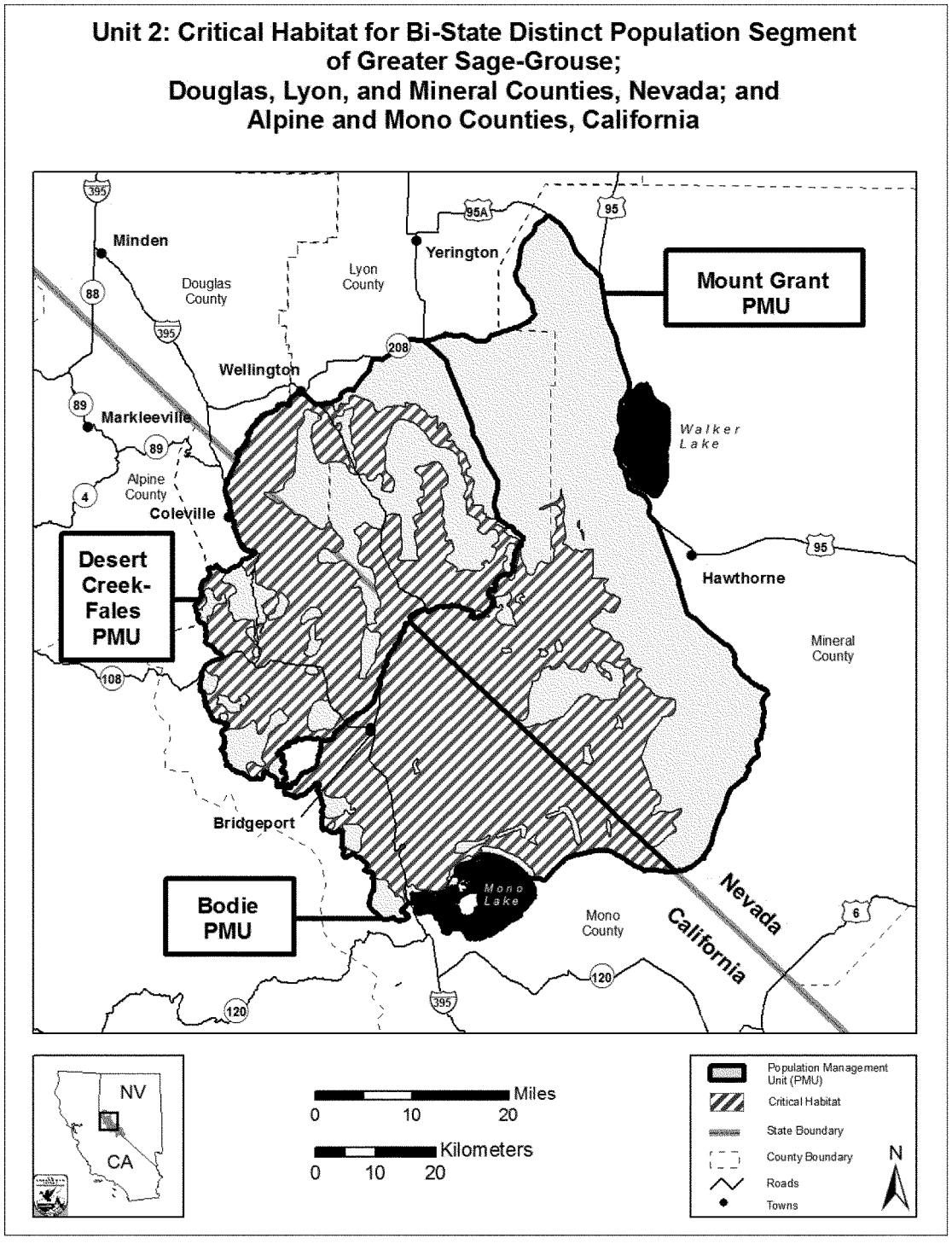


(6) Unit 1: Pine Nut; Carson City, Douglas, and Lyon Counties, Nevada, and Alpine and Mono Counties, California. Map of Unit 1 follows:

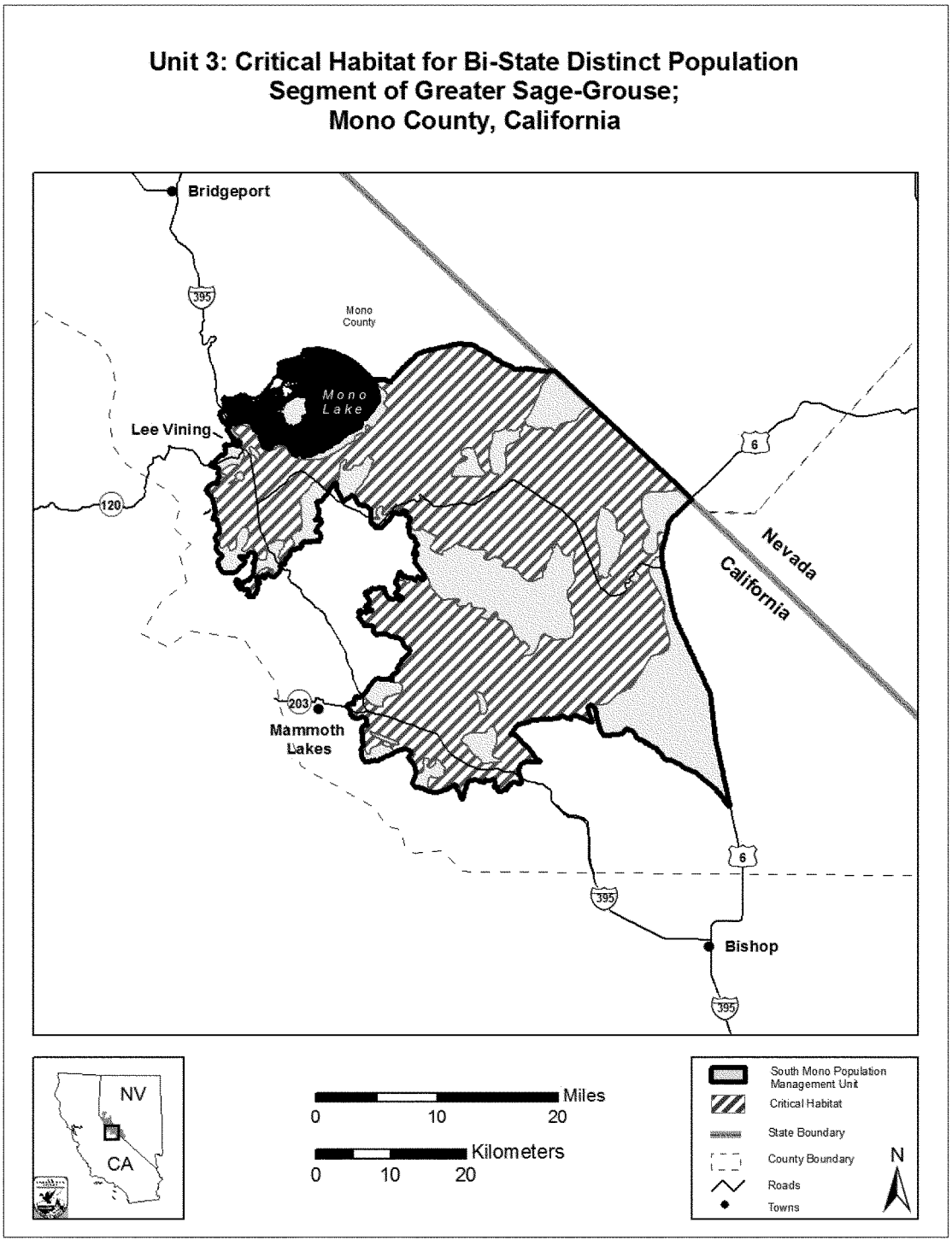
Unit 1: Critical Habitat for Bi-State Distinct Population Segment of Greater Sage-Grouse; Carson City, Douglas, and Lyon Counties, Nevada; and Alpine and Mono Counties, California



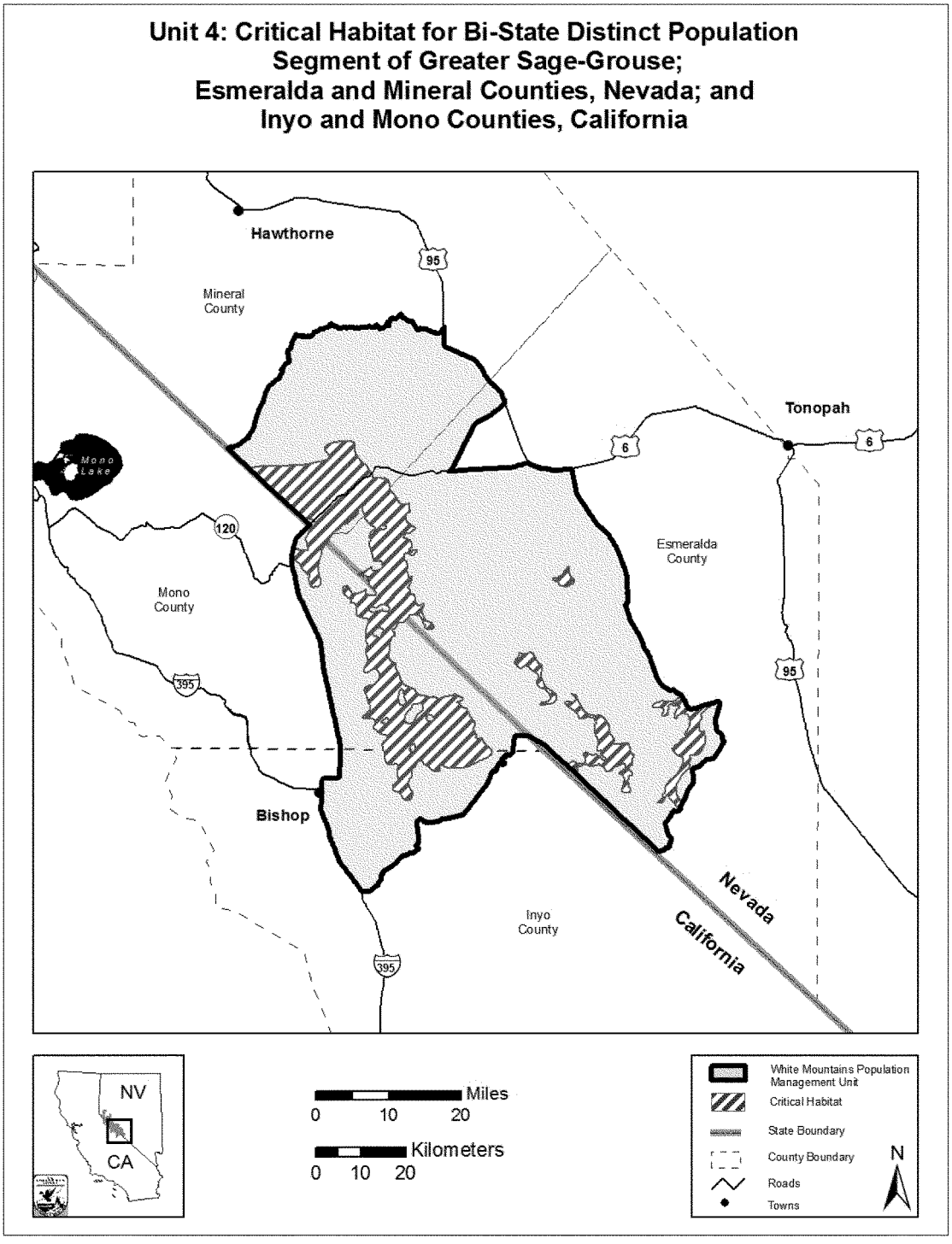
(7) Unit 2: North Mono Lake; Douglas, Lyon, and Mineral Counties, Nevada, and Alpine and Mono Counties, California. Map of Unit 2 follows:



(8) Unit 3: South Mono Lake; Mono County, California. Map of Unit 3 follows:



(9) Unit 4: White Mountains; Esmeralda and Mineral Counties, Nevada, and Inyo and Mono Counties, California. Map of Unit 4 follows:



* * * * *

Dated: September 26, 2013.

Rachel Jacobsen,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–24305 Filed 10–25–13; 8:45 am]

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FEDERAL REGISTER

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Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status for the Bi-State Distinct Population Segment of Greater Sage-Grouse With Special Rule; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0072; 4500030113]

RIN 1018–AY10

Endangered and Threatened Wildlife and Plants; Threatened Status for the Bi-State Distinct Population Segment of Greater Sage-Grouse With Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Bi-State distinct population segment (DPS) of greater sage-grouse (*Centrocercus urophasianus*) as threatened under the Endangered Species Act of 1973, as amended (Act). We also propose a special rule under section 4(d) of the Act to provide for the conservation of the Bi-State DPS of greater sage-grouse. If finalized, the effect of this regulation would be to add the Bi-State DPS of greater sage-grouse to the List of Endangered and Threatened Wildlife, extend the Act's protections to this DPS, and establish a 4(d) special rule for the conservation of this DPS. Elsewhere in today's **Federal Register**, we propose to designate critical habitat under the Act for the Bi-State DPS of greater sage-grouse.

DATES: *Comment Submission:* We will accept comments received or postmarked on or before December 27, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES** section, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by December 12, 2013.

Public Meetings: Two public meetings will be held on this proposed rule: (1) November 5, 2013, from 4:00 p.m. to 6:00 p.m. (Pacific Time); and (2) November 6, 2013, from 1:00 p.m. to 3:00 p.m. (Pacific Time). People needing reasonable accommodations in order to attend and participate in the public hearing should contact Jeannie Stafford, Nevada Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *Comment Submission:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

http://www.regulations.gov. In the Search box, enter FWS–R8–ES–2013–0072, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0072; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

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

Public Meetings: The November 5, 2013, public meeting will be held at the Tri-County Fairgrounds, Home Economics Room, Sierra Street and Fair Drive, Bishop, CA 93514. The November 6, 2013, public meeting will be held at the Smith Valley Community Center, 2783 State Route 208, Wellington, NV 89444.

FOR FURTHER INFORMATION CONTACT: For general information on the proposed listing and information about the proposed listing specific to Nevada (Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties), contact Edward D. Koch, State Supervisor, Nevada Fish and Wildlife Office, U.S. Fish and Wildlife Service, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6300; facsimile 775–861–6301. For specific information related to California (Alpine, Inyo, and Mono Counties), contact Diane Noda, Field Supervisor, or Carl Benz, Assistant Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003; telephone 805–644–1766; facsimile 805–644–3958. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, if a species is determined to be an endangered or threatened species throughout all or a significant portion of its range, we are required to promptly publish a proposal in the **Federal Register** and make a determination on our proposal within 1 year. Listing a species as an endangered or threatened species can only be completed by issuing a rule.

This rule proposes the listing of the Bi-State distinct population segment (DPS) of greater sage-grouse as a threatened species. The Bi-State DPS is a candidate species for which we have on file sufficient information on biological vulnerability and threats to support preparation of a listing proposal, but for which development of a listing regulation had been precluded by other higher priority listing activities. This rule reassesses all available information regarding the status of and threats to the Bi-State DPS. This rule also proposed a special rule under section 4(d) of the Act to provide for the conservation of the Bi-State DPS. Elsewhere in today's **Federal Register**, we propose to designate critical habitat for the Bi-State DPS under the Act.

The basis for our action. Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) Disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that threats that pose the most significant impacts to the Bi-State DPS currently and in the future are nonnative and native, invasive species (Factors A and E); wildfires and altered fire regime (Factors A and E); infrastructure (Factors A and E); grazing (Factors A, C, and E); and small population size and population structure (Factor E). Other threats that are impacting the Bi-State DPS to a lesser degree are urbanization and habitat conversion (Factor A); mining (Factors A and E); renewable energy development and associated infrastructure (Factors A and E); disease and predation (Factor B); climate change, including drought (Factors A and E); and recreation (Factors A and E). The existing regulatory mechanisms are inadequate to protect the Bi-State DPS from these threats (Factor D). The threats listed above are also acting cumulatively to further contribute to the challenges faced by several Bi-State DPS populations now and into the future.

We are proposing a special rule. We are proposing to exempt from the Act's take prohibitions (at section 9) activities conducted pursuant to a comprehensive

conservation program that was developed by or in coordination with a State agency. Specifically, the proposed 4(d) special rule provides that any take of the Bi-State DPS incidental to agricultural activities is not a prohibited action under the Act if the activities are: (1) Included within either of two comprehensive conservation programs: the Natural Resources Conservation Service (NRCS) for private agricultural lands in connection with NRCS's Sage Grouse Initiative (SGI), or the Bi-State Local Area Working Group Action Plan; or (2) managed not by a formal SGI participant but are consistent with the SGI. If an activity resulting in take of the Bi-State DPS is prohibited under this 4(d) special rule, then the general prohibitions at 50 CFR 17.31 for threatened wildlife would apply, and we would require a permit pursuant to section 10 of the Act for such an activity, as specified in our regulations. Nothing in this proposed 4(d) special rule would affect the consultation requirements under section 7 of the Act. The intent of this special rule would be to increase support for the conservation of the Bi-State DPS and provide an incentive for continued management activities that benefit the Bi-State DPS and its habitat.

We will seek peer review. We are seeking comments from knowledgeable individuals with scientific expertise to review our analysis of the best available science and application of that science and to provide any additional scientific information to improve this proposed rule. Because we will consider all comments and information we receive during the comment period, our final determination may differ from this proposal.

Information Requested

Public Comments

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Additionally, we intend to make a final determination on the 4(d) special rule concurrent with the final listing rule, if the result of our final listing determination concludes that threatened species status is appropriate. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, or any other interested parties concerning this proposed listing rule and 4(d) special rule. We particularly seek comments concerning:

(1) The Bi-State DPS's biology, distribution, population size and trend, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the DPS, its habitat, or both.

(2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this DPS and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional leks or populations of this DPS.

(5) Any information on the biological or ecological requirements of the DPS, and ongoing conservation measures for the DPS and its habitat.

(6) Application of the Bi-State Action Plan of March 15, 2012, to our determination of status under section 4(a)(1) of the Act, particularly comments or information to help us assess the certainty that the plan will be effective in conserving the Bi-State DPS of greater sage-grouse and will be implemented.

(7) Information concerning whether it would be appropriate to include in the 4(d) special rule a provision for take of the Bi-State DPS of greater sage-grouse in accordance with applicable State law for educational or scientific purposes, the enhancement of propagation or survival of the DPS, zoological exhibition, and other conservation purposes consistent with the Act.

(8) Whether the Service should include in the scope of the proposed 4(d) special rule the incidental take of sage-grouse within the Bi-State DPS if the take results from other agricultural activities not subject to the SGI or the Bi-state Action Plan, if those activities are compatible with the conservation of the DPS.

(9) Whether the Service should expand the scope of this 4(d) special rule to allow incidental take of sage-grouse within the Bi-State DPS if the take results from implementation of the SGI or Bi-State Action Plan by a person or entity other than a State agency or their agent(s).

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.* Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing

Section 4(b)(5) of the Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days after the date of publication of this proposed rule in the **Federal Register**. Such requests must be sent to the address shown in the **FOR**

FURTHER INFORMATION CONTACT section. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing.

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), we have sought the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our listing determination section 4(d) special rule are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the Bi-State DPS' (and the greater sage-grouse in general) life-history requirements, ecology, and habitat needs. We invite comment from the peer reviewers during this public comment period.

Previous Federal Actions

On January 2, 2002, we received a petition from the Institute for Wildlife Protection requesting that the sage-grouse occurring in the Mono Basin area of California and Nevada be emergency listed as an endangered DPS of *Centrocercus urophasianus phaios,* which the petitioner considered to be the western subspecies of the greater sage-grouse. This request concerned the sage-grouse in portions of Alpine and Inyo Counties and most of Mono County in California, and portions of Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties in Nevada. On December 26, 2002, we published a 90-day finding that the petition did not present substantial scientific or commercial information indicating that the petitioned action may be warranted (67 FR 78811). Our 2002 finding concluded: (1) That the petition did not present substantial information indicating that the population of greater sage-grouse in this area was recognizable as a DPS under our DPS policy (61 FR 4722; February 7, 1996), and thus was not a listable entity (67 FR 78811; December 26, 2002); and (2) that the petition did not present substantial information regarding threats to indicate that listing the petitioned population may be warranted (67 FR 78811).

On November 15, 2005, we received a petition submitted by the Stanford Law School Environmental Law Clinic on behalf of the Sagebrush Sea Campaign, Western Watersheds Project, Center for Biological Diversity, and Christians Caring for Creation to list the Mono Basin area population of greater sage-grouse (referred to as the Bi-State DPS in this document) as an endangered or threatened DPS of the greater sage-grouse (*C. urophasianus*) under the Act. On March 28, 2006, we responded that emergency listing was not warranted and, due to court orders and settlement agreements for other listing actions, we would not be able to address the petition at that time.

On November 18, 2005, the Institute for Wildlife Protection and Dr. Steven G. Herman filed suit against the Service in U.S. District Court for the Western District of Washington (*Institute for Wildlife Protection et al.* v. *Norton et al.,* No. C05–1939 RSM), challenging the Service's 90-day finding (67 FR 78811; December 26, 2002) that the Institute for Wildlife Protection's January 2002 petition did not present substantial information indicating that the petitioned action may be warranted. On April 11, 2006, we reached a stipulated settlement agreement with both plaintiffs under which we agreed to evaluate the November 2005 petition and concurrently reevaluate the January 2002 petition. The settlement agreement required the Service to submit to the **Federal Register** a 90-day finding by December 8, 2006, and if we found the petition to be substantial, to complete the 12-month finding by December 10, 2007. On December 19, 2006, we published a 90-day finding that these petitions did not present substantial scientific or commercial information indicating that the petitioned actions may be warranted (71 FR 76058).

On August 23, 2007, the November 2005 petitioners filed a complaint challenging the Service's 2006 finding. After review of the complaint, the Service determined that we would revisit our 2006 finding. The Service entered into a settlement agreement with the petitioners on February 25, 2008, in which the Service agreed to a voluntary remand of the 2006 petition finding, and agreed to submit for publication in the **Federal Register** a new 90-day finding by April 25, 2008. The agreement further stipulated that if upon reevaluation the Service made a finding that the petitions presented substantial information, the Service would undertake a status review of the Mono Basin area population of the greater sage-grouse and submit for publication in the **Federal Register** a 12-month finding by April 24, 2009.

On April 29, 2008, we published in the **Federal Register** (73 FR 23173) a 90-day petition finding that the petitions presented substantial scientific or commercial information indicating that listing the Mono Basin area population may be warranted and that initiated a status review. A joint stipulation by the Service and the plaintiffs agreed to extend the due date for the 12-month finding. On May 27, 2009, the U.S. District Court, Northern District of California, issued an order accepting a joint stipulation between the Service and the plaintiffs, where the parties agreed that the Service may submit to the **Federal Register** a single document containing the 12-month findings for the Mono Basin area population and the greater sage-grouse no later than by February 26, 2010. The due date for submission of the document to the **Federal Register** was extended to March 5, 2010, and the document was subsequently published on March 23, 2010 (75 FR 13910). In this document, we concluded, among other things, that the Mono Basin area population is a listable entity under Service policy as a DPS and that the DPS warranted recognition under the Act but that immediate action was precluded by higher listing priorities. This warranted-but-precluded finding placed the species on our candidate list.

Both the 2002 and 2005 petitions, as well as our 2002 and 2006 findings, use the term ''Mono Basin area'' and ''Mono Basin population'' to refer to greater sage-grouse that occur within the geographic area of eastern California and western Nevada that includes Mono Lake. For conservation planning purposes, this same geographic area is referred to as the Bi-State area by the States of California and Nevada (Bi State Local Planning Group 2004, pp. 4–5). For consistency with ongoing planning efforts, we adopted the ''Bi-State'' nomenclature in our 2010 finding and consequently refer to this DPS as the ''Bi-State DPS'' within this document.

On May 10, 2011, we filed a multiyear work plan as part of a proposed settlement agreement with Wild Earth Guardians and others in a consolidated case in the U.S. District Court for the District of Columbia. On September 9, 2011, the Court accepted our agreement with the plaintiffs in *Endangered Species Act Section 4 Deadline Litig.,* Misc. Action No. 10–377 (EGS), MDL Docket No. 2165 (D. DC) (known as the ''MDL case'') on a schedule to publish proposed rules or not-warranted findings for the 251 species designated as candidates as of 2010 no later than September 30, 2016. The publication of this proposed rule complies with our current work plan.

Elsewhere in today's **Federal Register**, we propose to designate critical habitat for the Bi-State DPS under the Act.

Background

In our 12-month finding on petitions to list three entities of sage-grouse (75 FR 13910; March 23, 2010), we found that the Bi-State population of sage-grouse meets our criteria as a DPS of the sage-grouse under Service policy (61 FR 4722; February 7, 1996), and we reaffirm that this finding is still valid. This determination was based principally on genetic information (Benedict *et al.* 2003, p. 308; Oyler-McCance *et al.* 2005, p. 1,307), where the DPS was found to be both markedly separated and significant to the remainder of the sage-grouse taxon. The Bi-State DPS defines the far southwest limit of the species' range along the border of eastern California and western Nevada (Stiver *et al.* 2006, pp. 1–11; 71 FR 76058).

Although the Bi-State DPS is a genetically unique and markedly separated population from the rest of the greater sage-grouse's range, the DPS has similar life-history and habitat requirements. In this proposed rule, we use information specific to the Bi-State DPS where available but still apply scientific management principles for greater sage-grouse that are relevant to the Bi-State DPS's management needs and strategies, which is a practice followed by the wildlife and land management agencies that have responsibility for management of both the DPS and its habitat.

A detailed discussion of the Bi-State DPS's description, taxonomy, habitat (sagebrush ecosystem), seasonal habitat selection, life-history characteristics, home range, life expectancy and survival rates, historical and current range distribution, population estimates and lek (sage-grouse breeding complex) counts, population trends, and land ownership information is available in the 2013 Species Report (Service 2013a, entire). A team of Service biologists prepared this status review for the Bi-State DPS. The team included biologists from the Service's Nevada Fish and Wildlife Office, Ventura Fish and Wildlife Office, Pacific Southwest Regional Office, Mountain-Prairie Regional Office, and national Headquarters Office. The Species Report represents a compilation of the best scientific and commercial data available concerning the status of the Bi-State DPS, including the past, present, and future threats to this DPS. The Species Report and other materials relating to this proposal (e.g., references cited, maps, management documents) can be found at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0072, the Pacific Southwest Regional Office Web site (*http://www.fws.gov/cno/*), and two Fish and Wildlife Office Web sites (*http://www.fws.gov/nevada/* and *http://www.fws.gov/ventura/*).

Species Information

As stated above, the Bi-State DPS of greater sage-grouse is genetically unique and markedly separated from the rest of the species' range. The species as a whole is long-lived, reliant on sagebrush, highly traditional in areas of seasonal habitat use, and particularly susceptible to habitat fragmentation and alterations in its environment (see the ''Seasonal Habitat Selection and Life History Characteristics'' section of the Species Report (Service 2013a, pp. 10–14)). Sage-grouse annually exploit numerous habitat types in the sagebrush ecosystem across broad landscapes to successfully complete their life cycle, thus spanning ecological and political boundaries. Populations are slow-growing due to low reproductive rates (Schroeder *et al.* 1999 pp. 11, 14; Connelly *et al.* 2000a, pp. 969–970), and they exhibit natural, cyclical variability in abundance (see ''Current Range/Distribution and Population Estimates/Annual Lek Counts'' section of the Species Report (Service 2013a, pp. 17–29)).

For the purposes of this proposed rule, we discuss the Bi-State DPS populations, threats to those populations, and associated management needs or conservation actions as they relate to population management units (PMUs). Six PMUs were established in 2001 as management tools for defining and monitoring sage-grouse distribution in the Bi-State area (Sage-Grouse Conservation Planning Team 2001, p. 31). The PMU boundaries are based on aggregations of leks, known seasonal habitats, and telemetry data, which represent generalized subpopulations or local breeding complexes. The six PMUs include: Pine Nut, Desert Creek-Fales, Bodie, Mount Grant, South Mono, and White Mountains PMUs. These six PMUs represent a total of four to eight demographically independent populations with a combined total of approximately 43 active leks (see Table 1 below; Service 2013a, pp. 17–20). Leks are considered either active (i.e., two or more strutting males during at least 2 years in a 5-year period), inactive (i.e., surveyed three or more times during one breeding season with no birds detected and no sign (e.g., droppings) observed), historical (i.e., no strutting activity for 20 years and have been checked according to State protocol at least intermittently), or unknown (i.e., sign was observed, and one or no strutting males observed, or a lek that had activity the prior year but was surveyed under unsuitable conditions during the current year and reported one or no strutting males).

TABLE 1—BI-STATE DPS POPULATION MANAGEMENT UNITS (PMUS), PMU SIZE, ESTIMATED RANGE IN POPULATION SIZE, NUMBER OF ACTIVE LEKS, AND REPORTED RANGE IN TOTAL MALES COUNTED ON ALL LEKS WITHIN EACH PMU

PMU	Total size hectares (acres) *	Estimated population size range (2002–2012) **	Current number of active leks **	Lek count (number of males) range (2002–2012) **
Pine Nut	232,440 (574,373)	50–331	1	6–22
Desert Creek–Fales	229,858 (567,992)	317–1,268	8	30–190
Mount Grant	282,907 (699,079)	85–1,412	8	12–>140
Bodie	141,490 (349,630)	522–2,400	13	124–510
South Mono	234,508 (579,483)	859–2,005	11	204–426
White Mountains	709,768 (1,753,875)	Data not available	2+	Data not available
Total (all PMUs combined)	1,830,972 (4,524,432)	1,833–7,416	43	376–1,288

* Bi-State Local Planning Group (2004, pp. 11, 32, 63, 102, 127, 153)
** CDFW (2012, unpublished data); NDOW (2012a, unpublished data).

Each sage-grouse population in the Bi-State area is relatively small and below theoretical minimum criteria for long-term persistence, as is the entire DPS on average, which is estimated at 1,833 to 7,416 individuals (formerly California Department of Fish and Game (CDFG), now known as California Department of Fish and Wildlife (CDFW)) 2012, unpublished data; Nevada Department of Wildlife (NDOW) 2012a, unpublished data). The two largest populations exist in the Bodie (Bodie Hills population) and South Mono (Long Valley population) PMUs. The remaining PMUs contain much smaller populations. Sage-grouse abundance declines and sagebrush habitat reductions within the Bi-State area are both estimated to exceed 50 percent, with losses historically greater on the periphery of the DPS (Service 2013a, p. 135). Overall, the remaining habitat is reduced in quality (see various Impact Analysis discussions in the Species Report including, but not limited to, the ''Infrastructure,'' ''Nonnative and Native Plants,'' and ''Wildfires and Altered Fire Regime'' sections (Service 2013a, pp. 33–113)) and, thereby, sage-grouse carrying capacity is also reduced. Thus, reductions in sage-grouse abundance proportionally exceed habitat loss (in other words, because sage-grouse habitat quality and quantity is reduced by greater than 50 percent as compared to historical information, the expected sage-grouse population numbers (or abundance) are reduced by more than 50 percent). The residual limited connectivity of populations and habitats within and among the PMUs also continues to slowly erode (Service 2013a, pp. 17–29, 34, 51–52, 55, 65, 73–74, 105–108, 135).

Declining Bi-State DPS population trends continue for the Pine Nut, Desert Creek-Fales, and Mount Grant PMUs, with an unknown trend for the White Mountains PMU (Service 2013a, pp. 21–29). These trends are of critical concern at the DPS level because fluctuations in these small, less secure populations are likely to result in extirpations and loss of population redundancy within the DPS. Historical extirpations outside the existing boundaries of the six PMUs present a similar pattern of lost peripheral populations (see ''Historical Range/Distribution'' section of the Species Report) (Service 2013a, pp. 16–17)). Two range-wide assessments investigating patterns of sage-grouse population persistence confirm that PMUs on the northern and southern extents of the Bi-State DPS (i.e., Pine Nut, Desert Creek-Fales, and White Mountains PMUs) are similar to extirpated sites elsewhere within the range of greater sage-grouse, while the central PMUs (i.e., South Mono, Bodie, and Mount Grant PMUs) are similar to extant sites (Aldridge *et al.* 2008, entire; Wisdom *et al.* 2011, entire). In other words, these assessments suggest that the sage-grouse populations within the Pine Nut, Desert Creek-Fales, and White Mountains PMUs have an increased risk of extirpation in the near future as compared to the other PMUs that currently harbor larger populations.

The Bodie and South Mono PMUs form the central core of the Bi-State DPS. The Bodie Hills and Long Valley populations are the largest sage-grouse populations within the Bi-State area and encompass approximately 70 percent of existing Bi-State DPS individuals (Service 2013a, pp. 24–27). These populations are relatively stable at present (estimates range from approximately 522 to 2,400 individuals in the Bodie PMU and 859 to 2,005 individuals in the South Mono PMU), and the scope and severity of known impacts are comparatively less than in other PMUs. Although populations currently are relatively stable with overall fewer impacts as compared to the other four PMUs, the Bodie and South Mono PMUs have experienced prior habitat losses, population declines, and internal habitat fragmentation. Significant connectivity between the populations within these two PMUs is currently lacking (Service 2013a, p. 26, 135), and both PMUs (as well as the other four PMUs) are increasingly vulnerable to the effects of cheatgrass invasion (Service 2013a, pp. 65–67, 69) and wildfire impacts (Service 2013a, pp. 69–76).

Together, the Bodie and South Mono PMUs represent less than 20 percent of the historical range for the Bi-State DPS (historically, the DPS occurred throughout most of Mono, eastern Alpine, and northern Inyo Counties, California (Hall *et al.* 2008, p. 97), and portions of Carson City, Douglas, Esmeralda, Lyon, and Mineral Counties, Nevada (Gullion and Christensen 1957, pp. 131–132; Espinosa 2006)). While both the Bodie and South Mono PMUs (which harbor the two largest populations) are projected by sage-grouse experts to have moderate to high probabilities of persistence into the future (Aldridge *et al.* 2008, entire; Wisdom *et al.* 2011, entire), the Bodie PMU has fluctuated with positive and

negative population growth over the past 40 years with no discernible long-term trend (Service 2013a, pp. 24–26). In addition, the Bodie PMU is expected to fall below 500 breeding adults within the next 30 years (Garton *et al.* 2011, p. 310). The long-term population trend for the South Mono PMU has been stable (Service 2013a, p. 26–27), but sage-grouse experts predict an 80 percent chance of the population declining to fewer than 500 breeding adults in 30 years (Garton *et al.* 2011, p. 310).

In summary, the Service anticipates a greater risk of sage-grouse population loss for four of the six PMUs in the Bi-State DPS (i.e., Pine Nut, Desert Creek-Fales, Mount Grant, and White Mountains PMUs) as compared to the PMUs that harbor the central core or largest populations (i.e., Bodie and South Mono PMUs). Additionally, the core population in the Bodie PMU is likely to have reduced viability within 30 years, and the two populations in the South Mono PMU (including one of two core populations—Long Valley) will likely persist but exhibit reduced population viability in the next 30 years.

Following are brief accounts of each PMU. Primary threats are introduced in these summaries and described in more detail in the Summary of Factors Affecting the Species section below, and fully evaluated and described in the ''Impact Analysis'' section of the Species Report (Service 2013a, pp. 33–127).

(1) The Pine Nut PMU has the smallest number of sage-grouse of all Bi-State DPS PMUs (i.e., 1 population ranging in size from 50 to 331 individuals based on data collected between 2002 and 2012 (Table 1, above). This population represents approximately 5 percent of the DPS. The population in the Pine Nut PMU has some level of connectivity with the Desert Creek-Fales PMU and potentially also with the Bodie and Mount Grant PMUs. Urbanization, grazing management, wildfire, invasive species, infrastructure, and mineral development are affecting this population, and the scope and severity of most of these impacts are likely to increase into the future based on the proximity of the PMU to expanding urban areas, agricultural operations, road networks, and power lines; altered fire regimes; new mineral entry proposals; and increasing recreational off-highway vehicle (OHV) use on public lands. Because of the current small population size and the ongoing and potential future magnitude of habitat impacts, the sage-grouse population in the Pine Nut PMU (i.e., the northern-most population within the range of the Bi-State DPS) is at a greater risk of extirpation than other PMUs within the Bi-State area.

(2) The Desert Creek-Fales PMU straddles the Nevada-California border and contains two populations, one in each State. The two populations have ranged in size from 317 to 1,268 individuals between 2002 and 2012 (Table 1, above). The populations in the Desert Creek-Fales PMU have some level of connectivity with the Pine Nut PMU and potentially also with the Bodie and Mount Grant PMUs. The most significant impacts in this PMU are wildfire, invasive species (specifically conifer encroachment), infrastructure, and urbanization. Private land acquisitions in California and conifer removal in Nevada and California have mitigated some of the impacts locally within this PMU. However, urbanization and woodland succession remain a concern based on the lack of permanent protection for important brood-rearing (summer) habitat that occurs primarily on irrigated private pasture lands and continued pinyon-juniper encroachment that is contracting distribution of the populations and connectivity between populations. While some of these impacts are more easily alleviated than others (e.g., conifer encroachment), the existing condition is likely to worsen in the future (Bi-State TAC 2012, pp. 24–25). The PMU has seen episodic sage-grouse population declines in the past, and current conditions indicate declines may continue. Long-term persistence of the sage-grouse populations in the Desert Creek-Fales PMU is unlikely without successful implementation of additional conservation measures.

(3) The Mount Grant PMU contains one population, with population estimates between 2002 and 2012 ranging from 85 to 1,412 individuals (Table 1, above). The population in the Mount Grant PMU has some level of connectivity with the Bodie PMU and potentially also with the Desert Creek-Fales and Pine Nut PMUs. Habitat impact sources in this PMU include woodland encroachment, renewable energy and mineral development, infrastructure, and the potential for wildfire. Woodland encroachment, mineral development, and infrastructure currently fragment habitat in this PMU and, in the future, these as well as wildfire (if it occurs) may reduce or eliminate connectivity to the sage-grouse population in the adjacent Bodie PMU. Long-term persistence of the sage-grouse population in the Mount Grant PMU is less likely than in the other PMUs that currently harbor larger populations of sage-grouse in the Bi-State area without successful implementation of additional conservation measures.

(4) The Bodie PMU contains one population (Bodie Hills), which is one of the two core (largest) populations for the Bi-State DPS. Population estimates for this PMU over the past decade range from 552 to 2,400 individuals (Table 1, above). This PMU typically has the highest number of active leks (i.e., 13) of all the PMUs. The population in the Bodie PMU has some level of connectivity with the Mount Grant PMU and potentially also with the Desert Creek-Fales and Pine Nut PMUs. Woodland succession is estimated to have caused a 40 percent reduction in sagebrush habitat throughout the Bodie PMU, and encroachment into sagebrush habitat is expected to continue both from woodland edge expansion and infilling. The potential of future wildfire (largely unrealized) and subsequent widespread habitat loss by conversion to annual grasses is of greatest concern based on the increased understory presence of cheatgrass, specifically Wyoming big sagebrush (*Artemisia tridentata* spp. *wyomingensis*) communities within the Bodie PMU (e.g., Bodie Hills). In addition, the potential for additional loss (largely restricted to date) of sage-grouse habitat to exurban development (i.e., development of a small, usually prosperous community situated beyond the suburbs of a city) on unprotected private lands in the Bodie PMU is also a concern because these lands provide summer and winter use areas and connectivity among the Bodie, Mount Grant, and Desert Creek-Fales PMUs. Current impacts posed by infrastructure, grazing, and mineral extraction are of minimal severity in the Bodie PMU, but additional future impacts are anticipated.

(5) The South Mono PMU contains two populations (Long Valley and Parker Meadows). The Long Valley population is one of the two largest (core) populations for the Bi-State DPS. Population estimates for this PMU over the past decade range from 859 to 2,005 individuals (Table 1). The South Mono PMU has typically had the highest estimated population size of all the PMUs. This PMU is considered to be largely isolated from the other PMUs. Currently, the most significant impacts in the South Mono PMU are infrastructure and recreation, with the potential for increased wildfire. An important indirect impact of infrastructure to the sage-grouse population in Long Valley is predation, likely associated with the local landfill. Predation (primarily from ravens)

appears to reduce sage-grouse nest success in Long Valley, although the population appears stable. The Parker Meadows population currently has one active lek and is quite small; from 2002 to 2010, male sage-grouse counts have ranged between 3 and 17. This population has the lowest reported genetic diversity in the Bi-State area, and it is experiencing high nest failure rates due to nonviable eggs (Gardner 2009, entire), potentially indicative of genetic challenges.

(6) The White Mountains PMU contains one population. No recent population estimate for this southern-most PMU is available, and, overall, information on population status and impacts is limited. The area is remote and difficult to access, and most data are from periodic observations rather than comprehensive surveys. The population in the White Mountains PMU is considered to be largely isolated from the other PMUs. Current impacts such as exurban development (e.g., Chiatovich Creek area (Bi-State Lek Surveillance Program 2012, p. 38)), grazing, recreation, and invasive species may be influencing portions of the population and are likely to increase in the future, but current impacts are considered minimal due to the remote locations of most known sage-grouse use areas. Potential future impacts from infrastructure (power lines, roads) and mineral developments could lead to the loss of the remote, contiguous nature of the habitat. Because the population in the White Mountains PMU is small and on the periphery of the range of the Bi-State DPS, it is vulnerable to extirpation if future impacts increase.

Summary of Factors Affecting the Species

Under the Act, we can determine that a species is an endangered or threatened species based on any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

A threats analysis for the Bi-State DPS is included in the Species Report (Service 2013a, entire) associated with this proposed rule (and available at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0072, *http://www.fws.gov/cno/, http://www.fws.gov/nevada/,* and *http://www.fws.gov/ventura/*). All potential threats of which we are aware that are acting upon the Bi-State DPS currently or in the future (and consistent with the five listing factors identified above) were evaluated and addressed in the Species Report, and are summarized in the following paragraphs.

Many of the impacts to sage-grouse populations and sagebrush habitats in the Bi-State DPS are present throughout the range, and, while they currently affect the DPS to varying degrees, these impacts are likely to continue into the future. The populations and habitat in the northern extent of the Bi-State area, including the Pine Nut, Desert Creek-Fales, and Mount Grant PMUs, are now and will continue to be most at risk from the various threats acting upon the Bi-State DPS and its habitat. We anticipate loss of some populations and contraction of the ranges of others in these three PMUs (see *Species Information* section above and ''Bi-State DPS Population Trends'' section of the Species Report), which will leave them susceptible to extirpation from stochastic events such as wildfire, drought, and disease. We expect that only two isolated populations in the Bodie and South Mono PMUs (i.e., the Bodie Hills and Long Valley populations, respectively) may remain in 30 years (Aldridge *et al.* 2008, entire; Garton *et al.* 2011, p. 310; Wisdom *et al.* 2011, entire).

The impacts that are of high current or future scope and severity within the DPS (i.e., the most significant threats overall across the range of the Bi-State DPS) include those that are resulting in the present or threatened destruction, modification, or curtailment of its habitat or range, and other natural or manmade threats affecting the DPS's continued existence. These significant threats include infrastructure (i.e., fences, power lines, and roads) (Factors A and E); grazing and rangeland management (Factors A, C, and E); nonnative and native, invasive plants (e.g., pinyon-juniper encroachment, cheatgrass) (Factors A and E); wildfires and altered fire regime (Factors A and E); and the small size of the DPS (both the number of individual populations and their size), which increases the risk of extinction (Factor E). In addition, the small number, size, and isolation of the populations may magnify the effects of other less significant impacts that are currently acting upon the Bi-State DPS, including urbanization and habitat conversion, mining, renewable energy development, climate (including drought), overutilization, recreation, disease, and predation) (Factors A, B, C, and E). Many of these impacts, including those that are currently considered minor (as compared to significant), are also cumulatively acting upon the Bi-State DPS and, therefore, increase the risk of extinction. Following a thorough analysis of the best available information, we determined that hunting, scientific and educational uses, pesticides and herbicides, and contaminants have negligible impacts to the Bi-State DPS at this time.

The Bi-State DPS is experiencing multiple, identifiable interacting impacts (i.e., synergistic effects) to sage-grouse populations and sagebrush habitats that are ongoing (and expected to continue into the future) in many areas throughout the DPS's range; some of these threats are imminent in certain portions of the DPS's range. Individually, each of these impacts is unlikely to affect persistence across the entire Bi-State DPS, but each may act independently to affect persistence of individual populations. The scope, severity, and timing of these impacts vary at the individual PMU level. In particular, rangewide impacts resulting in fragmentation and the destruction, modification, or curtailment of the DPS's habitat or range are occurring through infrastructure; grazing and rangeland management; nonnative and native invasive species (e.g., cheatgrass, pinyon-juniper encroachment); and wildfire and an altered fire regime.

While additional less significant impacts are not occurring everywhere across the DPS at this time (such as, but not limited to, urbanization, mining, renewable energy development, or West Nile virus (WNv) infections), where impacts are occurring, the risk they pose to the DPS could be exacerbated and magnified in the future due to the small number, size, and isolation of populations within the DPS. We are unaware of information that can be used to predict future locations where some impacts could manifest on the landscape (such as effects of climate change, or locations of wildfires that in turn could continue the spread of nonnative species such as cheatgrass within the Bi-State area). To the extent to which these impacts occur within habitat used by the Bi-State DPS, due to the low number of populations and their mostly small sizes, the effects to the DPS throughout its range could be magnified. Due to the scope of the impacts occurring throughout the range of the DPS, current and anticipated future habitat degradation, fragmentation and loss, and isolation of already small populations, the potential severity of impacts to the entire Bi-State DPS is considered high.

Following are summary evaluations of 16 potential threats to the Bi-State DPS, including: Nonnative and native,

invasive species (Factor A and E); wildfires and altered fire regime (Factors A and E); infrastructure, including roads, power lines, fences, communication towers, and landfills (Factors A and E); grazing and rangeland management (Factors A, C, and E); small population size and population structure (Factor E); urbanization and habitat conversion (Factor A); mining (Factors A and E); renewable energy development and associated infrastructure (Factors A and E); disease or predation (Factor C); climate change, including drought (Factors A and E); recreation (Factors A and E); overutilization (including commercial and recreational hunting) (Factor B); scientific and educational uses (Factor B); pesticides and herbicides (Factor E); and contaminants (Factor E). The inadequacy of existing regulatory mechanisms was also evaluated (Factor D). Please see the Species Report (Service 2013a, pp. 33–127) for a full evaluation, including but not limited to, an evaluation of the scope, severity, and timing of each potential threat (including many literature citations).

Nonnative and Native, Invasive Plants

Nonnative, invasive plants negatively impact sagebrush ecosystems by altering plant community structure and composition, productivity, nutrient cycling, and hydrology (Vitousek 1990, p. 7) (Factor A), and may cause declines in native plant populations through competitive exclusion and niche displacement, among other mechanisms (Mooney and Cleland 2001, p. 5446) (Factor E). They can create long-term changes in ecosystem processes (Factor A), such as fire cycles (see *Wildfires and Altered Fire Regime* section below, and in the Species Report (Service 2013a, pp. 69–76)) and other disturbance regimes that persist even after an invasive plant is removed (Zouhar *et al.* 2008, p. 33). A variety of nonnative annuals and perennials are invasive to sagebrush ecosystems (Connelly *et al.* 2004, pp. 7–107 to 7–108; Zouhar *et al.* 2008, p. 144). Cheatgrass is considered most invasive in Wyoming sagebrush communities (which is a subspecies of sagebrush that occurs in the Bi-State area), while medusahead rye (*Taeniatherum caput-medusae* (L.) Nevski) fills a similar niche in more mesic communities with heavier clay soils (Connelly *et al.* 2004, p. 5–9).

Some native tree species are also invading sagebrush habitat and impacting the suitability of the habitat for the various life processes of the Bi-State DPS. Pinyon-juniper woodlands are a native vegetation community dominated by *Pinus edulis* (pinyon pine) and various *Juniperus* (juniper) species that can encroach upon, infill, and eventually replace sagebrush habitat (Factors A and E). Some portions of the Bi-State DPS's range are also being adversely affected by *Pinus jeffreyi* (Jeffrey pine) encroachment. Woodland encroachment is causing significant, measurable habitat loss throughout the range of the Bi-State DPS. While techniques to address this habitat impact are available and being implemented, the scale of such efforts is currently inadequate. Woodlands have expanded by an estimated 20,234 to 60,703 hectares (ha) (50,000 to 150,000 acres (ac)) over the past decade in the Bi-State area, but woodland treatments have only been implemented on 6,475 ha (16,000 ac) (Service 2013b, unpublished data). Overall, forest or woodland encroachment into occupied sage-grouse habitat reduces, and likely eventually eliminates, sage-grouse use.

Both nonnative and native, invasive plants are impacting the sage-grouse and its habitat in the Bi-State area. In general, nonnative plants are not abundant in the Bi-State area, with the exception of cheatgrass, which occurs in all PMUs throughout the range of the DPS (although it is currently most extensive in the Pine Nut PMU). Cheatgrass will likely continue to expand across the entire Bi-State area in the future and increase the adverse impact that currently exists to sagebrush habitats and the greater sage-grouse through outcompeting beneficial understory plant species and altering the fire ecology of the area. Alteration of the fire ecology of the Bi-State area is of greatest concern. Land managers have had little success preventing cheatgrass invasion in the West, and elevational barriers to occurrence are becoming less restrictive (Miller *et al.* 2011, p. 161; Brown and Rowe *in litt.,* entire). The best available data suggest that future conditions, mostly influenced by precipitation and winter temperatures, will be more hospitable for cheatgrass (Bradley 2009, p. 201). Cheatgrass is a serious challenge to the sagebrush shrub community and its spread will be detrimental to sage-grouse in the Bi-State area. In addition, the encroachment of native woodlands (particularly pinyon-juniper) into sagebrush habitats is occurring throughout the Bi-State area, and continued isolation and reduction of suitable habitats will further adversely influence both short- and long-term persistence of sage-grouse. We predict that future woodland encroachment will continue across the entire Bi-State area, but recognize this is a potentially manageable threat through treatment and management actions. To date, woodland encroachment has outpaced management efforts.

Overall, nonnative and native, invasive species occur throughout the entire Bi-State DPS's range and have a significant impact on the DPS both currently and in the future. This is based on the extensive amount of pinyon-juniper encroachment and cheatgrass invasion that is occurring throughout the range of the Bi-State DPS, and the interacting impact these invasions have on habitat quality (e.g., reduces foraging habitat, increases likelihood of wildfire) and habitat fragmentation. See the ''Nonnative and Native Invasive Species'' section of the Species Report for further discussion (Service 2013a, pp. 65–69).

Wildfires and Altered Fire Regime

Wildfire is the principle disturbance mechanism affecting sagebrush communities, although the nature of historical fire patterns, particularly in Wyoming big sagebrush vegetation communities, is not well understood and historically infrequent (Miller and Eddleman 2000, p. 16; Zouhar *et al.* 2008, p. 154; Baker 2011, pp. 189, 196). The historical sagebrush systems likely consisted of extensive sagebrush habitat dotted by small areas of grassland that were maintained by numerous small fires with long interludes between fires, which accounted for little burned area, and that were punctuated by large fire events (Baker 2011, p. 197). In general, fire extensively reduces sagebrush within burned areas, and the most widespread species of sagebrush can take decades to re-establish and much longer to return to pre-burn conditions (Braun 1998, p. 147; Cooper *et al.* 2007, p. 13; Lesica *et al.* 2007, p. 264; Baker, 2011, pp. 194–195).

When intervals between wildfire events become unnaturally long in sagebrush communities, woodlands have the ability to expand (allowing seedlings to establish and trees to mature (Miller *et al.* 2011, p. 167)) when they are adjacent to or are present (in small quantities) within sagebrush habitat. Conifer woodlands have expanded into sagebrush ecosystems throughout the sage-grouse's range over the last century (Miller *et al.* 2011, p. 162). Alternatively, a shortened fire frequency interval within sagebrush habitat can result in the invasion of nonnative, invasive, annual grasses, such as cheatgrass and medusahead rye; once these nonnatives are established, wildfire frequency within sagebrush ecosystems can increase (Zouhar *et al.*

2008, p. 41; Miller *et al.* 2011, p. 167; Balch *et al.* 2013, p. 178).

While multiple factors can influence sagebrush persistence, wildfire can cause large-scale habitat losses that lead to fragmentation and isolation of sage-grouse populations (Factors A and E). In addition to loss of habitat and its influence on sage-grouse population persistence, fragmentation and isolation of populations presents a higher probability of extirpation in disjunct areas (Knick and Hanser 2011, p. 395; Wisdom *et al.* 2011, p. 469). As areas become isolated through disturbances such as wildfire, populations are exposed to additional threats (or threats already present but to a minor or negligible degree) and the Bi-State DPS's persistence may be hampered by the limited ability of individuals to disperse into areas that are otherwise not self-sustaining. Thus, while direct loss of habitat due to wildfire is a significant factor associated with population persistence for sage-grouse (Beck *et al.* 2012, p. 452), the indirect effect from loss of connectivity among populations may greatly expand the influence of this threat beyond the physical fire perimeter.

Wildfire is considered a relatively high risk across all the PMUs in the Bi-State area due to its ability to affect large landscapes in a short period of time (Bi-State Technical Advisory Committee (TAC) 2012, pp. 19, 26, 32, 37, 41, 49). Furthermore, the future risk of wildfire is exacerbated by the presence of people, invasive species, and climate change. While dozens of wildfires have occurred in the Pine Nut, Desert Creek-Fales, Bodie, and South Mono PMUs (fewer in the Mount Grant and White Mountains PMUs) over the past 20 years, to date there have been relatively few large-scale events. In general, although current data do not indicate an increase of wildfires in the Bi-State DPS, based on continuing habitat conditions, we predict an increase in wildfires over time. Furthermore, cheatgrass is increasing within the Bi-State area, particularly in the Pine Nut PMU where several recent fires have occurred, which appears to mirror the damaging fire and invasive species cycle that affects sagebrush habitat across much of the southern Great Basin.

Changes in fire ecology over time have resulted in an altered fire regime in the Bi-State area, presenting future wildfire risk in all PMUs (Bi-State TAC 2012, pp. 19, 26, 32, 37, 41, 49). A reduction in fire occurrence has facilitated the expansion of woodlands into montane sagebrush communities in all PMUs (see *Nonnative and Native, Invasive Plants,* above). Meanwhile, a pattern of overabundance in wildfire occurrence in sagebrush communities is apparent in the Pine Nut PMU. Each of these alterations to wildfire regimes has contributed to fragmentation of habitat and the isolation of the sage-grouse populations (Bi-State Local Planning Group 2004, pp. 95–96, 133).

The loss of habitat due to wildfire across the West is anticipated to increase due to the intensifying, synergistic interactions among fire, people, invasive species, and climate change (Miller *et al.* 2011, p. 184). The recent past- and present-day fire regimes across the sage-grouse's range (i.e., beyond the range of the Bi-State DPS) have changed with a demonstrated increase of wildfires in the more arid Wyoming big sagebrush communities and a decrease of wildfire across many mountain sagebrush (*Artemisia tridentata* ssp. *vaseyana*) communities (Miller *et al.* 2011, pp. 167–169). Both altered fire regime scenarios have caused losses to sage-grouse habitat through facilitating nonnative, invasive weed encroachment at lower elevations and conifer expansion at high-elevation interfaces (Miller *et al.* 2011, pp. 167–169).

In the face of climate change, both scenarios are anticipated to worsen (Baker 2011, p. 200; Miller *et al.* 2011, p. 179), including in the Bi-State area. Predicted changes in temperature, precipitation, and carbon dioxide (see ''Climate Change'' section of the Species Report (Service 2013a, pp. 76–83)) are all anticipated to influence vegetation dynamics and alter fire patterns resulting in the increasing loss and conversion of sagebrush habitats (Neilson *et al.* 2005, p. 157). Many climate scientists suggest that in addition to the predicted change in climate toward a warmer and generally dryer Great Basin, variability of interannual and interdecadal wet-dry cycles will likely increase and act in concert with fire, disease, and invasive species to further stress the sagebrush ecosystem (Neilson *et al.* 2005, p. 152). See the *Synergistic Effects* section below and the ''Overall Summary of Species Status and Impacts'' section of the Species Report (Service 2013a, pp. 135–147) for further discussion of synergistic effects. The anticipated increase in suitable conditions for wildland fire will likely further be influenced by people and infrastructure. Human-caused fires have increased and are correlated with road presence across the sage-grouse's range, and a similar pattern may exist in the Bi-State area (Miller *et al.* 2011, p. 171).

Fire is one of the primary factors linked to population declines of sage-grouse across the West because of long-term loss of sagebrush and frequent conversion to monocultures of nonnative, invasive grasses (Connelly and Braun 1997, p. 7; Johnson *et al.* 2011, p. 424; Knick and Hanser 2011, p. 395). Within the Bi-State area, the Bureau of Land Management (BLM) and U.S. Forest Service (USFS) currently manage the area to limit the loss of sagebrush habitat given adequate resources (BLM 2012, entire; USFS 2012, entire). Based on the best available information, historical wildfire events have not removed a significant amount of sagebrush habitat across the Bi-State area, and conversion of sagebrush habitat to a nonnative invasive vegetation community has been restricted (except for the Pine Nut PMU). It does appear that a lack of historical fire has facilitated the establishment of woodland vegetation communities and loss of sagebrush habitat. Both the ''too-little'' and ''too-much'' fire scenarios present challenges for the Bi-State DPS. The former influences the current degree of connectivity among sage-grouse populations in the Bi-State area and the extent of available sagebrush habitat, likely affecting sage-grouse population size and persistence as a result of habitat modification (such as through conifer encroachment). The latter, under current conditions, now has the potential to quickly alter a large portion of remaining sagebrush habitat.

Restoration of altered sagebrush communities following fire is difficult, requires many years, and may be ineffective in the presence of nonnative, invasive grass species. Additionally, sage-grouse are slow to recolonize burned areas even if structural features of the shrub community have recovered (Knick *et al.* 2011, p. 233).

While it is not currently possible to predict the extent or location of future fire events in the Bi-State area, and historical wildfire events have not removed a significant amount of sagebrush habitat across Bi-State area to date, we anticipate fire frequency to increase in the future due to the increasing presence of cheatgrass and people, and the projected effects of climate change. Given the fragmented nature and small size of the populations within the Bi-State DPS, increasing wildfires in sagebrush habitats would likely have a significant adverse effect on the overall viability of the DPS.

Overall, this threat of wildfire and the existing altered fire regime occurs throughout the Bi-State DPS's range, and has a significant impact on the DPS both currently and in the future. This is based on a continued fire frequency that

exacerbates pinyon-juniper encroachment into sagebrush habitat in some locations, but also an increased fire frequency in other locations that promotes the spread of cheatgrass and other invasive species that in turn can hamper recovery of sagebrush habitat. See the ''Wildfires and Altered Fire Regime'' section of the Species Report for further discussion (Service 2013a, pp. 69–76).

Infrastructure

Infrastructure is described in the Species Report (Service 2013a, pp. 38–52) to include features that assist or are required for the pursuit of human-initiated development or an associated action. Five infrastructure features are impacting the Bi-State DPS: three linear features (roads, power lines, and fences) and two site-specific features (landfills and communication towers). While there may be other features that could be characterized as infrastructure (such as railroads or pipelines), these are not present in the Bi-State area, and we are unaware of any information suggesting they would impact the Bi-State DPS in the future.

In the Bi-State area, linear infrastructure impacts each PMU both directly and indirectly to varying degrees. Existing roads, power lines, and fences degrade and fragment sage-grouse habitat (such as Braun 1998, pp. 145, 146) (Factor A), and contribute to direct mortality through collisions (such as Patterson 1952, p. 81) (Factor E). In addition, roads, power lines, and fences deter the sage-grouse's use of otherwise suitable habitats adjacent to current active areas, and increase predators and invasive plants (such as Forman and Alexander 1998, pp. 207–231 and Connelly *et al.* 2000a, p. 974).

The impact to the Bi-State DPS caused by indirect effects extends beyond the immediate timeframe associated with the infrastructure installation (i.e., the existence of an extended road system, power lines, and fencing already likely limit our ability to recover the Bi-State DPS in various areas). We do not have consistent and comparable information on miles of existing roads, power lines, or fences, or densities of these features within PMUs or for the Bi-State area as a whole. However, given current and future development (based on known energy resources), the Mount Grant, Desert Creek-Fales, Pine Nut, and South Mono PMUs are likely to be the most directly influenced by new power lines and associated infrastructure. Wisdom *et al.* (2011, p. 463) reported that across the entire range of the greater sage-grouse, the mean distance to highways and transmission lines for extirpated populations was approximately 5 kilometers (km) (3.1 miles (mi)) or less. In the Bi-State area, between 35 and 45 percent of annually occupied leks are within 5 km (3.1 mi) of highways, and between 40 and 50 percent are within this distance to existing transmission lines (Service 2013b, unpublished data). Therefore, the apparent similarity between existing Bi-State conditions and extirpated populations elsewhere suggests that persistence of substantial numbers of leks within the Bi-State DPS will likely be negatively influenced by these anthropogenic features.

The geographic extent, density, type, and frequency of linear infrastructure disturbance in the Bi-State area have changed over time. While substantial new development of some of these features (e.g., highways) is unlikely, other infrastructure features are likely to increase (secondary roads, power lines, fencing, and communication towers). Furthermore, improvements to existing roads are possible, and traffic volume will likely increase, which may be a bigger impact than road development itself. For example, with the proliferation of OHV usage within the range of the Bi-State DPS, the potential impact to the sage-grouse and its habitat caused by continued use of secondary or unimproved roads may become of greater importance as traffic volume increases rates of disturbance and the spread of nonnative invasive species in areas that traditionally have been traveled relatively sporadically.

Other types of non-road infrastructure (e.g., cellular towers and landfills) also appear to be adversely impacting the Bi-State DPS. At least eight cellular tower locations are currently known to exist in occupied habitat (all PMUs) in the Bi-State area. Wisdom *et al.* (2011, p. 463) determined that presence of cellular towers likely contribute to population extirpation, and additional tower installations will likely occur in the near future as development continues. The landfill facility in Long Valley (within the South Mono PMU) is likely influencing sage-grouse population demography in the area, as nest success is comparatively low and subsidized avian nest predator numbers are high (Kolada *et al.* 2009, p. 1,344). While this large population of sage-grouse (i.e., one of two core populations in the Bi-State area) currently appears stable, recovery following any potential future perturbations affecting other vital rates (i.e., brood survival and adult survival) will be limited by nesting success.

Overall, infrastructure occurs in various forms throughout the Bi-State DPS's range and has adversely impacted the DPS. These impacts are expected to continue or increase in the future and result in habitat fragmentation; limitations for sage-grouse recovery actions due to an extensive road network, power lines, and fencing; and a variety of direct and indirect impacts, such as loss of individuals from collisions or structures that promote increased potential for predation. Collectively, these threats may result in perturbations that influence both demographic vital rates of sage-grouse (e.g., reproductive success and adult sage-grouse survival) and habitat suitability in the Bi-State area. See the ''Infrastructure'' section of the Species Report for further discussion (Service 2013a, pp. 38–52).

Grazing and Rangeland Management

Livestock grazing continues to be the most widespread land use across the sagebrush biome (Knick *et al.* 2003, p. 616; Connelly *et al.* 2004, p. 7–29; Knick *et al.* 2011, p. 219), including within the Bi-State area. However, links between grazing practices and population levels of sage-grouse are not well-studied (Braun 1987, p. 137; Connelly and Braun 1997, p. 231). Domestic livestock management has the potential to result in sage-grouse habitat degradation (Factor A). Grazing can adversely impact nesting and brood-rearing habitat by decreasing vegetation used for concealment from predators (Factors A and C). Grazing also compacts soils; decreases herbaceous abundance; increases soil erosion; and increases the probability of invasion of nonnative, invasive plant species (Factor A). Livestock management and associated infrastructure (such as water developments and fencing) can degrade important nesting and brood rearing habitat, reduce nesting success, and facilitate the spread of WNv (Factors A, C, and E). However, despite numerous documented negative impacts, some research suggests that under specific conditions, grazing domestic livestock can benefit sage-grouse (Klebenow 1982, p. 121). Other research conducted in Nevada found that cattle grazing can be used to stimulate forbs important as sage-grouse food (Neel 1980, entire; Klebenow 1982, entire; Evans 1986, entire).

Similar to domestic livestock, grazing and management of feral horses have the potential to negatively affect sage-grouse habitats by decreasing grass cover, fragmenting shrub canopies, altering soil characteristics, decreasing plant diversity, and increasing the abundance of invasive cheatgrass (Factor A). Native ungulates (mule deer (*Odocoileus hemionus*) and pronghorn antelope (*Antilocapra americana*)) co-

exist with sage-grouse in the Bi-State area, but we are not aware of significant impacts from these species on sage-grouse populations or sage-grouse habitat. However, the impacts from different ungulate taxa may have an additive negative influence on sage-grouse habitats (Beever and Aldridge 2011, p. 286). Cattle, horses, mule deer, and pronghorn antelope each use the sagebrush ecosystem somewhat differently, and the combination of multiple ungulate species may produce a different result than a single species.

There are localized areas of habitat degradation in the Bi-State area attributable to past grazing practices that indirectly and, combined with other impacts, cumulatively affect sage-grouse habitat. In general, upland sagebrush communities in the Pine Nut and Mount Grant PMUs deviate from desired conditions for sage-grouse due to lack of understory plant species, while across the remainder of the PMUs localized areas of meadow degradation are apparent, and these conditions may influence sage-grouse populations through altering nesting and brood-rearing success. Currently, there is little direct evidence linking grazing effects and sage-grouse population responses. Analyses for grazing impacts at the landscape scales important to sage-grouse are confounded by the fact that almost all sage-grouse habitat has at one time been grazed, and thus, no ungrazed control areas exist for comparisons (Knick *et al.* 2011, p. 232). Across the Bi-State area, we anticipate rangeland management will continue into the future, and some aspects (such as feral horses) will remain difficult to manage. Remaining impacts caused by historical practices will linger as vegetation communities and disturbance regimes recover. Change will likely occur slowly, and alterations to climate and drought cycles will present additional stress on vegetation resources as well as the nature and extent of recovery to sage-grouse and its habitat.

Overall, impacts from past grazing and rangeland management occur within localized areas throughout the Bi-State DPS's range (i.e., all PMUs, although it is more pronounced in some PMUs than others). These impacts have resulted in ongoing habitat degradation that significantly affect sage-grouse habitat indirectly and cumulatively in the Bi-State area, resulting in an overall reduction in aspects of habitat quality (e.g., fragmentation, lack of understory plants, increased presence of nonnative plant species), especially in the Pine Nut and Mount Grant PMUs. See the ''Grazing and Rangeland Management'' section of the Species Report for further discussion (Service 2013a, pp. 58–64).

Small Population Size and Population Structure

Sage-grouse have low reproductive rates and high annual survival (Schroeder *et al.* 1999, pp. 11, 14; Connelly *et al.* 2000a, pp. 969–970), resulting in a long recovery period due to slower potential or intrinsic population growth rates than is typical of other game birds. Also, as a consequence of their site fidelity to seasonal habitats (Lyon and Anderson 2003, p. 489), measurable population effects may lag behind negative habitat impacts (Wiens and Rotenberry 1985, p. 666). Sage-grouse populations have been described as exhibiting multi-annual fluctuations, meaning that some mechanism or combination of mechanisms is causing populations to fluctuate through time. In general, while various natural history characteristics would not limit sage-grouse populations across large geographic scales under historical conditions of extensive habitat, they may contribute to local population declines or extirpations when populations are small or when weather patterns, habitats, or mortality rates are altered (Factor E).

The Bi-State DPS is comprised of approximately 43 active leks representing 4 to 8 relatively discrete populations (see *Species Information,* above, and the ''Current Range/ Distribution and Population Estimates/ Annual Lek Counts'' section of the Species Report (Service 2013a, pp. 17–29)). Fitness and population size within the Bi-State DPS are strongly correlated and smaller populations are more subject to environmental and demographic stochasticity (Keller and Waller 2002, pp. 239–240; Reed 2005, p. 566). When coupled with mortality stressors related to human activity (e.g., infrastructure, recreation) and significant fluctuations in annual population size, long-term persistence of small populations (in general) is unlikely (Traill *et al.,* 2010, entire). The Pine Nut PMU has the smallest number of sage-grouse of all Bi-State area PMUs (usually fewer than 100 individuals, and ranging from 50 to 331 individuals as observed from data collected between 2002 and 2012 (Table 1, above), representing approximately 5 percent of the DPS). However, each population in the Bi-State DPS is relatively small and below theoretical minimum threshold (as interpreted by sage-grouse experts and not statistically proven (Aldridge and Brigham 2003, p. 30; Garton *et al.* 2011, pp. 310, 374) for long-term persistence, as is the entire DPS on average (estimated 1,833 to 7,416 individuals).

Overall, small population size and population structure occur throughout the Bi-State DPS's range and have a significant impact on the DPS both currently and likely in the future. This is based on our understanding of the overall DPS population size and the apparent isolation among populations contained within the DPS, as inferred from demographic and genetic investigations (e.g., Casazza *et al.* 2009, entire; Oyler-McCance and Casazza 2011, p. 10; Tebenkamp 2012, p. 66). This, combined with the collective literature (Franklin and Frankham 1998, entire; Lynch and Lande 1998, entire; Reed 2005, entire; Traill *et al.,* 2010, entire) available that demonstrates both long-term population persistence and evolutionary potential, is challenged in small populations. Some literature (i.e., Franklin and Frankham 1998, entire; Traill *et al.* 2010, entire) suggest that greater than 5,000 individuals are required for a population to have an acceptable degree of resilience in the face of environmental fluctuations and catastrophic events, and for the continuation of evolutionary process. According to the best available information presented in our analysis for the Bi-State area (Service 2013a, Table 1, pp. 20–31), the largest estimated populations (based on data from 2002 through 2012) are within the Bodie PMU (522 to 2,400 individuals) and South Mono PMU (859 to 2,005 individuals). See additional discussion the ''Small Population Size and Population Structure'' section of the Species Report for further discussion (Service 2013a, pp. 105–110).

Urbanization and Habitat Conversion

Historical and recent conversion of sagebrush habitat on private lands for agriculture, housing, and associated infrastructure (Factor A) within the Bi-State area has negatively affected sage-grouse distribution and population extent in the Bi-State DPS, thus limiting current and future conservation opportunities in the Bi-State area. These alterations to habitat have been most pronounced in the Pine Nut and Desert Creek-Fales PMUs and to a lesser extent the Bodie, Mount Grant, South Mono, and White Mountains PMUs. Although only 14 percent of suitable sage-grouse habitat occurs on private lands in the Bi-State area, and only a subset of that could potentially be developed, conservation actions on adjacent public lands could be compromised due to the high percentage (up to approximately 75 percent (Service 2013b, unpublished data)) of late brood-rearing habitat that

occurs on the private lands. Sage-grouse display strong site fidelity to traditional seasonal habitats and loss of specific sites (such as mesic meadow or spring habitats that typically occur on potentially developable private lands in the Bi-State area) can have pronounced population impacts (Connelly *et al.* 2000a, p. 970; Atamian *et al.* 2010, p. 1533). The influence of land development and habitat conversion on the population dynamics of sage-grouse is greater than a simple measure of spatial extent because of the indirect effects from the associated increases in human activity, as well as the disproportionate importance of some seasonal habitat areas, such as mesic areas for brood-rearing.

Although not currently considered a significant threat, urbanization and habitat conversion is not universal across the Bi-State area, but localized areas of impacts have been realized throughout the DPS's range, and additional future impacts are anticipated. At this time, we are concerned because of the high percentage of late brood-rearing habitat that could be impacted on these private lands. See the ''Urbanization and Habitat Conversion'' section of the Species Report for further discussion (Service 2013a, pp. 33–38).

Mining

Surface and subsurface mining for mineral resources (gold, silver, aggregate, and others) results in direct loss of habitat if occurring in sagebrush habitats (Factor A). The direct impact from surface mining is usually greater than it is from subsurface mining, and habitat loss from both types of mining can be exacerbated by the storage of overburden (soil removed to reach subsurface resource) in otherwise undisturbed habitat. Sage-grouse and nests with eggs could be directly affected by crushing or vehicle collision (Factor E). Sage-grouse also could be impacted indirectly from an increase in human presence, land use practices, ground shock, noise, dust, reduced air quality, degradation of water quality and quantity, and changes in vegetation and topography (Moore and Mills 1977, entire; Brown and Clayton 2004, p. 2) (Factor E).

Currently, operational surface and subsurface mining activities are not impacting the two largest (core) populations within the Bi-State DPS (although areas in multiple PMUs are open to mineral development, and mining operations are currently active in the Mount Grant, Bodie, South Mono, and Pine Nut PMUs, including some occupied habitat areas). In addition, existing inactive mine sites and potential future developments could impact important lek complexes and connectivity areas between, at minimum, the Bodie and Mount Grant PMUs. If additional mineral developments occur in sagebrush habitats within any PMU, this could negatively influence the distribution of sage-grouse and the connectivity among breeding complexes. There is potential for additional mineral developments to occur in the Bi-State area in the future based on known existing mineral resources and recent permit request inquiries with local land managers. While all six PMUs have the potential for mineral development, based on current land designations and past activity, the Pine Nut and Mount Grant PMUs are most likely to see new and additional activity.

Overall, mining currently occurs in limited locations within four PMUs, including small-scale activities such as gold and silver exploration (Pine Nut, Bodie, and South Mono PMUs), and two open pit mines (Mount Grant PMU). These existing activities may be impacting one large lek in the Bodie PMU; four leks in the Mount Grant PMU, including the Aurora lek complex, which is the largest remaining lek in this PMU; and an undetermined number (although likely few) leks in the South Mono PMU. Additionally, new proposals being considered for mining activity in the Pine Nut PMU could, if approved, impact the single active lek remaining in the north end of the Pine Nut PMU. In general, potential exists for operations to expand both currently and into the future. By itself, mining is not considered a significant impact at this time, but is a concern based on existing impacts to sage-grouse and its habitat outside of the two largest (core) populations, the potential for mining activities to impact important lek complexes and connectivity areas between (at minimum) the Bodie and Mount Grant PMUs in the future, and the likely synergistic effects occurring when this threat is combined with other threats acting on the Bi-State DPS currently and in the future. See the ''Mining'' section of the Species Report for further discussion (Service 2013a, pp. 52–54).

Renewable Energy Development

Renewable energy facilities (including geothermal facilities, wind power facilities, and solar arrays) require structures such as power lines and roads for construction and operation, and avoidance of such features by sage-grouse (Factor E) and other prairie grouse is documented (Holloran 2005, p. 1; Pruett *et al.* 2009, p. 6; see discussions regarding roads and power lines in the ''Infrastructure'' section of the Species Report (Service 2013a, pp. 40–47)). Renewable energy development and expansion could result in direct loss of habitat and indirect impacts affecting population viability (e.g., fragmentation and isolation) (Factor A).

Minimal direct habitat loss has occurred in the Bi-State DPS due to renewable energy development, specifically from the only operational geothermal facility in the Bi-State area, which is within the South Mono PMU. However, the likelihood of additional renewable energy facility development, especially geothermal, in the Bi-State area is high based on current Federal leases. Inquiries by energy developers (geothermal, wind) have increased in the past several years (Dublino 2011, pers. comm.). There is strong political and public support for energy diversification in Nevada and California, and the energy industry considers the available resources in the Bi-State area to warrant investment (Renewable Energy Transmission Access Advisory Committee 2007, p. 8). Based on our current assessment of development probability, the Mount Grant PMU and to a lesser degree the Desert Creek-Fales PMU are most likely to be negatively affected by renewable energy development. However, interest by developers of renewable energy changes rapidly, making it difficult to predict potential outcomes.

Overall, renewable energy development has impacted one location in the South Mono PMU to date, and could potentially result in impacts throughout the Bi-State DPS's range in the future based on current leases. The best available data indicate that several locations in the Bi-State area (Pine Nut and South Mono PMUs) have suitable wind resources based on recent leasing and inquiries by facility developers (although no active leases currently occur), and it appears the Mount Grant PMU and to a lesser degree the Desert Creek–Fales PMU are likely to be most negatively affected. We are uncertain of the probability of seeing future inquires or development of wind energy in the Bi-State area. By itself, renewable energy development is not considered a significant impact at this time, but is a concern based on a combination of current activity, existing leases, the strong political and private support for energy diversification, the probability of new or expanding development in most likely a minimum of two PMUs, and the likely synergistic effects occurring when this threat is combined with other threats acting on the Bi-State DPS

currently and in the future. See the ''Renewable Energy Development'' section of the Species Report for further discussion (Service 2013a, pp. 54–58).

Disease

Sage-grouse are hosts for a variety of parasites and diseases (Factor C) including macroparasitic arthropods, helminths (worms), and microparasites (protozoa, bacteria, viruses, and fungi) (Thorne *et al.* 1982, p. 338; Connelly *et al.* 2004, pp. 10–4 to 10–7; Christiansen and Tate 2011, p. 114), which can have varying effects on populations. Connelly *et al.* (2004, p. 10–6) note that, while parasitic relationships may be important to the long-term ecology of sage-grouse, they have not been shown to be significant to the immediate population status across the range of the DPS. However, Connelly *et al.* (2004, p. 10–3) and Christiansen and Tate (2011, p. 126) suggest that diseases and parasites may limit isolated sage-grouse populations as they interact with other demographic parameters such as reproductive success and immigration, and thus, the effects of emerging diseases require additional study.

Viruses (such as coronavirus and WNv) are serious diseases that are known to cause death in grouse species, potentially influencing population dynamics (Petersen 2004, p. 46) (Factor C). Efficacy and transmission of WNv in sagebrush habitats is primarily regulated by environmental factors including temperature, precipitation, and anthropogenic water sources, such as stock ponds and coal-bed methane ponds that support mosquito vectors (Reisen *et al.* 2006, p. 309; Walker and Naugle 2011, pp. 131–132). WNv can be a threat to some sage-grouse populations, and its occurrence and impacts are likely underestimated due to lack of monitoring. The impact of this disease in the Bi-State DPS is likely currently limited by ambient temperatures that do not allow consistent vector and virus maturation. Predicted temperature increases associated with climate change may result in this threat becoming more consistently prevalent. We have no indication that other diseases or parasites are impacting the Bi-State DPS.

Overall, multiple diseases have the potential to occur in the Bi-State area, although WNv appears to be the only identified disease that warrants concern for sage-grouse in the Bi-State area. By itself it is not considered a significant impact at this time because it is currently limited by ambient temperatures that do not allow consistent vector and virus maturation. However, WNv remains a potential threat and concern for the future based on predicted temperature increases associated with climate change that could result in this threat becoming more consistently prevalent. See the disease discussion under the ''Disease and Predation'' section of the Species Report for further discussion (Service 2013a, pp. 93–99).

Predation

Predation of sage-grouse as a food item is the most commonly identified cause of direct mortality during all life stages (Schroeder *et al.* 1999, p. 9; Connelly *et al.* 2000b, p. 228; Casazza *et al.* 2009, p. 45; Connelly *et al.* 2011, p. 65) (Factor C). However, sage-grouse have co-evolved with a variety of predators, and their cryptic plumage and behavioral adaptations have allowed them to persist (Schroeder *et al.* 1999, p. 10; Coates 2008, p. 69; Coates and Delehanty 2008, p. 635; Hagen 2011, p. 96). Predation of sage-grouse can occur at all life cycle stages. Within the Bi-State DPS, predation facilitated by habitat fragmentation (fences, power lines, and roads) and other human activities may be altering natural population dynamics in specific areas of the Bi-State DPS. Data suggest certain populations are exhibiting deviations in vital rates below those anticipated (Koloda *et al.* 2009, p. 1344; Sedinger *et al.* 2011. p. 324). For example, in Long Valley (South Mono PMU) nest predators associated with a county landfill may be lowering nesting success. In addition, low adult survival estimates for the Desert Creek-Fales PMU suggest predators may be influencing population growth there. However, we generally consider habitat alteration as the root cause of these results; teasing apart the interaction between predation rate and habitat condition is difficult.

Overall, predation is currently known to occur throughout the Bi-State DPS's range. It is facilitated by habitat fragmentation (fences, power lines, and roads) and other human activities that may be altering natural population dynamics in specific areas throughout the Bi-State DPS's range. By itself it is not considered a significant impact at this time, but is a concern currently and in the future based on data suggesting certain populations are exhibiting deviations in vital rates below those anticipated, including potential impacts to the Long Valley population, which is one of the two largest (core) populations for the Bi-State DPS. See the predation discussion under the ''Disease and Predation'' section of the Species Report for further discussion (Service 2013a, pp. 99–105).

Climate

Climate change projections in the Great Basin suggest a hotter and stable-to-declining level of precipitation and a shift in precipitation events to the summer months; fire frequency is expected to accelerate, fires may become larger and more severe, and fire seasons will be longer (Brown *et al.* 2004, pp. 382–383; Neilson *et al.* 2005, p. 150; Chambers and Pellant 2008, p. 31; Global Climate Change Impacts in the United States 2009, p. 83). With these projections, drought (which is a natural part of the sagebrush ecosystem) is likely to be exacerbated. Drought reduces vegetation cover (Milton *et al.* 1994, p. 75; Connelly *et al.* 2004, p. 7–18), potentially resulting in increased soil erosion and subsequent reduced soil depths, decreased water infiltration, and reduced water storage capacity (Factor A). Drought can also exacerbate other natural events such as defoliation of sagebrush by insects (Factor A). These habitat component losses can result in declining sage-grouse populations due to increased nest predation and early brood mortality (Factor E) associated with decreased nest cover and food availability (Braun 1998, p. 149; Moynahan *et al.* 2007, p. 1781).

Climate change will potentially act synergistically with other impacts to the Bi-State DPS, further diminishing habitat (Factor A) and increasing isolation of populations (Factor E), making them more susceptible to demographic and genetic challenges or disease. Predicting the impact of global climate change on sage-grouse populations is challenging due to the relatively small spatial extent of the Bi-State area. It is likely that vegetation communities will not remain static and the amount of sagebrush shrub habitat will decrease. Further, increased variation in drought cycles due to climate change will likely place additional stress on the populations. While sage-grouse evolved with drought, drought has been correlated with population declines and has shown to be a limiting factor to population growth in areas where habitats have been compromised.

In the Bi-State area, drought is a natural part of the sagebrush ecosystem, and we are unaware of any information to suggest that drought has influenced population dynamics of sage-grouse under historical conditions. There are known occasions, however, where reduced brood-rearing habitat conditions due to drought have resulted

in little to no recruitment within certain PMUs (Bodie and Pine Nut PMUs (Gardner 2009)). Given the relatively small and restricted extent of this population, if these conditions were to persist longer than the typical adult life span, drought could have significant ramifications on population persistence. Further, drought impacts on the sage-grouse may be exacerbated when combined with other habitat impacts that reduce cover and food (Braun 1998, p. 148).

Based on the best available scientific and commercial information, the threat of climate change is not known to currently impact the Bi-State DPS to such a degree that the viability of the DPS is at stake. However, while it is reasonable to assume the Bi-State area will experience vegetation changes into the future (as presented above), we do not know with precision the nature of these changes or ultimately the effect this will have on the Bi-State DPS. A recent analysis conducted by NatureServe, which incorporates much of the information presented above, suggests a substantial contraction of both sagebrush and sage-grouse range in the Bi-State area by 2060 (Comer *et al.* 2012, pp. 142, 145). Specifically (for example), this analysis suggests the current extent of suitable shrub habitat will decrease because a less suitable climate condition for sagebrush may improve suitability for woodland and drier vegetation communities, which are not favorable to the Bi-State DPS.

In addition, it is reasonable to assume that changes in atmospheric carbon dioxide levels, temperature, precipitation, and timing of snowmelt will act synergistically with other threats (such as wildfire and invasive, nonnative species) to produce yet unknown but likely negative effects to sage-grouse populations in the Bi-State area. As a result of these predictions, it is reasonable to assume that the impacts of climate change (acting both alone and in concert with impacts such as disease and nonnative, invasive species) could be pervasive throughout the range of the Bi-State DPS, potentially degrading habitat to such a degree that all populations would be negatively affected. Therefore, given the scope and potential severity of climate change when interacting with other threats in the future, the overall impact of climate change to the Bi-State DPS at this time is considered moderate.

Overall, this threat occurs (i.e., drought) and potentially occurs (i.e., climate change) throughout the Bi-State DPS's range. By itself it is not considered a significant impact at this time, but is a concern based on its scope and potential severity when interacting with other threats. See the ''Climate'' section of the Species Report for further discussion (Service 2013a, pp. 76–83).

Recreation

Non-consumptive recreational activities (such as fishing, hiking, horseback riding, and camping as well as more recently popularized activities, such as OHV use and mountain biking) occur throughout the range of the greater sage-grouse, including throughout the Bi-State DPS area. These activities can degrade wildlife resources, water, and land by distributing refuse, disturbing and displacing wildlife, increasing animal mortality, and simplifying plant communities (Boyle and Samson 1985, pp. 110–112) (Factor E). For example, disruption of sage-grouse during vulnerable periods at leks, or during nesting or early brood rearing, could affect reproduction and survival (Baydack and Hein 1987, pp. 537–538). In addition, indirect effects to sage-grouse from recreational activities include impacts to vegetation and soils, and the facilitation of the spread of invasive species (Factor A). Impacts caused by recreational activities may be affecting sage-grouse populations in the Bi-State area, and there are known localized habitat impacts.

Overall, recreation occurs throughout the Bi-State DPS's range, although we do not have data on the severity of these impacts. By itself recreation is not considered a significant impact at this time, but some forms of recreation could become a concern based on anticipated increases of recreation use within the Bi-State area in the future. Populations of sage-grouse in the South Mono PMU are exposed to the greatest degree of pedestrian recreational activity, although they appear relatively stable at present. See the ''Recreation'' section of the Species Report for further discussion (Service 2013a, pp. 87–90).

Overutilization Impacts

Potential overutilization impacts include recreational hunting (Factor B). Sage-grouse have not been commercially harvested in the Bi-State area since the 1930s, and they are not expected to be commercially harvested in the future. Limited recreational hunting, based on the concept of compensatory mortality, was allowed across most of the DPS's range with the increase of sage-grouse populations by the 1950s (Patterson 1952, p. 242; Autenrieth 1981, p. 11). In recent years, hunting as a form of compensatory mortality for upland game birds (which includes sage-grouse) has been questioned (Connelly *et al.* 2005, pp. 660, 663; Reese and Connelly 2011, p. 111).

Recreational hunting is currently limited in the Bi-State DPS and within generally accepted harvest guidelines. In the Nevada portion of the Bi-State area, NDOW regulates hunting of sage-grouse. Most hunting of sage-grouse in the Nevada portion of the Bi-State area is closed. NDOW closed the shotgun and archery seasons for sage-grouse in 1997, and the falconry season in 2003 (NDOW 2012b, *in litt.,* p. 4). Hunting of sage-grouse may occur on tribal allotments located in the Pine Nut PMU where the Washoe Tribe of Nevada and California has authority. There are anecdotal reports of harvest by tribal members, but currently the Washoe Tribe Hunting and Fishing Commission does not issue harvest permits for greater sage-grouse (Warpea 2009). In the California portion of the Bi-State area, CDFW regulates hunting of sage-grouse. Hunting historically occurred and continues to occur in the Long Valley (South Mono PMU) and Bodie Hills (Bodie PMU) areas (known as the South Mono and North Mono Hunt Units, respectively). As a result of work by Gibson (1998, entire) and documented population declines in the Bi-State DPS, CDFW has significantly reduced the number of permits issued (Service 2004, pp. 74–75; Gardner 2008).

It is unlikely that the scope and severity of hunting impacts would act in an additive manner to natural mortality. In the Bi-State area, hunting is limited to such a degree that it is not apparently restrictive to overall population growth currently nor expected to become so in the future (CDFW 2012). Furthermore, we are unaware of any information to indicate that poaching or non-consumptive uses significantly impact Bi-State sage-grouse populations.

Overall, sport hunting is currently limited and within generally accepted harvest guidelines. It is unlikely that hunting will ever reach levels again that would act in an additive manner to mortality. In the Bi-State area, hunting is limited to such a degree that it is not apparently restrictive to overall population growth. Furthermore, we are unaware of any information indicating that overutilization is significantly impacting sage-grouse populations in the Bi-State area. Given the current level and location of harvest, and expected continued management into the future, the impact this factor has on population persistence appears negligible. See the ''Overutilization Impacts'' section of the Species Report for further discussion (Service 2013a, pp. 83–87).

Scientific and Educational Uses

Mortality and behavioral impacts to sage-grouse may occur as a result of scientific research activities (Factor B). Sage-grouse in the Bi-State area have been subject to several scientific research efforts over the past decade involving capture, handling, and subsequent banding or radio-marking. Much remains unknown about the impacts of research on sage-grouse population dynamics. However, the available information indicates that very few individuals are disturbed or die as a result of handling and marking. Therefore, the potential impacts associated with scientific and educational uses are considered negligible to the Bi-State DPS at this time and are expected to remain so into the future. See the ''Scientific and Educational Uses'' section of the Species Report for further discussion (Service 2013a, pp. 90–92).

Pesticides and Herbicides

Although few studies have examined the effects of pesticides to sage-grouse, direct mortality of sage-grouse as a result of pesticide applications (such as insecticides and pesticides applied via cropland spraying) has been documented (Blus *et al.* 1989, p. 1142; Blus and Connelly 1998, p. 23) (Factor E). In addition, herbicide applications can kill sagebrush and forbs important as food sources for sage-grouse (Carr 1968, as cited in Call and Maser 1985, p. 14) (Factor E). Although pesticides and herbicides can result in direct and indirect mortality of individual sage-grouse, we are unaware of information that would indicate that the current usage or residue from past applications in the Bi-State area is having negative impacts on populations, nor do we anticipate that the levels of use will increase in the future. Therefore, the potential impacts associated with pesticide and herbicide use are considered negligible to the Bi-State DPS at this time, and are expected to remain so into the future. See the ''Pesticides and Herbicides'' section of the Species Report for further discussion (Service 2013a, pp. 110–112).

Contaminants

Sage-grouse exposure to various types of environmental contaminants (concentrated salts, petroleum products, or other industrial chemicals) may occur as a result of agricultural and rangeland management practices, mining, energy development and pipeline operations, and transportation of hazardous materials along highways and railroads. In the Bi-State area, exposure to contaminants associated with mining is the most likely to occur (see *Mining,* above). Exposure to contaminated water in wastewater pits or evaporation ponds could cause mortalities or an increased incidence of sage-grouse disease (morbidity) (Factor E). Within the Bi-State DPS, sage-grouse exposure to potential contaminants is currently limited and most likely associated with a few existing mining operations in the Pine Nut and Mount Grant PMUs. Future impacts from contaminants (if present) would most likely occur in these same PMUs due to their potential for future mineral development; however, at this time we are unaware of information to indicate that contaminants are a problem currently or in the future. Therefore, the potential impacts associated with contaminants are considered negligible to the Bi-State DPS at this time, and are expected to remain so into the future. See the ''Contaminants'' section of the Species Report for further discussion (Service 2013a, p. 113).

Existing Regulatory Mechanisms

Bi-State sage-grouse conservation has been addressed in some local, State, and Federal plans, laws, regulations, and policies. An examination of regulatory mechanisms (Factor D) for both the Bi-State DPS and sagebrush habitats reveals that some mechanisms exist that either provide or have the potential to provide a conservation benefit to the Bi-State DPS, such as (but not limited to): Various County or City regulations outlined in General Plans; Nevada State Executive Order, dated September 26, 2008; Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), which requires development of resource management plans for BLM lands; National Forest Management Act (16 U.S.C. 1600 *et seq.*), which requires land and resource management plans for U.S. Forest Service lands; and the Sikes Act Improvement Act of 1997 (16 U.S.C. 670a *et seq.*), which requires integrated natural resources management plans for military installations (see ''Existing Regulatory Mechanisms'' section of the Species Report (Service 2013a, pp. 113–127)). However, supporting documents for some of these are many years old and have not been updated, calling into question their consistency with our current understanding of the DPS's life-history requirements, reaction to disturbances, and the DPS's conservation needs. In addition, the conservation actions that have been implemented to date according to the existing regulatory mechanisms vary across the Bi-State area, although managing agencies are beginning to work more collaboratively across jurisdictional boundaries. The degree to which these existing regulatory mechanisms conserve the DPS is largely dependent on current and future implementation, which can vary depending on factors such as the availability of staff and funding.

The Bi-State area is largely comprised of federally managed lands. Existing land use plans, as they pertain to sage-grouse, are typically general in nature and afford relatively broad latitude to land managers. This latitude influences whether measures available to affect conservation of greater sage-grouse are incorporated during decision making, and implementation is prone to change based on managerial discretion. While we recognize the benefits of management flexibility, we also recognize that such flexibility with regard to implementation of land use plans can result in land use decisions that negatively affect the Bi-State DPS. Therefore, we consider most existing Federal mechanisms offer limited certainty as to managerial direction pertaining to sage-grouse conservation, particularly as the Federal mechanisms relate to addressing the threats that are significantly impacting the Bi-State DPS (i.e., nonnative and native, invasive plants; wildfire and altered wildfire regime; infrastructure; and rangeland management), and other impacts (such as, but not limited to, renewable energy development). Regulations in some counties identify the need for natural resource conservation and attempt to minimize impacts of development through zoning restrictions, but to our knowledge these regulations neither preclude development nor do they provide for monitoring of the loss of sage-grouse habitats. Similarly, State laws and regulations are general in nature and provide flexibility in implementation, and do not provide specific direction to State wildlife agencies, although they can occasionally afford regulatory authority over habitat preservation (e.g., creation of habitat easements and land acquisitions).

Synergistic Impacts

Many of the impacts described here and in the accompanying Species Report may cumulatively or synergistically affect the Bi-State DPS beyond the scope of each individual stressor. For example, the future loss of additional significant sagebrush habitat due to wildfire in the Bi-State DPS is anticipated because of the intensifying synergistic interactions among fire, people and infrastructure, invasive

species, and climate change. Predation may also increase as a result of the increase in human disturbance and development. These are just two scenarios of the numerous threats that are likely acting cumulatively to further contribute to the challenges faced by many Bi-State DPS populations now and into the future.

In summary, we have determined that the threats causing the most significant impacts on the Bi-State DPS currently and in the future are urbanization and habitat conversion (Factor A); infrastructure (Factors A and E); mining (Factors A and E); renewable energy development and associated infrastructure (Factors A and E); grazing (Factors A, C, and E); nonnative and native, invasive species (e.g., cheatgrass, pinyon-juniper encroachment) (Factors A and E); wildfires and altered fire regime (Factors A and E); and small population size and population structure (Factor E). Other threats impacting the DPS across its range currently and in the future, but to a lesser degree than those listed above, include climate change, including drought (Factors A and E); recreation (Factors A and E); and disease and predation (Factor B). Existing regulatory mechanisms are inadequate to protect the Bi-State DPS against these threats (Factor D). Numerous threats are likely acting cumulatively to further contribute to the challenges faced by several Bi-State DPS populations now and into the future.

Determination

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Bi-State DPS. We considered the five factors identified in section 4(a)(1) of the Act in determining whether the Bi-State DPS meets the Act's definition of an endangered species (section 3(6)) or threatened species (section 3(20)).

Multiple threats impacting the Bi-State DPS and its habitat are interacting synergistically and resulting in increasingly fragmented habitat for this long-lived habitat specialist. Woodland encroachment is causing significant, measurable habitat loss throughout the range of the Bi-State DPS. While techniques to address this habitat impact are available and being implemented, the scale of such efforts is currently inadequate. Woodlands have expanded by an estimated 20,234 to 60,703 ha (50,000 to 150,000 ac) over the past decade in the Bi-State area, but woodland treatments have only been implemented on 6,475 ha (16,000 ac) (Service 2013b, unpublished data). Meanwhile, the existing and potential near-term impacts of cheatgrass and wildfire are steadily increasing and will likely escalate further with climate change, providing conditions that will likely result in rapid loss of significant quantities of suitable habitat. Similarly, impacts from infrastructure, urbanization, and recreation on already fragmented habitat and small populations within the Bi-State area are expected to gradually increase.

Taken cumulatively, the ongoing and future habitat-based impacts in all PMUs will likely act to fragment and further isolate populations within the Bi-State DPS. Current or future impacts caused by wildfire, urbanization, grazing, infrastructure, recreation, woodland succession, and climate change will likely persist and interact in the near-term and most significantly influence the Pine Nut, Desert Creek-Fales, and Mount Grant PMUs. The Bodie and South Mono PMUs are larger and more stable, and generally have fewer habitat pressures. The level of impacts within the White Mountains PMU remains largely unknown; the population is likely relatively small, and it is on the southern periphery of the DPS. While the South Mono, White Mountains, and Pine Nut PMUs appear to be largely isolated entities, the Bodie PMU interacts with the Mount Grant PMU and to a lesser degree the Desert Creek-Fales PMU, and the potential erosion of habitat suitability in these latter PMUs may influence the population dynamics and persistence of the breeding population in the Bodie PMU.

When existing and future impacts such as predation, disease, recreation, and climate change (vegetation changes, drought) are considered in conjunction with other habitat stressors, it appears that preservation of sage-grouse populations in the northern half of the Bi-State area will be difficult. Given the Bi-State DPS's relatively low rate of growth and strong site fidelity, recovery and repopulation of extirpated areas will be slow and infrequent, making future recovery of extirpated populations within the Bi-State area challenging. Translocation of sage-grouse is difficult, and given the limited number of source individuals within the range of the Bi-State DPS, translocation efforts, if needed, will be logistically complicated. Within the next several decades, it is possible that sage-grouse in the Bi-State area will persist in two of the potentially eight populations in the Bi-State area, specifically two populations located in the South Mono PMU (Long Valley) and the Bodie PMU (Bodie Hills). These two populations could also become increasingly further isolated from one another as a result of the potential for loss of habitat connectivity due to exurban development on private lands in the Bodie PMU, as well as future habitat fragmentation from potential pinyon-juniper encroachment, wildfire, and cheatgrass impacts. If further isolated, it is likely that both these populations would be at greater risk to stochastic events.

In summary, we believe the Bi-State DPS is likely to become endangered within the foreseeable future throughout all or a portion of its range based on the following:

(1) A reduction of historical range, and a reduction in habitat of greater than 50 percent with a concurrent reduction from historical abundance of greater than 50 percent. The current trend in habitat loss is slow and expected to continue at this slow pace, further reducing range and habitat. The current trend in abundance is unknown, but it is expected to gradually decrease for at least five of the six PMUs. This is of critical concern to the Bi-State DPS because fluctuations in the four small, less secure PMUs are likely to result in extirpations and loss of population redundancy within the DPS.

(2) All six PMUs include poor connectivity within and among PMUs; the current trend in connectivity is slowly deteriorating, and this is of critical concern to the Bi-State DPS because it increases the risk of loss of individual PMUs via stochastic events.

(3) Remaining habitat is increasingly fragmented in all six PMUs; the current trend in habitat fragmentation is a slow increase.

(4) Trends for most leks are unknown, especially on periphery of the Bi-State DPS's range. This is of critical concern to the DPS because there is an existing pattern of historical extirpations of peripheral populations for the sage-grouse in the Bi-State area. Well known leks in the core of the DPS's range that have remained protected over time and have long-term monitoring data suggest stable population trends.

(5) The size of the Bi-State population is generally below theoretical minimums for long-term persistence reported in literature; populations are especially small and increasingly isolated outside the two largest (core) populations in the South Mono and Bodie PMUs. Recent extensive and intensive surveys for the Bi-State population range-wide did not significantly increase the known number of leks or individuals.

(6) Sage grouse are long-lived habitat specialists particularly susceptible to

habitat fragmentation caused by multiple, interacting threats, and there are multiple threats to habitat interacting synergistically throughout the Bi-State population.

(7) Pinyon-juniper tree encroachment has caused significant habitat reduction; the current trend in pinyon-juniper encroachment is increasing, but mitigated partially by ongoing woodland removal projects.

(8) Urbanization is documented to have caused significant habitat reduction; the current trend in urbanization is increasing but slowly.

(9) Infrastructure development (e.g., roads, power lines, fences, communication towers) is documented to have caused significant habitat reductions (although some impacts are being mitigated by ongoing removal of potential avian predator roost sites and modification or removal of fencing); the current trend in this threat is increasing but slowly.

(10) The fire-invasive species cycle destroys native plant communities and sage grouse habitat; the current trend in sagebrush habitat loss from fire and invasive species is increasing.

(11) Small population size and meta-population isolation increases risk to sage-grouse; the current trend in the Bi-State area for small, isolated populations is gradually increasing. This is of critical concern to the Bi-State DPS because fluctuations in the four small, less secure PMUs are likely to result in extirpations and loss of population redundancy within the DPS.

(12) Predation can locally impact sage-grouse in specific circumstances, such as that occurring in the South Mono PMU near a landfill, which is likely impacting one of the two largest, core populations for the Bi-State DPS; however, the current trend in predation is stable.

(13) There is uncertainty over long-term threats from climate change and its effects on other factors like invasive species; it is probable that the threat of climate change will increase in the foreseeable future.

The Act defines an endangered species as any species that is ''in danger of extinction throughout all or a significant portion of its range'' and a threatened species as any species ''that is likely to become endangered throughout all or a significant portion of its range within the foreseeable future.'' We consider foreseeable future in this proposed rule to be 30 years based on the probability of population persistence analyzed and described by Garton *et al.* (2011, entire), which conducted a trend analysis for the populations that occur in the Bodie, Desert Creek-Fales, and South Mono PMUs. Garton *et al.* (2011, entire) conclude that the probability of declining below a quasi-extinction threshold (as defined by some scientific experts to be fewer than 50 males per population) was 15 percent over the next 30 years for the populations in Bodie and Desert Creek-Fales PMUs, and 0 percent for the populations in the South Mono PMU. In other words, populations in the Bodie, Desert Creek-Fales, and South Mono PMUs have a probability of persistence between 85 and 100 percent over the next 30 years. Data quality was inadequate or unavailable for the populations within the Pine Nut, Mount Grant, and White Mountains PMUs for Garton's (2011, entire) analysis for population persistence. Because populations for these PMUs harbor fewer individuals and thus smaller populations than those analyzed by Garton *et al.* (2011, entire), we expect the populations in these areas within the next 30 years to have an undetermined lower probability of persistence. Data quality was inadequate or unavailable on a longer time frame for all units.

Based on the analysis presented in the Species Report (Service 2013a, entire), and our discussion and rationale provided above, we find that the Bi-State DPS is not presently in danger of extinction throughout all of its range, but that it is likely to become endangered throughout all of its range in the foreseeable future. First, we find that the Bi-State DPS is not presently in danger of extinction based on the following:

(1) The Bi-State DPS populations will likely persist in multiple areas within the range of the DPS into the foreseeable future (as defined above). Predictions indicate the Bodie, Desert Creek-Fales, and South Mono PMU populations have an 85 (Bodie and Desert Creek-Fales PMUs) to 100 (South Mono PMU) percent chance of persistence over the next 30 years. The Pine Nut, Mount Grant, and White Mountains populations have an undetermined lesser percent chance of persistence.

(2) The best available data for the Bi-State DPS indicate stable or increasing trends for the two largest populations that represent the central core of the DPS.

(3) Because the Bi-State DPS is characterized by multiple populations, some of which are likely to remain in place within the foreseeable future, these populations provide sufficient redundancy (multiple populations distributed across the landscape), resiliency (capacity for a species to recover from periodic disturbance), and representation (range of variation found in a species) such that the Bi-State DPS is not at immediate risk of extinction (i.e., within the foreseeable future). Although data are unavailable for accurately predicting persistence of populations within three of the six PMUs within the foreseeable future, our evaluation of the best available information leads us to believe that only one population (i.e., the smallest population within the Pine Nut PMU) might not persist into the foreseeable future.

Second, we find that the Bi-State DPS is likely to become endangered throughout all of its range in the foreseeable future based on the following:

(1) Multiple threats are significantly impacting all of the Bi-State DPS populations (i.e., infrastructure; grazing and rangeland management; nonnative and native, invasive plants; wildfire and altered fire regime; and small population size).

(2) Additive and synergistic effects due to the threats listed above as well as other multiple threats (i.e., urbanization and habitat conversion, mining, renewable energy development, climate (including drought), recreation, disease, and predation) are likely to continue and increase in the future. Of significant concern are the compounding impacts to the Bi-State DPS's habitat that are interacting and resulting in increasingly fragmented habitat, especially from pinyon-juniper encroachment throughout the DPS's range.

(3) Current or future impacts identified above will likely persist and interact in the near-term, most significantly affecting the populations and habitat in the Pine Nut, Desert Creek-Fales, and Mount Grant PMUs (while the level of impacts within the White Mountains PMU remains largely unknown). Thus, the potential exists for one or more of the populations in these PMUs to be lost or impacted to such a degree that recovery would be significantly challenged. The two largest (core) populations (i.e., the South Mono PMU (Long Valley) and the Bodie PMU (Bodie Hills)) could also become isolated from one another as a result of the potential for loss of habitat connectivity due to exurban development on private lands in the Bodie PMU, as well as future habitat fragmentation from potential pinyon-juniper encroachment, wildfire, and cheatgrass impacts. Once further isolated, it is likely that both core PMUs would be at greater risk to stochastic events.

Therefore, on the basis of the best available scientific and commercial information, we propose listing the Bi-State DPS of greater sage-grouse as threatened in accordance with sections 3(20) and 4(a)(1) of the Act.

The Bi-State DPS proposed for listing in this rule is highly restricted in its range and the threats occur throughout its range. Therefore, we assessed the status of the Bi-State DPS throughout its entire range. The threats to the survival of the DPS occur throughout its range and are not restricted to any particular significant portion of that range (see Significant Portion of the Range, below). Accordingly, our assessment and proposed determination applies to the Bi-State DPS throughout its entire range.

Significant Portion of the Range

Under the Act and our implementing regulations, a species may warrant listing if it is endangered or threatened throughout all or a significant portion of its range. In determining whether a species is endangered or threatened in a significant portion of its range, we first identify any portions of the range of the species that warrant further consideration. The range of a species can theoretically be divided into portions an infinite number of ways. However, there is no purpose to analyzing portions of the range that are not reasonably likely to be both (1) significant and (2) endangered or threatened. To identify only those portions that warrant further consideration, we determine whether there is substantial information indicating that: (1) The portions may be significant, and (2) the species may be in danger of extinction there or likely to become so within the foreseeable future. In practice, a key part of this analysis is whether the threats are geographically concentrated in some way. If the threats to the species are essentially uniform throughout its range, no portion is likely to warrant further consideration. Moreover, if any concentration of threats applies only to portions of the species' range that are not significant, such portions will not warrant further consideration.

If we identify portions that warrant further consideration, we then determine whether the species is endangered or threatened in these portions of its range. Depending on the biology of the species, its range, and the threats it faces, the Service may address either the significance question or the status question first. Thus, if the Service considers significance first and determines that a portion of the range is not significant, the Service need not determine whether the species is endangered or threatened there. Likewise, if the Service considers status first and determines that the species is not endangered or threatened in a portion of its range, the Service need not determine if that portion is significant. However, if the Service determines that both a portion of the range of a species is significant and the species is endangered or threatened there, the Service will specify that portion of the range as endangered or threatened under section 4(c)(1) of the Act.

We evaluated the current range of the Bi-State DPS to determine if there is any apparent geographic concentration of threats. The Bi-State DPS is highly restricted in its range and the threats occur to varying degrees and in various combinations throughout its range. We considered the potential threats due to nonnative and native, invasive plants; wildfire and an altered fire regime; infrastructure (including roads, power lines, fences, communication towers, and landfills); grazing and rangeland management; small population size; urbanization and habitat conversion; mining; renewable energy development; disease; predation; climate change (including drought); recreation; overutilization; scientific and educational uses; pesticides and herbicides; contaminants; and potential inadequacy of existing regulatory mechanisms. However, we found no concentration of threats but rather that various combinations of multiple threats are present throughout the range of the Bi-State DPS.

Given the sage-grouse populations in the Pine Nut, Mount Grant, and White Mountains PMUs are now and will continue to be most at risk from the various threats acting upon the birds and their habitat (see the foreseeable future discussion above in the Determination section), we identify this portion of the range for further consideration. The Pine Nut, Mount Grant, and (to the extent known) White Mountains PMUs comprise the least amount of birds and leks within the range of the Bi-State DPS, with the Pine Nut PMU harboring the least number of birds and leks overall.

We analyzed whether threats in these three PMUs (i.e., Pine Nut, Mount Grant, and White Mountains PMUs) rise to the level such that the sage-grouse is currently in danger of extinction, or ''endangered,'' in these three PMUs combined. We determined that none of the threats within these three PMUs either independently or collectively, is believed to be of the level that the threats have reduced, destroyed, or fragmented sagebrush habitat such that the DPS is currently in danger of extinction. We note that data do indicate that impacts from nonnative and native, invasive species, and thus the threat of wildfire, in the Pine Nut PMU are more extensive than in the Mount Grant and White Mountains PMUs. While these threats continue in the Pine Nut PMU and may increase, monitoring continues to document sage-grouse in some historically occupied areas within the PMU. Also, the Pine Nut PMU currently holds the least number of birds and leks of all populations, and the potential loss of this already small population is not expected to impact the Bi-State DPS to the extent that the remaining two PMUs with the smallest populations (i.e., Mount Grant and White Mountains PMUs) or the DPS as a whole would be considered in danger of extinction.

Because multiple sage-grouse are still observed through monitoring activities, and from one to eight active leks are present within each of these three smaller populations (within the Pine Nut, Mount Grant, and White Mountains PMUs), we do not believe the combined sage-grouse populations in all three of these PMUs are currently in danger of becoming extinct. Additionally, the threats acting upon these small populations are not geographically concentrated and exist in all six PMUs throughout the range of the Bi-State DPS. Rather, the combination of the small population size, isolation due to fragmented habitat, peripheral locations, and the presence of several threats to the populations in the Pine Nut, Mount Grant, and White Mountains PMUs makes these populations more vulnerable than the populations in the Bodie, Desert Creek-Fales, and South Mono PMUs but not to the degree that they are in danger of extinction.

In conclusion, we find that the overall scope and significance of threats affecting the Bi-State DPS are essentially uniform throughout the DPS's range, indicating no other portion of the range of the DPS warrants further consideration of possible endangered status under the Act. Therefore, we find there is no significant portion of the Bi-State DPS's range that may warrant a different status.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local

agencies; private organizations; and individuals. The Act encourages cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species so that they no longer need the protective measures of the Act. Subsection 4(f) of the Act requires the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning includes the development of a recovery outline shortly after a species is listed and preparation of a draft and final recovery plan. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan identifies site-specific management actions that set a trigger for review of the five factors that control whether a species remains endangered or may be downlisted or delisted, and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our Web site (*http://www.fws.gov/endangered*), or from our Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Nevada and California would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Bi-State DPS. Information on our grant programs that are available to aid species recovery can be found at: *http://www.fws.gov/grants.*

Although the Bi-State DPS of greater sage-grouse is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the USFS, BLM, or Department of Defense (Hawthorne Army Depot and Marine Corps' Mountain Warfare Training Center); issuance of section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) permits by the U.S. Army Corps of Engineers; and construction and maintenance of roads or highways by the Federal Highway Administration.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.21 for endangered wildlife, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these), import, export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. Under the Lacey Act (18 U.S.C. 42–43; 16 U.S.C. 3371–3378), it is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife species under certain circumstances. Regulations governing permits are codified at 50 CFR 17.22 for endangered species, and at 17.32 for threatened species. With regard to endangered wildlife, a permit must be issued for the following purposes: for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of species proposed for listing. The following activities could potentially result in a violation of section 9 of the Act; this list is not comprehensive:

(1) Unauthorized collecting, handling, possessing, selling, delivering, carrying, or transporting of the species, including import or export across State lines and

international boundaries, except for properly documented antique specimens of these taxa at least 100 years old, as defined by section 10(h)(1) of the Act.

(2) Actions that would result in the loss of sagebrush overstory plant cover or height. Such activities could include, but are not limited to, the removal of native shrub vegetation by any means for any development or infrastructure construction project; direct conversion of sagebrush habitat to agricultural land use; habitat improvement or restoration projects involving mowing, brush-beating, disking, plowing, chemical treatments, or prescribed burning; and prescribed burning and fire suppression activities.

(3) Actions that would result in the loss or reduction in native herbaceous understory plant cover or height, a reduction or loss of associated arthropod communities, or ground disturbance that would result in removal or depletion of surface and ground water resources that impact brood-rearing habitat. Such activities could include, but are not limited to: Livestock grazing; application of herbicides or insecticides; prescribed burning and fire suppression activities; seeding of nonnative plant species that would compete with native species for water, nutrients, and space; groundwater pumping; and water diversions for irrigation and livestock watering.

(4) Actions that would result in the Bi-State DPS's avoidance of an area during one or more seasonal periods. Such activities could include, but are not limited to, the construction of vertical structures such as power lines, fences, communication towers, and buildings; motorized and non-motorized recreational use; and activities such as mining or well drilling, operation, and maintenance, which would entail significant human presence, noise, and infrastructure.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Nevada Fish and Wildlife Office for activities in Nevada and to the Ventura Fish and Wildlife Office for activities in California (see **FOR FURTHER INFORMATION CONTACT**).

Proposed Special Rule

Under section 4(d) of the Act, the Secretary of the Interior has discretion to issue such regulations as she deems necessary and advisable to provide for the conservation of threatened species. Our implementing regulations (50 CFR 17.31) for threatened wildlife generally incorporate the prohibitions of section 9 of the Act for endangered wildlife, except when a ''special rule'' is promulgated under section 4(d) of the Act with respect to a particular threatened species. In such a case, the general prohibitions at 50 CFR 17.31 would not apply to that species; instead, the special rule would define the specific take prohibitions and exceptions that would apply, and that we consider necessary and advisable to conserve, that particular threatened species. The Secretary also has the discretion to prohibit by regulation with respect to a threatened species any act prohibited by section 9(a)(1) of the Act. Exercising this discretion, which has been delegated to the Service by the Secretary, the Service has developed general prohibitions that are appropriate for most threatened wildlife at 50 CFR 17.31 and exceptions to those prohibitions at 50 CFR 17.32.

For the Bi-State DPS, we have determined that a 4(d) special rule may be appropriate. This 4(d) special rule is proposed for take incidental to activities conducted pursuant to either: (1) Conservation programs developed by or in coordination with the State agency or agencies responsible for the management and conservation of fish and wildlife within Nevada and California, or their agents, with a clear mechanism for application to lands occupied by the Bi-State DPS; or (2) routine livestock ranching activities conducted in a manner congruous with maintaining the local ecological integrity. Both conservation programs and maintenance of large blocks of intact habitat provide a conservation benefit to the Bi-State DPS. When making a determination as to whether a program would be covered pursuant to this 4(d) rule, we would consider the following:

(1) Whether the program comprehensively addresses all the threats affecting the Bi-State DPS within the program area;

(2) Whether the program establishes objective, measurable biological goals and objectives for population and habitat necessary to ensure a net conservation benefit, and provides the mechanisms by which those goals and objectives will be achieved;

(3) Whether the program administrators demonstrate the capability and funding mechanisms for effectively implementing all elements of the conservation program, including enrollment of participating landowners, monitoring of program activities, and enforcement of program requirements;

(4) Whether the program employs an adaptive management strategy to ensure future program adaptation as necessary and appropriate; and

(5) Whether the program includes appropriate monitoring of effectiveness and compliance.

As discussed elsewhere in this proposed rule, the Bi-State DPS faces many threats. Foremost among these is the continuing loss and degradation of habitat, which further fragment and isolate already small populations. The Service proposes this 4(d) special rule in recognition of the significant conservation planning efforts occurring throughout the range of the Bi-State DPS for the purpose of reducing or eliminating threats affecting the DPS. Multiple partners (including private citizens, nongovernmental organizations, and Federal and State agencies) are engaged in conservation efforts across the entire range of the DPS on public and private lands, and these efforts have provided and will continue to provide a conservation benefit to the DPS. Two recent examples of conservation programs in the Bi-State area are the Bi-State Action Plan, which was finalized on March 15, 2012, and addresses the entire range of the DPS on public and private lands; and the NRCS's Sage-Grouse Initiative (SGI). Efforts associated with both programs will facilitate conservation benefits in the Bi-State area, and these programs will continue to provide conservation benefits to the DPS into the future. Currently, existing programs do not yet fully address the suite of factors contributing to cumulative habitat loss and fragmentation, which is our primary concern across the Bi-State DPS's range. However, the Bi-State Action Plan, if completely refined and fully implemented, may result in the removal of threats to the Bi-State DPS so that the protections of the Act may no longer be warranted, especially in combination with other actions, including Federal land management agencies' ongoing efforts to ensure regulatory mechanisms are adequate for the DPS.

Conservation efforts occurring across the range of the Bi-State DPS include, but are not limited to:

- Limiting infrastructure development and human disturbance in sage-grouse habitat;
- Removing woodland plant species that encroach upon sagebrush habitats absent sufficient disturbance to maintain the sagebrush habitat;
- Managing wildfire and invasive species to limit the occurrence of large, high-intensity fire, and fire that facilitates the dominance of invasive species such as cheatgrass;

- Protecting private lands as sagebrush habitat through purchase or conservation easement;
- Managing feral horses in a manner that maintains natural ecosystem functions and avoids facilitating the dominance of cheatgrass;
- Managing and restoring wet meadow and upland habitats to provide important functions for all life stages of sage-grouse;
- Protecting against risks associated with small population size;
- Monitoring and addressing disease and predation threats; and
- Conducting research and monitoring actions, and adapting management accordingly.

The proposed criteria presented here are meant to encourage the continued development and implementation of a coordinated and comprehensive effort to improve habitat conditions and the status of the Bi-State DPS across its entire range. For the Service to approve coverage of a conservation effort under this proposed 4(d) special rule, the program would have to provide a net conservation benefit to the Bi-State DPS populations. Conservation, as defined in section 3(3) of the Act, means ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary.'' The program would also have to be periodically reviewed by the Service and determined to continue to provide a net conservation benefit to the Bi-State DPS. As a result of this proposed provision, the Service expects that rangewide conservation actions would be implemented with a high level of certainty that the program will lead to the long-term conservation of the Bi-State DPS.

Conservation programs associated with restoring and improving natural ecological conditions have the potential to affect the Bi-State DPS. Some activities have the potential to positively affect the DPS (e.g., woodland and meadow treatments intended to maintain habitat condition in the absence of natural disturbance); however, some of these activities have the potential to negatively affect the DPS depending on when and where the activities are conducted (e.g., direct take from conducting research activities).

While section 9 of the Act provides general prohibitions on activities that would result in take of a threatened species, the Service recognizes that the conservation efforts listed above, even those with the potential to incidentally take Bi-State DPS, may be necessary to restore the entire range of the DPS to a naturally functioning condition. The Service also recognizes that it is, in the long term, a benefit to the Bi-State DPS to maintain, as much as possible, those aspects of the landscape that can aid in the recovery of the DPS. We believe this proposed 4(d) special rule would further conservation of the DPS by enabling restoration and research activities and by minimizing further subdivision of privately owned lands with the intent to restore, understand, and protect the entire range of the DPS to an intact and naturally functioning state.

Conservation Activities To Be Exempted by the Proposed Special Rule

Infrastructure Development and Human Disturbance

In some instances, it may be necessary to install various infrastructure features (such as, for example, fences to improve livestock management or a similar barrier to limit access by people into sensitive locations) in order to obtain management objectives that benefit the Bi-State DPS. While these developments may negatively affect the Bi-State DPS by providing perches for predators, increasing collision risk, and/or causing disturbance during installation, they have the potential to provide a net benefit to conservation by protecting sensitive habitats, such as upland meadows and strutting grounds. In these instances when habitat conservation is the goal, the Service recognizes the need to install small infrastructure features and is therefore including these activities in this proposed special rule. The Service encourages limiting the installation of new infrastructure in habitat used by the Bi-State DPS. Further, in instances when placement of these features outside of occupied habitat cannot occur because it will not achieve management objectives, we recommend the impact posed by these features be minimized to the greatest extent possible. This may include timing construction during periods of sage-grouse absence, using alternative fencing methods (e.g., let-down or electric fencing), marking fences with visual markers, and micro-sighting features to minimize impact.

Woodland Treatments

Pinyon-juniper woodlands are a native vegetation community dominated by pinyon pine and various juniper species. These woodlands can encroach upon, infill, and eventually replace sagebrush habitat. The root cause of this conversion from shrubland to woodland is debatable but variously influenced by livestock grazing, fire suppression that has altered the natural fire disturbance regime, and changes in climate and levels of atmospheric carbon dioxide that influence sites' suitability to tree establishment and tree competitiveness. Some portions of the Bi-State DPS's range are also impacted by *Pinus jeffreyi* (Jeffrey pine) encroachment. Regardless of the type of woodland encroachment, sage-grouse response is negative, and forest or woodland encroachment into occupied sage-grouse habitat reduces (and likely eventually eliminates) sage-grouse use (Commons *et al.* 1999, p. 238; Doherty *et al.* 2008, p. 187; Freese 2009, pp. 84–85, 89–90).

Treatment of sites currently supporting trees with the intent of restoring the location to a condition dominated by a sagebrush vegetation community may potentially negatively affect the Bi-State DPS by disturbing or displacing birds utilizing adjacent habitats or by disturbing remaining shrub and herbaceous vegetation and soils. The Service recognizes that it is, in the long-term, a benefit to the DPS to maintain, as much as possible, those locations currently trending toward a woodland vegetation community in a shrub-dominated condition. The Service also recognizes that, in the course of conducting this conservation program, take of Bi-State DPS may occur. However, the Service believes the net benefit gained through these actions would provide significant conservation benefit for the DPS, and is therefore including these activities in this proposed special rule. The Service recommends that potential impacts caused by these activities be minimized by conducting actions during periods when birds are not present and by using methods that minimize understory disturbance (e.g., chainsaw) and incorporate appropriate measures to improve native understory vegetation composition.

Fire and Nonnative Invasive Species Management

Both lightning-caused and human-caused fire in sagebrush ecosystems is one of the primary risks to the greater sage-grouse, especially as part of the positive feedback loop between nonnative, invasive annual grasses and fire frequency. As the replacement of native perennial bunchgrass communities by invasive annuals is a primary contributing factor to increasing fire frequencies in the sagebrush ecosystem, every effort must be made to retain and improve this native plant community.

Fire management activities (i.e., preventing, suppressing, and restoring) may have a beneficial effect (e.g.,

limiting amount of sagebrush habitat burned), neutral effect (e.g., staging equipment outside of suitable habitat), or negative effect (e.g., removal of sagebrush to create fire breaks) on the Bi-State DPS. In order to prevent or minimize the spread of wildfires in rangelands, there may be a need to construct fire breaks or conduct treatments of invasive species. If these activities occur in sagebrush habitat, the potential for take of the Bi-State DPS may occur due to loss of habitat or displacement of sage-grouse. However, the Service recognizes the critical importance of fire management in native shrublands, and is therefore including activities associated with wildfire prevention, suppression, and restoration in this proposed special rule.

Conservation Easement

A conservation easement is an agreement between a private land conservation organization or government entity to constrain (in a specific location) the exercise of rights otherwise held by a landowner so as to achieve a conservation objective. This tool is being employed in the Bi-State area, and, typically, the rights constrained are associated with development and water. For example, a landowner could agree not to subdivide their property for housing development and not sell their water rights for offsite use.

Private lands in the Bi-State area are important to the Bi-State DPS due to the high percentage (up to approximately 75 percent (Service 2013b, unpublished data)) of late brood-rearing habitat that occurs on private lands, and the importance of maintaining these lands in a naturally functioning condition for the conservation of the DPS. The Service recognizes the critical importance of maintaining large, contiguous patches of sagebrush habitat for the Bi-State DPS and is including activities associated with procuring conservation easements in this proposed special rule.

Feral Horse Management

Feral horse presence may negatively affect sagebrush vegetation communities and habitat suitability for the Bi-State DPS. Feral horses have utilized sagebrush communities since they were brought to North America at the end of the 16th century (Wagner 1983, p. 116; Beever 2003, p. 887). Horses are generalists, but seasonally their diets can be almost entirely grasses (Wagner 1983, pp. 119–120). Areas without horse grazing can have 1.9 to 2.9 times more grass cover and higher grass density (Beever *et al.* 2008, p. 176), whereas sites with horse grazing have less shrub cover and more fragmented shrub canopies (Beever *et al.* 2008, p. 176), less plant diversity, altered soil characteristics, and 1.6 to 2.6 times greater abundance of cheatgrass (Beever *et al.* 2008, pp. 176–177). Therefore, feral horse presence may negatively affect sagebrush vegetation communities and habitat suitability for sage-grouse by decreasing grass cover, fragmenting shrub canopies, altering soil characteristics, decreasing plant diversity, and increasing the abundance of invasive cheatgrass.

In order to minimize the impact feral horses have on the local landscape, land-managing agencies (on occasion) remove and relocate feral horses. These activities may potentially take individual sage-grouse within the range of the Bi-State DPS. For example, helicopters used during feral horse round-up and removal activities may disturb and displace sage-grouse in the immediate vicinity of these activities. However, the Service recognizes the importance of maintaining feral horse numbers at appropriate levels such that degradation of habitat is not realized. Therefore, we are including this conservation program in this proposed special rule.

Meadow and Upland Restoration

Meadow, riparian, and other mesic habitats are an important seasonal component in the annual life cycle of sage-grouse. These locations are used by sage-grouse during the summer and fall, and are a critical component in population dynamics as they play a significant role in facilitating recruitment of juvenile birds into the population. Loss and degradation of these habitats has occurred across the range of the Bi-State DPS and restoration of these areas will be of significant importance affecting the conservation of the DPS.

A variety of methods (e.g., mechanical, chemical) may be employed in the act of restoring these types of habitats depending on the associated cause of degradation. For example, the hydrologic function of a site may be compromised due to down-cutting of stream or creek beds and a meadow (in the absence of disturbance) may become dominated by shrubs and lose the herbaceous diversity critical to sage-grouse. Restoration activities associated with these examples may require use of heavy machinery, mowing, or use of herbicides to remove shrubs. These activities may potentially take individual sage-grouse within the Bi-State DPS through disturbance or displacement of birds adjacent to the activity. However, the Service recognizes the importance of restoring and maintaining mesic sites such that loss of habitat is not realized, and we are therefore including this conservation program in this proposed special rule.

Similarly, restoration efforts for the Bi-State DPS targeting upland sites may require methods that could displace or disturb sage-grouse adjacent to the activity. These activities may include restoration efforts following a fire, or restoration in areas degraded by grazing or recreational use. However, as with other restoration activities, the Service recognizes the long-term benefit of these actions to the conservation of the DPS and is including this conservation program in this proposed special rule.

Small Population Maintenance and Scientific Research and Monitoring

Within the range of the Bi-State DPS, there are populations of sage-grouse for which persistence may be challenged, in part due to the limited number of sage-grouse present. In order to improve redundancy and distributional extent across the range of the Bi-State DPS, it may become necessary to capture and relocate sage-grouse in order to repopulate an extirpated location or to augment a small population. The capture and relocation of sage-grouse may potentially take individuals due to capture-related mortality. However, the Service recognizes the importance of multiple, well-distributed populations across the range of the Bi-State DPS in order to ensure the conservation of the DPS. Therefore, we consider the potential conservation benefit gained through this effort, should it become necessary, to be a net gain and are therefore including this conservation effort in this proposed special rule.

Similarly, scientific research and monitoring activities of the Bi-State DPS have the potential to take sage-grouse through capture and handling mortalities or through disturbing or displacing breeding sage-grouse on leks. During a 3-year study in the Bi-State area in which 145 sage-grouse were radio-marked, the deaths of 4 birds were attributed to handling (Casazza *et al.* 2009, p. 45). Across the West, the mortality rate associated with capture, handling, and subsequent marking was estimated at 2.7 percent in 2005 (see 75 FR 13910 on March 23, 2010, pp. 13965–13966). While direct mortality of sage-grouse can occur, the Service considers the level of impact to be negligible and further considers the information gained through these efforts to be a significant benefit to the conservation of the DPS. We are therefore including scientific

investigations (including annual lek monitoring activity) in this proposed special rule.

Routine Livestock Ranching and Agricultural Activities

Livestock ranching is a dynamic process, which requires the ability to adapt to changing environmental and economic conditions. However, many of the activities essential to successful ranching are considered routine and are undertaken at various times and places throughout the year as need dictates. Although this proposed special rule is not intended to provide a comprehensive list of those ranching activities considered routine, examples include (but are not limited to): Grazing management; planting, harvest, and rotation of forage crops; maintenance and construction of corrals, ranch buildings, fences, and roads; discing of field sections for fire prevention management; control of noxious weeds by prescribed fire or by herbicides; placement of mineral supplements and water developments; and removal of trees in rangelands.

Routine activities associated with livestock ranching have the potential to affect the Bi-State DPS. Some routine activities have the potential to positively affect the DPS (e.g., maintaining irrigated pasture, brood-rearing habitats), while other activities may be neutral with respect to the DPS (e.g., constructing ranch buildings in areas unsuitable for sage-grouse foraging or movement). However, other routine ranching activities have the potential to negatively affect the DPS depending on when and where the activities are conducted (e.g., direct take from harvesting pasture hay).

While section 9 of the Act provides general prohibitions on activities that would result in take of a threatened species, the Service recognizes that routine ranching activities, even those with the potential to incidentally take the Bi-State DPS, may be necessary components of livestock operations. The Service also recognizes that it is, in the long term, a benefit to the Bi-State DPS to maintain (as much as possible) those aspects of the ranching landscape that can aid in the recovery of the DPS. We believe this proposed special rule would further conservation of the Bi-State DPS by discouraging further conversions of the ranching landscape into habitats entirely unsuitable for the DPS, and encouraging landowners and ranchers to continue managing the remaining landscape in ways that meet the needs of their operation and that provide suitable habitat for the Bi-State DPS.

Routine Livestock Ranching Activities That Would Be Exempted by the Proposed Special Rule

The activities mentioned above and discussed below are merely examples of routine ranching activities that would be exempted by the proposed special rule. Routine activities may vary from one ranching operation to another, and vary with changing environmental and economic conditions. Routine ranching activities include the activities described below and any others that a rancher may undertake to maintain a sustainable ranching operation. Our premise for not attempting to regulate routine activities is that, ultimately, we believe that a rancher acting in the best interest of maintaining a sustainable ranching operation also is providing incidental but significant conservation benefits for the Bi-State DPS.

In this proposed special rule, we describe and recommend best management practices for carrying out routine ranching activities in ways that would minimize take of the Bi-State DPS, but we would not require these practices. Overall, we believe that minimizing the regulatory restrictions on routine ranching activities would increase the likelihood that more landowners would voluntarily allow the Bi-State DPS to persist or increase on their private lands, and that the benefits of maintaining a rangeland landscape where sage-grouse can coexist with a ranching operation far outweigh the impacts to the DPS from such activities.

Sustainable Livestock Grazing. The act of grazing livestock on rangelands in a sustainable manner (i.e., is consistent with and maintains local ecological conditions) has the potential for take of the Bi-State DPS. Grazing livestock in areas occupied by sage-grouse may cause nest destruction or abandonment, or influence nesting success by removing cover surrounding a nest site (Hagen *et al.* 2007, p. 46; Coates *et al.* 2008, pp. 425–426). Unmanaged livestock grazing (overgrazing) also compacts soils, decreases herbaceous abundance, increases soil erosion, and increases the probability of invasion of nonnative, invasive plant species (Braun 1998, p. 147; Dobkin *et al.* 1998, p. 213; Reisner *et al.* 2013, p. 10). Livestock management and associated infrastructure (such as water developments and fencing) can degrade important nesting and brood-rearing habitat for the Bi-State DPS, as well as facilitate the spread of WNv.

By contrast, sustainable grazing can be neutral or even beneficial to the Bi-State DPS in several ways. Grazing by sheep and goats has been used strategically in sage-grouse habitat to control invasive weeds (Merritt *et al.* 2001, p. 4; Olsen and Wallander 2001, p. 30; Connelly *et al.* 2004, p. 7–49) and woody plant encroachment (Riggs and Urness 1989, p. 358). Furthermore, Evans (1986, p. 67) reported that sage-grouse used grazed meadows significantly more during late summer because grazing had stimulated the regrowth of forbs, and Klebenow (1982, p. 121) noted that sage-grouse used openings in meadows created by cattle. Also, in the absence of natural meadow habitat, sage-grouse utilize irrigated pasture during late summer/brood-rearing period; these created habitats are of significant importance to population persistence in the Nevada portion of the Bi-State area.

The greatest benefit to the Bi-State DPS provided by working ranches is likely found in the retention of large, contiguous blocks of native shrubland. Frequently, as ranch properties are sold, these native shrublands are divided and converted to nonagricultural uses, such as low density housing developments. This has and continues to occur in the Bi-State area, most notably in the Pine Nut and Desert Creek–Fales PMUs. Therefore, we consider the potential benefits of sustainable livestock grazing, according to normally acceptable and established levels of intensity to prevent overgrazing, to provide justification for including this routine activity in this proposed special rule.

Planting, Harvest, and Rotation of Forage Crops

In the Bi-State area, irrigated pasture associated with livestock operations is the principle form of agricultural land conversions. Producers plant and harvest these sites periodically from early summer to early fall. During the course of the activities, take of the Bi-State DPS may potentially occur if sage-grouse are killed by farm machinery or disturbed and displaced from the field. However, in some portions of the Bi-State DPS's range, these irrigated pastures play an important role in the sage-grouse's annual life cycle as these locations, at times, act as brood-rearing habitat in the absence of natural meadows. Therefore, the Service considers maintenance of these sites a net benefit for the DPS, and we are therefore including activities associated with maintaining pastures in this proposed special rule.

As these irrigated pastures may be used by young-of-the-year sage-grouse within the Bi-State area, and potentially at a time when birds are still incapable of flight, we recommend that timing of harvest activity be delayed to the

greatest extent practicable until such time as the sage-grouse are more mobile. In practice, this period of time within the Bi-State area is from approximately mid-May to late June. Further, we suggest that harvesting occur from the inside of the field working outward to ensure that sage-grouse have the ability to move away from machinery and into adjacent cover.

Maintenance and Construction of Corrals, Ranch Buildings, Fences, and Roads

Maintenance and construction of infrastructure associated with routine livestock practices can potentially negatively affect the Bi-State DPS and may potentially lead to take of the DPS by direct mortality due to collision or through facilitating predation and the spread of nonnative, invasive species. However, these activities may also prove beneficial by improving operations and ultimately range condition. Therefore, the Service is including activities associated with the maintenance and construction of small infrastructure features in this proposed special rule.

The Service encourages limiting the installation of new infrastructure in habitat used by the Bi-State DPS. Further, in instances when placement of these features outside of the DPS's occupied habitat cannot occur because it will not achieve ranch objectives, we recommend the impact posed by these features be minimized to the greatest extent possible. This may include (but it not limited to): Timing construction during periods of sage-grouse absence; using alternative fencing methods (e.g., let-down or electric fencing); marking fences with visual markers; micro-sighting features to minimize impact; and conducting routine monitoring and treatment of noxious weeds.

Control of Noxious Weeds

Controlling noxious weeds through a variety of methods (i.e., chemical, mechanical, or fire) can be an important action affecting conservation of the Bi-State DPS because these nonnative species can alter sagebrush habitats and render them unsuitable to sage-grouse. However, these actions may potentially cause take of the DPS by disturbance, displacement, or direct mortality. Regardless, the Service considers the benefit gained through active weed suppression to outweigh potential negative consequences to the Bi-State DPS, and is therefore including these activities in this proposed special rule.

The Service encourages these activities to be minimized to the greatest extent practicable, but, in instances when the action is considered necessary, and depending on the method used, appropriate minimization measures may be employed. This may include altering timing of application to minimize disturbance or probability of prescribed fire escape. Further, effort should be taken to minimize collateral damage to shrubs and desirable herbaceous species when applying herbicide(s).

Mineral Supplements and Water Developments

Mineral supplements and water developments can negatively affect the Bi-State DPS's habitat through facilitating the spread of nonnative, invasive species; facilitating disease transmission; or potentially causing direct mortality of sage-grouse through drowning. However, these developments may also have a beneficial effect on the DPS by dispersing livestock use and ultimately improving range condition. Therefore, the Service is including this activity in this proposed special rule.

The Service encourages that mineral supplements and water developments be minimized to the greatest extent practicable to achieve ranch objectives, but, in instances when the action is considered necessary, appropriate minimization and maintenance measures may be employed. These should include maintaining native meadows surrounding springs, placing wildlife escape ramps in watering facilities to prevent drowning, and periodically treating noxious weeds to prevent establishment. Furthermore, it may be prudent to periodically change the location of these facilities in conjunction with weed treatments to minimize the extent to which a single location is overly used and ultimately degraded.

Additional Routine Livestock Ranching Activities

Additional routine ranching activities may include woodland treatment to improve degraded shrub habitats or the creation of fire breaks to prevent the loss of home or property. As discussed above, these activities can negatively affect the Bi-State DPS and may cause take of the DPS. However, the Service considers these actions to produce a net gain to the conservation of the DPS, when conducted in an appropriate manner, and we are therefore including these activities in this proposed special rule.

This provision of the proposed 4(d) special rule for agricultural activities would promote conservation of the Bi-State DPS by encouraging landowners and ranchers to continue managing the remaining landscape in ways that meet the needs of their operation while simultaneously providing suitable habitat for the DPS.

Provisions of the Proposed Special Rule

Section 4(d) of the Act states that ''the Secretary shall issue such regulations as [s]he deems necessary and advisable to provide for the conservation'' of species listed as a threatened species. Conservation is defined in the Act as, ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to [the] Act are no longer necessary.'' Additionally, section 4(d) of the Act states that the Secretary, ''may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1).''

The courts have recognized the extent of the Secretary of the Interior's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, the Secretary may find that it is necessary and advisable not to include a taking prohibition, or to include a limited taking prohibition. See *Alsea Valley Alliance* v. *Lautenbacher,* 2007 U.S. Dist. Lexis 60203 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* and 2002 U.S. Dist. Lexis 5432 (W.D. Wash. 2002). In addition, as affirmed in *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988), the rule need not address all the threats to the species. As noted by Congress when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to him with regard to the permitted activities for those species. [S]he may, for example, permit taking, but not importation of such species,'' or the Secretary may choose to forbid both taking and importation but allow the transportation of such species, as long as the measures will ''serve to conserve, protect, or restore the species concerned in accordance with the purposes of the Act'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

Section 9 prohibitions make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as an endangered species, without written authorization. It also is illegal under section 9(a)(1) of the Act to possess, sell, deliver, carry, transport, or ship any such wildlife that is taken illegally. Prohibited actions consistent with section 9 of the Act are outlined for threatened species at 50 CFR 17.31(a) and (b). We are proposing a 4(d) special rule for the Bi-State DPS that would apply all of the prohibitions set forth at 50 CFR 17.31(a) and (b) to the Bi-State DPS with the exceptions detailed above and summarized below.

First, we propose that none of the provisions at 50 CFR 17.31 would apply to actions associated with a conservation program developed by or in coordination with the State agency or agencies responsible for the management and conservation of fish and wildlife within the affected State(s), or their agent(s), and that the Service determines provides a net conservation benefit for the Bi-State DPS, as described earlier in this Proposed Special Rule section. The proposed 4(d) special rule identifies a set of criteria the Service proposes to use to evaluate such programs. Among additional considerations, the approval criteria would require that the program provide the Bi-State DPS populations and habitat targets necessary to ensure a net conservation benefit for the DPS across the program area, in addition to mechanisms for achieving those targets. In this way, actions in the program would ultimately contribute to the conservation of the DPS. If this provision of the proposed special rule is adopted, the Service expects that rangewide conservation actions would be implemented with a high level of certainty that the program would lead to the long-term conservation of the Bi-State DPS.

Second, we also propose that none of the provisions in 50 CFR 17.31 would apply to routine livestock ranching activities conducted in a sustainable manner, as described earlier in this Proposed Special Rule section. According to the proposed listing rule, the primary factors supporting the proposed threatened status for the Bi-State DPS are the impacts of cumulative habitat loss and fragmentation. Allowing the continuation of existing ranching and agricultural operations consistent with these criteria would encourage landowners to continue managing the remaining landscape in ways that meet the needs of their operations while simultaneously providing suitable habitat for the Bi-State DPS.

Based on the rationale above, the provisions included in this proposed 4(d) special rule are necessary and advisable to provide for the conservation of the Bi-State DPS. Nothing in this proposed 4(d) special rule changes in any way the recovery planning provisions of section 4(f) of the Act, consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Bi-State DPS.

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the Internet at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2013–0072 and upon request from the Nevada Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Service's Nevada Fish and Wildlife Office and Region 8 Regional Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to 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 § 17.11(h) by adding an entry for ''Sage-grouse, greater (Bi-State DPS)'' to the List of Endangered and Threatened Wildlife in alphabetical order under BIRDS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Sage-grouse, greater (Bi-State DPS).	Centrocercus urophasianus.	U.S.A. (CA, NV)	Entire	T	.....	NA	17.41(d)
*	*	*	*	*	*		*

■ 3. Amend § 17.41 by adding paragraph (d) to read as follows:

§ 17.41 Special rules—birds.

(d) Bi-State DPS of Greater Sage-grouse (*Centrocercus urophasianus*).

(1) *Prohibitions.* Except as noted in paragraphs (d)(2)(i) and (d)(2)(ii) of this section, all prohibitions and provisions of §§ 17.31 and 17.32 apply to the Bi-State distinct population segment (DPS) of greater sage-grouse.

(2) *Exemptions from prohibitions.* Incidental take of the Bi-State DPS of greater sage-grouse will not be considered a violation of section 9 of the Act if the take results from any of the following:

(i) Implementation of a comprehensive conservation program for the Bi-State DPS of greater sage-grouse that:

(A) Was developed by or in coordination with State agency or agencies, or their agent(s), responsible for the management and conservation of fish and wildlife within the affected State(s).

(B) Is intended to conserve the Bi-State DPS of greater sage-grouse by:

(1) Addressing threats affecting the DPS within the program area;

(2) Implementing objective, measurable biological goals and objectives for the populations and habitat necessary to ensure a net conservation benefit, and providing the mechanisms by which those goals and objectives would be achieved;

(3) Ensuring the establishment of funding mechanisms to effectively implement all elements of the conservation program;

(4) Employing an adaptive management strategy to ensure future program adaptation as necessary and appropriate; and

(5) Including appropriate monitoring of effectiveness and compliance.

(C) Is reviewed by the Service as meeting the objectives for which it was originally established under paragraph (d)(2)(i)(B) of this section.

(ii) Conservation practices on privately owned lands that:

(A) Are carried out in accordance with a conservation plan that meets the requirements of paragraph (d)(2)(i) of this section; and

(B) Involve the following types of conservation activities:

(*1*) Installing infrastructure features that allow land managers to meet management objectives that benefit the Bi-State DPS of greater sage-grouse.

(*2*) Treating woodland sites that have encroached upon, infilled, and replaced sagebrush habitat, and restoring the location to a condition dominated by a sagebrush vegetation community.

(*3*) Conducting fire management activities (i.e., preventing, suppressing, and restoring) to prevent or minimize the spread of wildfires in rangelands.

(*4*) Conducting activities that constrain development and water rights related to procuring conservation easements.

(*5*) Conducting land management activities that minimize the impact of feral horses on the local landscape in the Bi-State area.

(*6*) Conducting restoration and maintenance activities (e.g., mechanical or chemical treatments) in meadow, riparian, and other mesic habitats that are used by the Bi-State DPS of greater sage-grouse to facilitate recruitment of juvenile greater sage-grouse, as well as restoration activities in upland sites that are degraded by grazing or recreational use.

(*7*) Performing population maintenance activities, and conducting scientific research and monitoring. These activities may include disturbing, displacing, or capturing and relocating greater sage-grouse in order to repopulate an extirpated location.

(*8*) Conducting routine livestock ranching and agricultural activities (i.e., sustainable livestock grazing) that adapt to changing environmental and economic conditions and provide a long-term conservation benefit to the Bi-State DPS of greater sage-grouse by maintaining (as much as possible) those aspects of the ranching landscape that can aid in the recovery of the Bi-State DPS of greater sage-grouse.

(*9*) Planting, harvesting, and rotating forage crops in irrigated pastures associated with livestock operations, specifically in locations where these irrigated pastures serve as brood-rearing habitat for greater sage-grouse in the absence of natural meadows.

(*10*) Maintaining and constructing infrastructure (i.e., corrals, ranch buildings, fences, and roads) associated with routine livestock practices when these actions provide a long-term conservation benefit to the Bi-State DPS of greater sage-grouse by improving operations and ultimately range conditions, thereby aiding in the recovery of the Bi-State DPS of greater sage-grouse.

(*11*) Controlling noxious weeds (i.e., nonnative plant species) through a variety of methods (i.e., chemical, mechanical, or fire) to prevent or minimize alteration of sagebrush habitats, which can render affected areas unsuitable for the Bi-State DPS of greater sage-grouse.

(*12*) Installing water developments and using mineral supplements (only when necessary) by employing appropriate minimization and maintenance measures. Exemption applies only when installing these water development features or using mineral supplements results in long-term maintenance of native meadows surrounding springs, avoidance of sage-grouse drowning by placing wildlife escape ramps in watering facilities, periodic treatment of noxious weeds to prevent establishment, or relocation of these facilities to minimize the extent to which a single location becomes overly used and degraded.

(*13*) Conducting routine ranching activities not described in this paragraph (d)(2)(ii)(B) that include woodland treatments to improve degraded shrub habitats or create fire breaks, which in turn prevent the loss of home or property, and produce a net gain to the conservation of the Bi-State DPS of greater sage-grouse.

* * * * *

Dated: September 17, 2013.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–24307 Filed 10–25–13; 8:45 am]

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FEDERAL REGISTER

Vol. 78 Monday,
No. 208 October 28, 2013

Part V

The President

Proclamation 9045—United Nations Day, 2013

Federal Register
Vol. 78, No. 208
Monday, October 28, 2013

Presidential Documents

Title 3—

The President

Proclamation 9045 of October 23, 2013

United Nations Day, 2013

By the President of the United States of America

A Proclamation

In 1945, after two world wars that showed the horrific lethality of modern conflict, 51 member states came together to create the United Nations, a bold new organization that sought to build a lasting peace for the generations to follow. Today, 68 years after the adoption of the United Nations Charter, we mark United Nations Day by reaffirming our commitment to its purposes and principles. We celebrate the organization's challenging and often unheralded work of forging a world in which every man, woman, and child can live in freedom, dignity, and peace.

With the aim of sparing their children and grandchildren from the ravages of war, the members of the United Nations committed ''to unite our strength to maintain international peace and security.'' In the nearly seven decades since they adopted these words in the United Nations Charter, the global threats to international peace and security have changed, but the need for international cooperation has only increased. While the United Nations was founded after a period of cataclysmic war among states, today many of the principal challenges to international peace and security are rooted in the need to prevent or address unconscionable slaughter and violence within states. As the United States works to address challenges old and new, we will continue our close cooperation with partners across the globe, including at the United Nations. And recognizing that the path to conflict often begins with the denial of basic human dignity, we remain committed to realizing another fundamental principle set forth in the Charter—that no one should be denied the fundamental freedoms that are their birthright.

As we mark the founding of a body built to pursue peace in an imperfect world, let us reaffirm that the values set forth in its Charter guide us still. They remind us that leaders and citizens alike, in the United States and around the world, will be judged by whether we contributed to a world that is more peaceful, just, and free. Let us honor the men and women of the United Nations itself, who work in countries across the globe, often unseen and uncelebrated, to improve the lives of the world's most vulnerable people. May we stand firm in our resolve to give voice to the voiceless and to turn swords into plowshares. And may we never lose sight of the essential truth that we live in a world where our fates are bound together as a community of nations, strengthened by our differences and united by our shared hopes for the future.

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 24, 2013, as United Nations Day. I urge the Governors of the 50 States, and the officials of all other areas under the flag of the United States, to observe United Nations Day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third 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. 2013–25664
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