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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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 23 and 190

RIN 3038–AD28

Protection of Collateral of Counterparties to Uncleared Swaps; Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'') is issuing final rules implementing new statutory provisions enacted by Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''). Specifically, the final rule contained herein imposes requirements on swap dealers (''SDs'') and major swap participants (''MSPs'') with respect to the treatment of collateral posted by their counterparties to margin, guarantee, or secure uncleared swaps. Additionally, the final rule includes revisions to ensure that, for purposes of subchapter IV of chapter 7 of the Bankruptcy Code, securities held in a portfolio margining account that is a futures account or a Cleared Swaps Customer Account constitute ''customer property''; and owners of such account constitute ''customers.''

DATES: *Effective date:* This rule is effective January 6, 2014.

Compliance dates: For uncleared swap transactions that are entered into with ''new counterparties,'' [1] all persons shall be in compliance with the requirements set forth in Subpart L of Part 23 not later than May 5, 2014. For uncleared swap transactions that are entered into with ''existing counterparties,'' [2] all persons shall be in compliance with the requirements set forth in Subpart L of Part 23 not later than November 3, 2014. All parties must comply with the Part 190 rules by January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Robert B. Wasserman, Chief Counsel, Division of Clearing and Risk (DCR), at 202–418–5092 or *rwasserman@cftc.gov;* Laura Astrada, Associate Chief Counsel, DCR, at 202–418–7622 or *lastrada@cftc.gov;* Thomas Smith, Deputy Director, Division of Swap Dealer and Intermediary Oversight at 202–418–5495 or *tsmith@cftc.gov;* or Martin White, Assistant General Counsel, Office of the General Counsel at 202–418–5129 or *mwhite@cftc.gov;* in each case, also at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

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I. Background

A. Statutory Background

On July 21, 2010, President Obama signed the Dodd-Frank Act.[3] Title VII of the Dodd-Frank Act [4] amended the Commodity Exchange Act (''CEA'') [5] to establish a comprehensive new regulatory framework for swaps and certain security-based swaps. The legislation was enacted to reduce risk, increase transparency, and promote market integrity within the financial system by, among other things: (i) Providing for the registration and comprehensive regulation of SDs and MSPs; (ii) imposing mandatory clearing and trade execution requirements on clearable swap contracts; (iii) creating recordkeeping and real-time reporting regimes; and (iv) enhancing the rulemaking and enforcement authorities of the Commission with respect to, among others, all registered entities and intermediaries subject to the oversight of the Commission.

Section 724(c) of the Dodd-Frank Act amended the CEA to add section 4s(l), which includes provisions concerning the rights of counterparties to SDs and MSPs with respect to the treatment of such counterparty's margin for uncleared swaps. As discussed further in Part II of this preamble, these changes are implemented in new Subpart L to Part 23 of Title 17, §§ 23.700 through 23.704.[6]

Section 713(c) of the Dodd-Frank Act amends the CEA to add, as section 20(c) thereof, a provision that requires the Commission to exercise its authority to clarify the legal status, in the event of a commodity broker bankruptcy, of (i) securities in a portfolio margining account held as a futures account, and (ii) an owner of such account.

B. Section 4s(l) of the CEA

Section 4s(l) of the CEA sets forth certain requirements concerning the rights of counterparties of SDs and MSPs with respect to the segregation of money, securities, or other property used to margin, guarantee, or otherwise secure uncleared swaps. These requirements apply only to initial margin. Section 4s(l) requires that:

[1] A ''new counterparty'' is a counterparty with whom, at the time of the effective date of this final rule, no agreement exists between the SD or MSP and that counterparty concerning uncleared swaps.

[2] An ''existing counterparty'' is a counterparty with whom, at the time of the effective date of this final rule, an agreement exists between the SD or MSP and that counterparty concerning uncleared swaps.

[3] Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http:www.cftc.gov/ucm/groups/public/@swaps/documents/file/hr4173_enrolledbill.pdf.*

[4] Pursuant to section 701 of the Dodd-Frank Act, Title VII may be cited as the ''Wall Street Transparency and Accountability Act of 2010''.

[5] 7 U.S.C. 1 *et seq.*

[6] The Commission notes that these rules were proposed as §§ 23.600 through 23.604. Because other rulemakings use these sections, this final rulemaking will use and reference §§ 23.700 through 23.704 throughout, notwithstanding the numbering in the proposal.

• An SD or MSP notify each counterparty at the beginning of a swap transaction that the counterparty has the right to require segregation of the funds or other property supplied to margin, guarantee, or secure the counterparty's obligations; [7] and

• at the request of the counterparty, the SD or MSP shall segregate such funds or other property with an independent third party custodian. The funds or other property of the counterparty must be kept in a segregated account with an independent third party, designated for and on behalf of that counterparty, separate from the assets and other interests of the SD or MSP.

C. Section 20(c) of the CEA

Section 713(c) of the Dodd-Frank Act, codified as section 20(c) of the CEA, directs the Commission to exercise its authority to ensure that securities held in a portfolio margining account carried as a futures account are customer property and the owners of those accounts are customers for the purposes of subchapter IV of chapter 7 of title 11.

II. Margin Segregation for SD or MSP Counterparties With Respect to Uncleared Swaps

The Commission sought public comment on customer collateral protection with respect to money, securities, or other property used to margin, guarantee, or otherwise secure uncleared swaps. First, on October 22, 2010, the Commission, through its staff, held a roundtable to discuss individual customer collateral protection with respect to cleared and uncleared swaps.[8] Following consideration of the comments made during the roundtable, on December 3, 2010, the Commission issued a Notice of Proposed Rulemaking (''NPRM''),[9] and sought comment on all aspects of the NPRM, including the definition of initial margin, counterparty notification, the nature of the custodian, and the investment of segregated collateral.[10] The Commission received comments from twenty-two different commenters regarding the proposed regulations in the NPRM.[11] The Commission, through its staff, also met extensively with market participants both prior to and following issuance of the NPRM.

A. Regulation 23.700: Definitions

1. ''Segregate''

In the NPRM, the Commission proposed to define ''segregate'' according to its commonly-understood meaning: To keep two or more items in separate accounts, and to avoid combining them in the same transfer between two accounts.

One commenter agreed with the Commission's proposed definition of ''segregate.'' [12] Another commenter requested clarification regarding the definition of the term segregate and whether it requires that collateral be held in an individual customer account or whether such term permits an SD or MSP to hold segregated customer collateral in an omnibus customer account.[13] The Commission notes that section 4s(l)(3)(B) requires that a segregated account be ''designated as a segregated account for and on behalf of the counterparty.'' [14] Moreover, regulation 23.702(b) of the final rules requires initial margin that is segregated pursuant to a counterparty's election to be held in an account for and on behalf of the counterparty.[15] Thus, regulation 23.702(b) requires initial margin to be held in an individual customer account. As such, the Commission is adopting the definition of ''segregate'' as proposed.

2. ''Variation Margin''

The Commission proposed to define ''variation margin'' (for which a counterparty does not have the right to segregation as section 4s(l)(2)(B)(i) prescribes) as an amount calculated to cover the current exposure arising from changes in the market value of the position since the trade was executed or the previous time the position was marked to market.

Six commenters discussed the ''variation margin'' definition.[16] SIFMA/ISDA wrote that the concept of variation margin is different in the over-the-counter swaps market than it is in the futures market.[17] In particular, SIFMA/ISDA noted that parties to swaps do not ''pay'' margin to each other based on mark-to-market prices; rather they post and grant a security interest in collateral based on estimated payment amounts derived from current market conditions.[18] SIFMA/ISDA recommended replacing the term ''variation margin'' with the term ''exposure collateral,'' and defining ''exposure collateral'' to mean ''money, securities or property posted by a party to secure its obligations pursuant to the terms of a swap agreement, the amount of which is based on an estimate of the net mark-to-market exposure of all transactions under the master swap agreement.'' [19] AIMA wrote that the

[7] In a separate rulemaking, the Commission proposed ''minimum initial and variation margin requirements'' for each SD or MSP for which there is no prudential regulator as a way to ''help ensure the safety and soundness of the [SD or MSP].'' *See* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 76 FR 23732 (Apr. 28, 2011). Among other things, the Commission proposed to require SDs and MSPs to segregate margin for uncleared swaps that such SD or MSP receives from other SDs and MSPs (hereinafter known as the ''SD/MSP Specific Segregation Requirements''). *See id.* at 23748. Thus, under that proposal, even if an SD or MSP did not exercise its right to require segregation of the funds or other property that it supplies to margin, guarantee, or secure its obligation, such funds or other property would nonetheless be segregated.

The U.S. banking regulators have proposed similar segregation requirements for those SDs and MSPs that are prudentially regulated and that will be subject to their margin rules. *See* Margin and Capital Requirements for Covered Swap Entities, 76 FR 27564 (May 11, 2011). The Commission is continuing to consider this proposal in light of this related work by U.S. banking regulators and related efforts by regulators in other countries. The Commission is aware of the importance of developing consistent SD/MSP Specific Segregation Requirements where possible in order to address systemic risk issues and to avoid regulatory arbitrage concerns. *See also* section 752 of the Dodd-Frank Act.

[8] The transcript from the roundtable is available at: *http://www.cftc.gov/ucm/groups/public/@swaps/documents/dfsubmission/dfsubmission6_102210-transcrip.pdf.*

[9] *See* Protection of Collateral of Counterparties to Uncleared Swaps; Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy, 75 FR 75432 (Dec. 3, 2010).

[10] The comment period closed on February 1, 2011, and was reopened for 30 days on May 4, 2011. *See* Reopening and Extension of Comment Periods for Rulemakings Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act, 76 FR 25274 (May 4, 2011).

[11] Letters were received from Alternative Investment Management Association Limited (AIMA), American Gas Association (AGA), the Asset Management Group (AMG) of Securities Industry and Financial Markets Association (SIFMA), Edison Electric Institute (EEI), Federal Home Loan Banks (FHLB), Federated Investors, Inc. (Federated), Fidelity Investments (Fidelity), Intercontinental Exchange, Inc. (ICE), International Swaps and Derivatives Association (ISDA), Investment Company Institute (ICI), Managed Funds Association (MFA), MetLife Inc. (MetLife), National Rural Electric Cooperative Association (NRECA), New York City Bar Association (NYCBA), Norges Bank Investment Management (Norges), State Street Corporation (State Street), SIFMA, SIFMA and ISDA (SIFMA/ISDA), and the Working Group of Commercial Energy Firms (Working Group). NYCBA's letter was a pre-NRPM letter dated November 29, 2010. SIFMA's letter was a pre-NPRM letter dated October 27, 2010. Federated submitted two letters, both of which focused on the investment of segregated funds. The Commission also received letters from the following individuals: Chris Barnard, Leigh Mckeirnan, and Bill Granberry.

[12] *See* AIMA letter at 2.

[13] Working Group letter at 3.

[14] 7 U.S.C. 6s(l)(3)(B).

[15] *See* discussion in section C.1 *infra.*

[16] SIFMA/ISDA, ISDA, FHLB, NRECA, AIMA, AMG.

[17] SIFMA/ISDA letter at 2. *See also* ISDA letter at 2.

[18] SIFMA/ISDA letter at 2. *See also* ISDA letter at 2.

[19] SIFMA/ISDA letter at 3. *See also* ISDA letter at 3.

proposed definition of ''variation margin'' was appropriate.[20]

The fact that the statute refers to ''variation margin'' indicates that Congress was contemplating the use of the term ''variation margin'' as opposed to ''exposure collateral.'' For the sake of consistency with other regulations, the Commission is amending the definition of ''variation margin'' to add the phrase ''or collateral posted by'' after the phrase ''a payment made by''. However, the Commission agrees with SIFMA/ISDA's comments regarding the fact that in the uncleared OTC derivatives markets, parties do not necessarily ''pay'' variation margin to each other, and instead post collateral.[21] The Commission therefore notes that although the definition of variation margin will include payments, where a payment is made, there would not be any collateral to be segregated. The definition is otherwise being adopted as proposed.

3. ''Initial Margin''

The Commission proposed to define ''initial margin'' (for which a counterparty has the right to segregation pursuant to CEA section 4s(l)) as an amount calculated based on anticipated exposure to future changes in the value of a swap.

Ten commenters addressed the definition of ''initial margin.''[22] ICI wrote that the proposed definition of initial margin was too broad, and might be interpreted to also include variation margin.[23] By contrast, Fidelity suggested that ''the proposed definition of 'initial margin' may be too narrow and could exclude 'upfront' deliveries of collateral that should properly be treated as initial margin.''[24] FHLB recommended that the term ''independent amount'' be used instead of ''initial margin.''[25] However, if the Commission elects to use the term ''initial margin,'' FHLB argued that the definition of ''initial margin'' should, at the very least, track and reference ''independent amount'' as it appears in the ISDA documentation.[26] SIFMA/ISDA also recommended that the term ''independent amount'' be used in the place of ''initial margin,'' and suggested that ''independent amount'' be defined to mean ''money, securities or property posted by a party to secure its obligations pursuant to the terms of a swap agreement and that is either (i) specified as an ['independent amount'] in the relevant agreement of the parties or (ii) calculated based upon terms agreed between the parties (in either case, in addition to and separately from any [exposure collateral] requirement).''[27] Chris Barnard suggested that the Commission clarify that initial margin is posted at the commencement or outset of a swap transaction as a way to distinguish initial margin from variation margin.[28] AIMA and MetLife wrote that the proposed definition of initial margin was appropriate.[29]

The Commission has considered the comments and understands that some commenters prefer the traditional practice of using the term ''independent amount.'' However, the statute uses the term ''variation margin'' and the obvious complimentary term to ''variation margin'' would be ''initial margin.'' Moreover, a reference to ''independent amount,'' by itself, would not be effective, since the definition of ''independent amount'' in the ISDA ''Credit Support Annex'' directs the reader to a form.[30] A reference to a form would not be desirable as a definition both because it is ambiguous and because the substance of the form is subject to change. Therefore, the Commission is adopting the definition of initial margin as proposed.

B. Regulation 23.701: Notification of Right to Segregation

1. Required Notification

Proposed regulation 23.601(a)[31] implemented the statutory requirement set forth in section 4s(l)(1)(A) of the CEA. Specifically, with respect to an uncleared swap, proposed regulation 23.601(a) would have required an SD or MSP to notify each of its counterparties that a counterparty has the right to require any initial margin posted by it to be segregated in accordance with Commission regulations.[32] The Commission also stated that it interpreted the language of CEA section 4s(l)(1)(A) as a segregation right that can be elected or renounced by the SD's or MSP's counterparty in its discretion.[33] As stated in the NPRM, Congress's description as a ''right'' of what would otherwise be a simple matter for commercial negotiation suggests that this decision is an important one, with a certain degree of favor given to an affirmative election.[34] As such, in implementing section 4s(l)(1)(A) the Commission is requiring SDs and MSPs to offer their counterparties segregation that meets the minimum standards set forth in these rules. However, SDs, MSPs and counterparties may negotiate alternative arrangements for the handling of collateral if all parties agree.

In the NPRM, the Commission did not propose specific disclosure requirements with respect to this notification. Instead, the Commission requested comment as to whether the SD or MSP should be required to disclose the price of segregation, the price of fees to be paid to the custodian (if the SD or MSP is aware of the amount of such fees), or differences in the terms of the swap that the SD or MSP is willing to offer to the counterparty (*e.g.,* differences in the fixed interest rate for an interest rate swap) if the counterparty elects or renounces the right to segregation.[35]

Thirteen commenters discussed the costs associated with segregation,[36] with most expressing concern about proper price disclosures by the SDs and MSPs. Two commenters indicated that price disclosure was not particularly important.

Several commenters expressed concern that an SD or MSP would not make counterparties aware of the price associated with segregation and might impose higher prices or offer less attractive terms to counterparties electing segregation.[37] MFA recommended ''that the Commission require SDs and MSPs to provide counterparties with robust disclosure of all costs that the SD or MSP will charge to the counterparty if the counterparty elects to segregate its initial margin.''[38] State Street suggested that ''the Commission should . . . provide that, although the pricing of the same

[20] AIMA letter at 1.

[21] SIFMA/ISDA letter at 2. *See also* ISDA letter at 2.

[22] ICI, Fidelity, FHLB, AMG, ISDA, Chris Barnard, AIMA, NRECA, MetLife, SIFMA/ISDA.

[23] ICI letter at 2.

[24] Fidelity letter at 2.

[25] FHLB letter at 6.

[26] FHLB letter at 6. *See also* AMG letter at 5.

[27] SIFMA/ISDA letter at 2–3. *See also* ISDA letter at 2–3.

[28] Chris Barnard letter at 1.

[29] AIMA letter at 1. *See also* MetLife letter at 3, stating that for purposes of the proposed rule, the definition of initial margin was sufficient, although noting it would request more specific guidance for calculating initial margin in the event of ''future use or expanded definition.''

[30] *See* Paragraph 13 of the ISDA Credit Support Annex. *See also* definition of ''Independent Amount'' in the ISDA Credit Support Annex.

[31] As discussed above, section numbers in the NPRM are slightly different from those in this final rulemaking. *See supra* n. 6. Proposed regulation 23.601(a) is being finalized herein as regulation 23.701(a).

[32] 75 FR at 75433 (Dec. 3, 2010).

[33] *See also* CEA section 4s(l)(4) (referring to cases where the counterparty ''does not choose to require segregation'' of margin). 7 U.S.C. 6s(l)(4).

[34] 75 FR at 75433 (Dec. 3, 2010).

[35] *Id.*

[36] AMG, MFA, State Street, AGA, Fidelity, ICI, SIFMA/ISDA, ISDA, FHLB, Chris Barnard, AIMA, MetLife, EEI.

[37] AMG letter at 8.

[38] MFA letter at 4.

transaction with and without a segregated account may differ, the pricing difference should be reflective of actual out-of-pocket costs expected to be incurred by the [SD/MSP] as a result of use of the segregated account, and that the nature and amounts of those costs should be fully disclosed.'' [39] AGA argued that, without proper disclosure, counterparties will be forced ''to exercise in a vacuum their right to seek segregation of initial margin for an uncleared swap'' and suggested that each SD or MSP be required to notify each counterparty as to the price of having a third party hold collateral.[40]

ICI sought to distinguish between fees charged by the custodian—which ICI does not believe need be disclosed by the SD or MSP—and fees embedded in the SD's swaps pricing for not having access to the customer's collateral.[41] SIFMA/ISDA do not believe that mandating disclosure is necessary or desirable because ''a counterparty can always, in accordance with current market practice, request the disclosures it considers necessary from its SD/MSP . . . [and] mandatory disclosure by the SD/MSP is impractical because much of the material costs are within the control of a third party: the custodian.'' [42]

Finally the FHLB wrote that ''it is very important for SDs/MSPs to respond to requests for information regarding the additional costs that may be imposed on end-user counterparties that elect to have initial margin segregated with an independent custodian.'' [43]

In light of the concerns expressed by commenters, the Commission has determined that a limited set of disclosures should be required. First, the SD or MSP must inform the counterparty of the price associated with segregation, including custodial fees, to the extent the SD or MSP has such information. It is the Commission's view that the price of segregation is a material term in any segregation package offered by the SD or MSP. Further, where the custodian is an affiliate of, or a regular custodian for, the SD or MSP, the SD or MSP may be better positioned to know the amount of any such custody costs.[44] In addition, in order for counterparties to make an informed decision as to whether to exercise the right of segregation, the identity of an acceptable custodian(s) is a material aspect of the notification so that counterparties may make informed decisions as to the degree of independence of such custodian(s).[45] As described in more detail in section C.1, below, this notification must include at least one credit-worthy non-affiliate as an option for custodian of segregated initial margin. The Commission has amended regulation 23.701 accordingly.

The Commission notes that certain entities have developed or are in the process of developing electronic platforms through which counterparties could access account information regarding the status of their collateral. The Commission may consider, in a future rulemaking, whether the notification required pursuant to regulation 23.701 should include information from the SD or MSP regarding such platforms.

2. Limitation of Right—Variation Margin

Proposed regulation 23.601(b) [46] incorporated the limitation in section 4s(l)(2)(B)(i) of the CEA that the right to segregation does not apply to variation margin. Fidelity recommended that the final rule require that SDs and MSPs ''segregate variation margin posted by a counterparty at the counterparty's request.'' [47] Fidelity requested that, at a minimum, the rule clarify that ''no change will be necessary to collateral agreements [not in conflict with the rule] . . . that involve segregation of all margin, initial and variation. . . .'' [48]

The statute clearly excludes variation margin from the 4s(l) segregation requirements.[49] Thus, the request for such a requirement is not supported by the statute. However, the Commission confirms that this rule governs collateral arrangements for swaps entered into on and subsequent to the compliance date and does not affect collateral arrangements agreed to for swaps that are entered into prior to the compliance date. In addition, the Commission notes that this rulemaking does not restrict parties from negotiating segregation arrangements for variation margin.

3. Counterparty Notification

The Commission regards the inclusion of the term ''right to require segregation'' in section 4s(l) of the CEA as requiring that the segregation decision is made by appropriate decision-makers within the counterparty organization. Proposed regulation 23.601(c) [50] would require that the ''right to require segregation'' notification be made to certain senior decision-makers, in descending order of preference. Notification would be made to the Chief Risk Officer, or the Chief Executive Officer, or to the highest level decision-maker for the SD's or MSP's counterparty. The Commission sought comment as to whether this list of decision-makers would be appropriate.

Eleven commenters opposed the requirement that the Chief Risk Officer receive the segregation notification.[51] EEI wrote that this requirement ''fails to take into account existing governance and compliance structures and processes developed and implemented by entities for the express purpose of meeting compliance and risk management objectives.'' [52] ICI suggested that notices go to ''an authorized person to avoid the disruption that would be associated with a [Chief Risk Officer] or other 'high-level decision-maker' making an election to each SD or MSP before a trade can settle.'' [53] AGA recommended that the notification ''be made to the officer in the counterparty responsible for the management of collateral.'' [54] ISDA suggested that the counterparty should identify the proper party to receive notice from the SD or MSP.[55] Similarly, Fidelity wrote that the ''final rule should allow the counterparty to select the notice recipient.'' [56]

A counterparty's decision to elect its segregation right is a financial decision that is heavily dependent on such counterparty's risk assessments. It would seem appropriate, therefore, for a counterparty employee who is involved in the assessment of risk and/or collateral management to receive this notification. However, after consideration of the comments, it is clear that such person does not necessarily need to be the Chief Risk Officer. The Commission agrees with AGA's comment that a notification should be sent to the ''officer in the

[39] State Street letter at 3.

[40] AGA letter at 4. *See also* Fidelity letter at 3.

[41] ICI letter at 3.

[42] SIFMA/ISDA letter at 3, ISDA letter at 3–4.

[43] FHLB letter at 7.

[44] However, if the counterparty selects to use an independent custodian (*e.g.,* a non-affiliate of the SD or MSP or a custodian with which the SD or MSP does not have a pre-existing relationship), the SD or MSP may not be required to inform the counterparty of the price of custodianship because the SD or MSP may not have that information.

[45] Several commenters highlighted the importance of have the choice of at least one custodian who is not affiliated with the SD or MSP. *See generally* EEI letter at 2, AIMA at 2, MFA letter at 4, and Fidelity letter at 5.

[46] Proposed regulation 23.601(b) is being finalized herein as regulation 23.701(b).

[47] Fidelity letter at 4. *See also* AMG letter at 6.

[48] Fidelity letter at 3–4.

[49] *See* section 4s(l)(2)(B)(i) of the CEA.

[50] Proposed regulation 23.601(c) is being finalized herein as 23.701(c).

[51] SIFMA/ISDA, NRECA, EEI, ICI, AGA, ISDA, AMG, Fidelity, Working Group, AIMA, FHLB.

[52] EEI letter at 3.

[53] ICI letter at 3.

[54] AGA letter at 5.

[55] ISDA letter at 5 and SIFMA/ISDA letter at 4. *See also* AMG letter at 7, suggesting that notice be made to any party authorized by the counterparty.

[56] Fidelity letter at 3. *See also* Working Group letter at 5.

counterparty responsible for the management of collateral.'' [57] If such a person is not identified by the counterparty to the SD or MSP, then the notification should be sent to the Chief Risk Officer and so on, as described in the proposed rule. Regulation 23.701(c) has been amended accordingly.

4. Required Confirmation

Before the terms of an uncleared swap are confirmed, proposed regulation 23.601(d) [58] would require that the SD or MSP obtain from the counterparty (1) confirmation of receipt of the segregation notification by a specified decision-maker, and (2) whether the counterparty has elected to exercise its section 4s(l) segregation rights. The SD or MSP must maintain records of such confirmation and election as business records in accordance with regulation 1.31.[59]

ICI's comment letter alone addressed this point.[60] ICI agreed with the proposal that ''confirmation of receipt of the notification and election to require segregation or not should occur prior to confirming the terms of the uncleared swap.'' [61] The Commission believes that requiring the SD or MSP to obtain confirmation of receipt of the segregation notification and the counterparty's decision whether to elect segregation prior to confirming the terms of the swaps will provide greater certainty for both parties regarding the counterparty's segregation election. The Commission also agrees that such confirmation should be obtained prior to confirming the terms of the uncleared swap. Therefore, the Commission is adopting paragraph (d) as proposed.

5. Limitation of Responsibility To Notify

Section 4s(l)(1)(A) of the CEA states that an SD or MSP must notify its counterparty of the right to require segregation of funds or other property supplied to margin, guarantee or secure the obligations of the counterparty ''at the beginning of a swap transaction.'' While this language could be read to require transaction-by-transaction notification, where the parties have a preexisting or on-going relationship, such repetitive notification could be redundant, costly and needlessly burdensome. On the other hand, the importance of the segregation decision, as discussed above, suggests that some periodic reconsideration might be appropriate. Proposed regulation 23.601(e) [62] sought to balance these considerations by providing that notification to a particular counterparty by a particular SD or MSP need only be made once in any calendar year.

Twelve commenters discussed issues surrounding the substance and timing of segregation notification,[63] with the primary concern being whether the notification of the right to segregation had to be done on a transaction-by-transaction basis or merely once per year.

The Working Group requested that the rule require notification on segregation no more often than once a year, rather than a transaction-by-transaction notification.[64] Fidelity supported the proposal that notification be required at least annually, stating that this could ''prompt a counterparty to reconsider its elections in light of [changes that could occur during the life of a swap transaction].'' [65] FHLB and MetLife characterized transaction-by-transaction notification as repetitive and redundant.[66] AGA believes that once a year is an appropriate notification frequency, unless the price of segregation has changed in which case another notice should be delivered.[67]

Several commenters requested that the Commission loosen the once-per-year notification in the Commission's proposed rule. NRECA, SIFMA/ISDA, AIMA and AMG each wrote that an initial notification is all that should be required—a counterparty's initial choice should be deemed to apply to all future swaps unless the counterparty seeks to change its election.[68] SIFMA/ISDA proposed ''that an [SD or MSP] should only be required to deliver a single notification of the right to segregate, and the counterparty should be deemed to have elected not to require segregation of its [independent amount] until such time as the counterparty duly notifies the [SD or MSP] of its election to require segregation.'' [69]

After careful consideration of the comments, the Commission agrees that requiring notification on a transaction-by-transaction basis may be overly costly and burdensome. In addition, the Commission notes the difficulty associated with identifying material changes in the cost of segregation and the burden that would be created should the Commission require that additional notices be delivered upon such event. However, the Commission notes that Congress emphasized the importance of the ability of a counterparty to elect to have its collateral segregated, describing segregation as a ''right.'' Moreover, the statute does not merely grant counterparties the legal right to segregation; it specifically requires that the existence of this right be communicated to them. The Commission therefore believes that this notification requirement is met when an SD or MSP provides notification to a counterparty, at least once, in each calendar year. Where an SD or MSP does not enter into any swap with the counterparty during a calendar year, the notification requirement would not apply. The Commission believes that such notification requirement would not be overly burdensome, particularly when one considers the importance of the counterparty's decision to require segregation. Thus, the Commission has decided to adopt the final rule language as proposed.

6. Power To Change Election With Regard to Segregation

In the NPRM, the Commission proposed regulation 23.601(f),[70] which makes clear that a counterparty's election with respect to the segregation of initial margin may be changed at the discretion of the counterparty upon delivery of written notice, and such decision shall be applicable with respect to swaps entered into between the parties after such delivery. Rather than grant the counterparty an absolute right to change its election, the Working Group recommended that the counterparty must expressly reserve such right: ''[if] a party makes an election under the Proposed Rule and does not expressly reserve the right to change that election in the relevant swap trading relationship documentation, then they cannot do so.'' [71]

The Commission does not believe that the commenter's clarification is appropriate. The Commission notes that the rule clearly states that any change to the counterparty's segregation election would only apply to ''swaps entered into between the parties after . . . delivery'' of written notice to the SD or

[57] AGA letter at 5.

[58] Proposed regulation 23.601(d) is being finalized herein as regulation 23.701(d).

[59] 17 CFR 1.31.

[60] ICI letter at 3.

[61] ICI letter at 3. *See also* discussion in section C.1 *infra*.

[62] Proposed regulation 23.601(e) is being finalized herein as regulation 23.701(e).

[63] NRECA, Working Group, FHLB, MetLife, EEI, AGA, SIFMA/ISDA, ISDA, AIMA, AMG, Fidelity, ICI.

[64] Working Group letter at 4.

[65] Fidelity letter at 3. *See also* ICI letter at 3.

[66] FHLB letter at 6, MetLife letter at 2. *See also* EEI letter at 3.

[67] AGA letter at 5–6.

[68] NRECA letter at 13, SIFMA/ISDA letter at 4, ISDA letter at 4, AIMA letter at 2 and AMG letter at 7.

[69] SIFMA/ISDA letter at 4. *See also* ISDA letter at 4.

[70] Proposed regulation 23.601(f) is being finalized herein as regulation 23.701(f).

[71] Working Group letter at 5.

MSP. Therefore, if a counterparty sought to change its segregation election, such election would not have retroactive effect (unless both the counterparty and the SD or MSP so agreed). In other words, the proposed rule leaves changes in terms for pre-existing swaps—including with respect to segregation of collateral—as matters for negotiation between the parties. The counterparty should retain its rights, under the statute, to change its election as to swaps entered into after the notice is delivered. As such, the Commission is adopting the final rule language as proposed.

C. Regulation 23.702: Requirements for Segregated Margin

1. Independent Custodian and Separate Account

Pursuant to section 4s(l)(3) of the CEA, the Commission proposed regulation 23.602(a)(1),[72] which required that initial margin, segregated in accordance with an election under regulation 23.601, be held with a custodian that is independent of both the SD or MSP and the counterparty. Proposed regulation 23.602(a)(2)[73] required such initial margin to be held in an account designated as a segregated account for and on behalf of the counterparty.[74] While, as noted, the right to segregation does not apply to variation margin, the proposed regulation provided that the SD or MSP and the counterparty may agree that collateral falling within the definition of variation margin may also be held in such segregated account. The Commission requested comment on, among other things, whether an affiliate of the SD, MSP or the counterparty should be considered an independent custodian. In addition, the Commission requested comment on whether either party could choose a custodian and, if so, what restrictions, if any, should be placed on that choice.

Fourteen commenters discussed the choice of custodian for segregation.[75] The topics discussed by commenters included the freedom of negotiation between the SD or MSP and counterparty, the use of a custodian affiliated with an SD or MSP, the right of the counterparty to choose the custodian, and qualifying criteria for a custodian.

Four commenters argued that the custodian should be determined purely by negotiation between the counterparty and SD or MSP. ICI opined that ''the choice of custodian should be left to the agreement of the parties.''[76] AIMA wrote that ''[t]he parties should be free to negotiate which custodian is used, and it may be useful for the [SD] or MSP to let the customer know which custodians it has relationships with and has conducted appropriate due diligence on, including affiliates and non-affiliates, and thus its preferred choices of custodian.''[77] Similarly, the Working Group suggested ''that outside the election to segregate collateral, which is the right of a [SD's or MSP's] counterparty, all other terms and parameters of a custodial relationship should be left to negotiation between counterparties. . . .''[78] The NRECA wrote that it ''see[s] no benefit to the Commission making [the choice of custodian] by regulation, rather than leaving them to arm's length negotiations between contract counterparties.''[79]

However, AMG stated that while both the counterparty and the SD or MSP have an interest in the selection of the custodian, the counterparty is likely the party with the greatest interest and should therefore have the right to select the custodian.[80]

Several commenters discussed whether an affiliate of the SD or MSP would qualify as an independent custodian. MetLife suggested ''that a custodial arrangement with an affiliate of the SD or MSP would satisfy the requirements for the use of an Independent Custodian. . . .''[81] AMG wrote that ''the CFTC should not limit the choice of custodian solely to those unaffiliated with the relevant SD/MSPs and Customer Counterparties but should provide the flexibility to use a custodian who may also be affiliated with any SD/MSP or Customer Counterparty.''[82] Fidelity expressed concern that an ''unintended and undesirable consequence of banning affiliates from acting as third-party custodians could be to prevent counterparties from entering into swaps with [SD/MSPs], where an affiliate of the [SD/MSP] already serves as a depository or custodian of the counterparty.''[83]

Other commenters were receptive to the idea of an affiliate custodian, but advised that the SD or MSP should be required to present options to the counterparty on this issue. For example, AIMA recommended that the Commission require SDs and MSPs to ''offer a choice of . . . five custodians on whom they have conducted [a] due diligence examination, including both an affiliate (if applicable) and a non-affiliate.''[84] Similarly, FHLB urged the Commission to condition allowing an affiliate of the SD or MSP to act as custodian upon mutual agreement of the counterparty and the SD or MSP, and suggested that ''the SD/MSP [should be] required to offer segregation with at least one non-affiliated custodian.''[85] SIFMA/ISDA wrote that an SD or MSP ''should be required, upon counterparty request, to propose at least one creditworthy non-affiliated custodian that the SD/MSP is willing to use, as an option.''[86] AMG noted that the regulations should be flexible enough to allow the use of a custodian affiliated with an SD, MSP, or the counterparty.[87]

Three other commenters suggested that counterparties should have the right to designate a non-affiliate custodian. State Street recommended that the proposed rules be revised to provide that a ''counterparty has the right to designate the independent custodian, if that custodian is a U.S. bank . . . and otherwise serves as a usual depository for assets of the counterparty.''[88] Fidelity wrote that while affiliates of the SD or MSP can be appropriate custodians, ''a counterparty should have the right to require that a third-party custodian be independent from the [SD or MSP].''[89] Norges proposed that the final rule should provide the ''non-dealer/MSP counterparties the option to require that initial margin . . . be held with a custodian that is in fact independent of any affiliate of the swap dealer or MSP.''[90]

Two commenters offered qualifying criteria for a custodian. The MFA suggested that a custodian ought to be ''regulated by a federal or state bank regulator, be authorized under federal or state laws to exercise corporate trust powers, and have equity of at least

[72] Proposed regulation 23.602(a)(1) is being finalized herein as regulation 23.702(a).

[73] Proposed regulation 23.602(a)(2) is being finalized herein as regulation 23.702(b).

[74] *See* discussion in section A.1 *supra.*

[75] MFA, SIFMA/ISDA, ISDA, ICI, Working Group, NRECA, AMG, MetLife, EEI, Fidelity, AIMA, FHLB, Norges, State Street.

[76] ICI letter at 3–4.

[77] AIMA letter at 2.

[78] Working Group letter at 2.

[79] NRECA letter at 14.

[80] AMG letter at 3.

[81] MetLife letter at 2.

[82] AMG letter at 2. *See also* MFA letter at 3–4, EEI letter at 2.

[83] Fidelity letter at 5.

[84] AIMA letter at 2.

[85] FHLB letter at 8.

[86] SIFMA/ISDA letter at 5. *See also* ISDA letter at 7.

[87] AMG letter at 2.

[88] State Street letter at 2.

[89] Fidelity letter at 5. *See also* FHLB letter at 8, recommending that if parties cannot agree on a custodian then the counterparty should be able to designate the custodian.

[90] Norges letter at 2.

[$200 million].'' [91] MetLife suggested that an affiliate custodian could satisfy the requirements for an independent custodian where it, inter alia, ''maintains a minimum asset value [of at least $2 billion] under custodial management.'' [92]

The Commission also received one comment regarding the timing of the requirement to segregate. SIFMA/ISDA requested that, due to the amount of time required to fully negotiate a custodial arrangement, parties ''be permitted to enter into new swaps pending completion of custodial documentation satisfactory to both parties for so long as the parties are negotiating in good faith to complete such custodial documentation.'' [93] SIFMA/ISDA also argued that the requirement to segregate the initial margin ''with respect to all swaps entered into after delivery of an election to require segregation . . . unless otherwise agreed, become effective only upon the completion of custodial documentation.'' [94]

The language of the statute does not require that affiliates of a counterparty be prohibited from serving as the custodian for segregated funds. Affiliates are third-parties in that they are separate legal entities, and therefore fall within the terms of the statute. However, in light of the correlated insolvency risk wherein if an SD or MSP becomes insolvent its affiliates will have an elevated risk of also becoming insolvent, the Commission has determined that an SD or MSP should be required to provide the counterparty with at least one credit worthy non-affiliate as an option to serve as the custodian. The final rule text has been amended to incorporate the requirement that SDs and MSPs must provide their counterparties with at least one credit worthy non-affiliate as an option to serve as the custodian.[95]

Regarding SIFMA/ISDA's question relating to the timing of segregation, waiting until the completion of custodial documentation for an election to require segregation to become effective would likely create difficulties where an insolvency occurs in the time period between agreement and documentation. Thus, it is the Commission's position that protection of initial margin is best achieved by requiring customer segregation to become effective upon election, not upon completion of custodial documentation. In addition, the Commission notes that compliance with SIFMA/ISDA's suggested ''good faith'' requirement would be impracticable to assess and is not amending the rule as suggested.

2. Requirements for Custody Agreement

In the NPRM, the Commission proposed regulation 23.602(b),[96] which imposed certain requirements on agreements for the segregation of margin. Regulation 23.602(b) was intended to provide a balance between the minimum interests of (i) the counterparty posting the margin, (ii) the SD or MSP for whom the margin is posted, and (iii) the custodian, while avoiding the necessity for time-consuming and expensive interpleader proceedings.[97] Under the proposal, an agreement for the segregation of margin would have to be in writing, and must include the custodian as a party. In addition, to ensure that the SD or MSP receives the margin promptly in case it is entitled to do so, and that the margin is returned to the counterparty in case it is entitled to such return, the agreement must also provide that turnover of control shall be made promptly upon presentation of a statement in writing, signed by an authorized person under penalty of perjury, that one party is entitled to such turnover pursuant to an agreement between the parties.[98] Otherwise, withdrawal of collateral may only be made pursuant to the agreement of both the counterparty and the SD or MSP, with the non-withdrawing party also receiving immediate notice of such withdrawal.[99]

Nine commenters argued against imposing a perjury standard on any written statements by either the counterparty or the SD or MSP informing the custodian to turn over of control of margin.[100] For example, ICI wrote that it ''believe[s] that it is unnecessary to introduce the specter of criminal prosecution into custodial account documentation. . . .'' [101]

The Commission believes that a perjury standard is appropriate because it mitigates the tradeoff between speed and accuracy in stress situations. In circumstances where one party to a swap needs expedient turnover of segregated margin (for example, in order to meet margin calls on positions hedging the swap) and is unable to obtain timely approval from the counterparty (*e.g.,* if margin is being taken from the account because the counterparty is in financial trouble), it is important for a depository to be able to respond to a unilateral request for collateral without having to take the time to independently investigate the legitimacy of the request.[102] At the same time, circumstances of market stress may also create incentives for parties to illegitimately withdraw collateral from a segregated account.[103] The perjury standard acts as a check on the legitimacy of a demand for collateral without requiring the time needed for an independent inquiry by the depository. At the same time, an SD, MSP or counterparty making a demand for collateral can avoid criminal liability if it does not engage in purposeful fraud.

The Commission has decided to adopt the rule substantively as proposed. However, the Commission points out that it has re-organized the rule and modified certain language to provide greater clarity. Specifically, the Commission combined the language in paragraphs (a) and (a)(1) into paragraph (a). The Commission also renumbered paragraph (a)(2) as paragraph (b). The Commission then renumbered paragraph (b) as paragraph (c) and switched the text in subparagraphs (1) and (2). The Commission also added

[91] MFA letter at 4.

[92] MetLife letter at 2.

[93] SIFMA/ISDA letter at 5. *See also* ISDA letter at 5.

[94] SIFMA/ISDA letter at 5, ISDA letter at 5.

[95] *See* regulation 23.701(a)(2).

[96] Proposed regulation 23.602(b) is being finalized herein as regulation 23.702(c).

[97] If the SD or MSP and the counterparty were to make competing claims to the collateral, and if the custodian did not have a means under the agreement among the parties to decide between such claims without risking legal liability, the custodian would likely choose to interplead the collateral.

[98] *See* 28 U.S.C. 1746. *See also* 18 U.S.C. 1621 (Perjury Generally).

[99] The importance of taking steps to ensure that unauthorized withdrawals are not made is enhanced by the findings of the Commission's Division of Clearing and Intermediary Oversight in Financial and Segregation Interpretation 10–1, 20 FR 24768, 24770 (May 11, 2005) (''Findings by both Commission audit staff and the SROs of actual releases of customer funds [from third-party custodial accounts], without the required knowledge or approval of the FCMs, further demonstrate that the risks associated with third-party custodial accounts are real and material, not merely theoretical.'').

[100] ICI, Working Group, AMG, Fidelity, SIFMA/ISDA, MFA, ISDA, FHLB, MetLife.

[101] ICI letter at 4. *See also* Working Group letter at 4, AMG letter at 6, Fidelity letter at 4–5, SIFMA/ISDA letter at 6, MFA letter at 5, ISDA letter at 7, MetLife letter at 2.

[102] In times of significant market stress, any unnecessary impediments or restrictions on a counterparty's ability to obtain immediate access to posted margin when such access is legitimate could impair the operations of the counterparty, impair the liquidity of other market participants and magnify the impact of a market disruption.

[103] A party facing insolvency or fearing imminent insolvency on the part of its counterparty might be tempted to demand transfer of margin without fully ensuring they were entitled to it, to take the margin without plans to return it, or take the margin for the purpose of covering an unrelated debt in the expectation of saving their business and returning the margin shortly thereafter.

clarifying language to paragraphs (a),(b) and (c) to facilitate this reorganization.

D. Regulation 23.703: Investment of Segregated Margin

1. Limitations on Investments

Proposed regulation 22.603(a) [104] provides that segregated initial margin may only be invested consistent with the standards for investment of customer funds that the Commission applies to exchange-traded futures and cleared swaps, regulation 1.25.[105]

Eight commenters expressed the view that imposing the standards of regulation 1.25 on the investment of collateral for uncleared swaps was overly restrictive.[106]

Fidelity suggested that ''custodians under tri-party custody arrangements may limit the types of collateral that it will permit under such arrangements to those investments permitted pursuant to [regulation] 1.25.'' [107] Fidelity further proposed that the Commission require not only segregation of initial margin but also variation margin, explaining that ''the right to require segregation of variation margin . . . would reduce systemic risk for the same reasons that segregation of initial margin reduces systemic risk.'' [108] Similarly, AMG argued that the Commission should ''confirm the right of Customer Counterparties to require segregation of both initial margin and variation margin,'' explaining that the current practice in the OTC market is to require all collateral to be segregated and held by a third-party custodian.[109]

MetLife wrote that such a restriction is ''outside the scope of normal market practice'' and that counterparties ''should be able to negotiate the terms for investment of Initial Margin consisting of cash within [their] own established investment guidelines.'' [110] FHLB added that ''Congress appropriately did not seek to limit how margin for uncleared swaps would be invested,'' asserting that Congress had assumed that ''both the end-user counterparty and the SD/MSP would necessarily be involved in the decision as to how such funds would be invested.'' [111] Federated warned that this proposal will cause a loss of investment returns.[112]

In contrast, AIMA wrote that ''[t]he requirements of Regulation 1.25 of the CFTC Regulations . . . likely strike[ ] the right balance between flexibility and the protection of the value of the collateral.'' [113]

Regulation 1.25 establishes a general prudential standard used in the futures and cleared swaps markets that requires all permitted investments of customer segregated funds to be consistent with the objectives of preserving principal and maintaining liquidity.[114] As stated by the Commission in regulation 1.25's adopting release, ''[i]n finalizing amendments to Regulation 1.25, the Commission seeks to impose requirements on the investment of customer segregated funds with the goal of enhancing the preservation of principal and maintenance of liquidity consistent with Section 4d of the Act.''

Similarly, the Commission believes that applying the requirements of regulation 1.25 to uncleared swaps will increase the safety and maintain the liquidity of counterparty funds held by the custodian. Regulation 1.25 establishes a general prudential standard by requiring that all permitted investments be ''consistent with the objectives of preserving principal and maintaining liquidity.'' [115] While such a standard may lead to lower investment returns, lower investment returns correlate to decreased investment risk and must be viewed in the context of the importance of protecting counterparties' collateral and mitigating systemic risk that could result from the loss of access to such collateral and, in turn, adversely impact the stability of the U.S. financial markets. After considering the comments, the Commission has decided to adopt the rule as proposed. The Commission believes that the rule achieves the appropriate balance between the goals of protecting counterparties' collateral and mitigating systemic risk, on the one hand, and the goals of retaining an appropriate degree of investment flexibility and opportunities for attaining capital efficiency for DCOs and FCMs investing customer segregated funds, on the other hand.'' [116]

It should be noted that § 23.703(a) only restricts the manner in which an SD or MSP may invest margin that is segregated pursuant to an election under § 23.701. This rule does not in any way restrict the types of collateral that a counterparty may post to an SD or MSP, nor does it require an SD or MSP to convert, in any way, posted collateral.[117]

In addition, as discussed above, the Commission notes that requiring the segregation of variation margin would be beyond the scope of section 4s(l) of the statute and what Congress prescribed therein.[118] However, the Commission believes that it would be consistent with that statute to allow the parties to agree to have segregation arrangements for variation margin. Moreover, the Commission acknowledges that where a counterparty and its SD or MSP have agreed to segregate both initial margin and variation margin, such margin may be commingled and held in the same account. But, to the extent that the parties agree to commingle segregated initial and variation margin, the Commission clarifies that the requirements set forth in Subpart L to this Part 23, including the investment restrictions in regulation 23.703(a), would apply to all margin held (both initial margin and variation margin) in such account.

2. Commercial Arrangements Regarding Investments and Allocations

As required by section 4s(l)(2)(B)(ii) of the CEA and subject to the limitations set forth in regulation 23.603(a), proposed regulation 22.603(b) provided that the SD or MSP and the counterparty may enter into any written commercial arrangement regarding the terms of the investment of segregated margin and the related allocation of gains and losses resulting from such investment. The Commission is adopting this aspect of the rule as proposed.[119]

E. Regulation 23.704: Requirements for Non-Segregated Margin

Section 4s(l)(4) of the CEA mandates that, if the counterparty does not choose to require segregation, the SD or MSP shall report to the counterparty, on a

[104] Proposed regulation 23.603(a) is being finalized herein as regulation 23.703(a).

[105] Section 4s(l)(2)(B)(ii)(I) of the CEA refers to ''commercial arrangements regarding the investment of segregated funds or other property that may only be invested in such investments as the Commission may permit by rule or regulation.''

[106] MetLife, Federated, ICI, AMG, Fidelity, SIFMA/ISDA, ISDA, FHLB.

[107] Fidelity letter at 5–6.

[108] Fidelity letter at 4.

[109] AMG letter at 6.

[110] MetLife letter at 3. *See also* Federated letter at 3–7, ICI letter at 4–6, AMG letter at 3–5, Fidelity letter at 5–6, SIFMA/ISDA letter at 6, ISDA letter at 8, FHLB letter at 12.

[111] FHLB letter at 13.

[112] Federated letter at 7, 11.

[113] AIMA letter at 3.

[114] *See* Investment of Customer Funds and Funds Held in an Account for Foreign Futures and Foreign Options Transactions, 76 FR 78776 (Dec. 19, 2011).

[115] *Id.* at 78776.

[116] *Id.* at 78778.

[117] *But cf.* Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 76 FR 23732 (Apr. 28, 2011) (proposing to limit the forms of acceptable initial margin to a specified list of eligible collateral for transactions between a swap dealer or major swap participant for which there is no prudential regulator and a counterparty that is a swap dealer, a major swap participant or a financial entity).

[118] *See* discussion in section B.2 *supra.*

[119] Proposed regulation 23.603(b) is being finalized herein as regulation 23.703(b).

quarterly basis, ''that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties.'' [120] Proposed regulation 23.604(a) [121] implemented this provision and required that such reports be made no later than the fifteenth (15th) business day of each calendar quarter for the preceding calendar quarter. Proposed regulation 23.604(a) made the Chief Compliance Officer of the SD or MSP responsible for such report. In addition, proposed regulation 23.604(b) provided that this obligation shall apply no earlier than the 90th calendar day after the date on which the first swap is transacted between the counterparties.

Four commenters discussed this proposal.[122] The Working Group wrote that quarterly report of back office compliance for swaps with non-segregated margin is unnecessarily burdensome.[123] SIFMA and ISDA also argued that the requirement for a Chief Compliance Officer statement would be burdensome.[124]

SIFMA and ISDA went further, suggesting that disclosure should not be required especially where the relevant SD/MSP is permitted to freely sell, pledge, rehypothecate, assign, invest, use, commingle, or otherwise dispose of any independent amount that it holds, since any such disclosure would be meaningless.[125]

The Working Group argued that an initial representation as to compliance should be treated as renewed each quarter unless altered by the SD or MSP.[126] SIFMA and ISDA proposed giving the counterparty permission to waive receipt of the quarterly disclosure.[127]

The Working Group also suggested that in addition to forgoing or electing segregation under the rule, parties may choose to segregate outside of the proposed rule.[128] For example, the Working Group stated that a counterparty may wish to have its collateral held in an SD's omnibus customer account, and that such agreements should be permitted.[129]

By contrast AIMA agreed with the proposal for reporting on a regular basis and suggested that reporting also occur immediately following entry of a swap agreement.[130]

While quarterly reporting may impose certain administrative burdens on SDs and MSPs, such quarterly reporting, as contemplated by regulation 23.704, is expressly required by the statute.[131] The Commission agrees that since a counterparty may choose not to segregate at all, it also may elect to segregate in some lesser manner than that contemplated by regulation 23.702. However, the Commission notes that, for counterparties who do not choose segregation, as contemplated by section 4s(l)(1)(B) of the CEA, the purpose of section 4s(l)(4) of the CEA is to confirm that the SD or MSP is adhering to the obligations of their agreement. Therefore, the requirements of regulation 23.704 will apply to all agreements relating to uncleared swaps for which the counterparty does not elect to segregate initial margin pursuant to regulation 23.702. Moreover, the Commission believes that placing responsibility for the report with the chief compliance officer of the SD or MSP required by Section 4s(k) of the CEA is appropriate in light of the chief compliance officer's role in making sure the SD or MSP complies with its statutory and regulatory obligations.[132] The Commission is adopting the rule as proposed.

F. Compliance Date

In the NPRM, the Commission requested comment on the appropriate timing of effectiveness for the final rules for Part 23. SIFMA/ISDA recommended a 6 month implementation period for swaps that are entered into with new counterparties and a 12 month implementation period for swaps that are entered into with existing counterparties.[133] The Working Group recommended a 12 month implementation period.[134] After consideration of the comments, the Commission has decided to adopt SIFMA/ISDA's suggestion, which would provide a 6 month implementation period for swaps that are entered into with ''new counterparties'' and a 12 month implementation period for swaps that are entered into with ''existing counterparties.''

III. Portfolio Margining

The NRPM proposed changes to the definition of ''customer'' in § 190.01(k) [135] and the definition of ''customer property'' in § 190.08(a)(1)(i)(F) [136] to implement section 713(c) of the Dodd-Frank Act, which added section 20(c) of the CEA and stated that the Commission ''shall exercise its authority to ensure that securities held in a portfolio margining account carried as a futures account are customer property and the owners of those accounts are customers for the purposes of'' subchapter IV of chapter 7 of the U.S. Bankruptcy Code.

The Commission received three comments on these proposals.[137] ICE agreed with the proposed amendments to the definition of ''customer'' and ''customer property'' stating that the proposal was ''a necessary step toward realizing the important benefits of portfolio margining for market participants.'' [138] ICE also expressed concern that the reference to ''futures account'' while excluding swaps referred to in 4d(f) of the CEA would ''create artificial and unnecessary distinctions between futures and other products regulated by the Commission,'' [139] and would detract from the ''certainty for the treatment in insolvency of portfolio margining arrangements that include both swaps and securities.'' [140] As such, ICE requested a technical clarification to make clear that the treatment in insolvency of portfolio margining arrangements includes arrangements

[120] 7 U.S.C. 6s(l)(4).

[121] Proposed regulation 23.604 is being finalized herein as regulation 23.704.

[122] Working Group, AIMA, ISDA and SIFMA/ISDA.

[123] Working Group letter at 5–6. *See also* SIFMA/ISDA letter at 7 and ISDA letter at 8.

[124] SIFMA/ISDA letter at 7 and ISDA letter at 9.

[125] SIFMA/ISDA letter at 7 and ISDA letter at 8.

[126] Working Group letter at 6.

[127] SIFMA/ISDA letter at 7 and ISDA letter at 8.

[128] Working Group letter at 3.

[129] *Id.*

[130] AIMA letter at 3.

[131] The reporting requirement found in section 4s(l)(4) of the CEA states that if the counterparty does not choose to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall report to the counterparty of the swap dealer or major swap participant on a quarterly basis that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties.

[132] *See generally* section 4s(k)(2)(E) of the CEA (stating that the chief compliance officer shall ''ensure compliance with the [CEA] (including regulations) relating to swaps, including each rule prescribed by the Commission under [section 4s].'')

[133] SIFMA/ISDA letter at 8. *See also* ISDA letter at 9.

[134] Working Group letter at 7. *See also* ICI letter at 6.

[135] The Commission proposed to define ''customer'' as follows: ''Customer shall have the same meaning as that set forth in section 761(9) of the Bankruptcy Code. To the extent not otherwise included, customer shall include the owner of a portfolio margining account carried as a futures account.''

[136] The Commission proposed to include ''To the extent not otherwise included, securities held in a portfolio margining account carried as a futures account'' in the definition of ''customer property.'' 75 FR at 75435 (Dec. 10, 2010).

[137] ICE, AIMA, ICI.

[138] ICE letter at 2.

[139] *Id.* at 3.

[140] *Id.* at 2.

involving swaps.[141] AIMA also indicated its approval of the proposed amendments to the definition of ''customer'' and ''customer property,'' [142] and ICI supported the proposed amendment as an implementation of section 713(c) of the Dodd-Frank Act.[143]

After careful consideration of the comments, the Commission agrees that Congress, in directing the Commission to clarify the treatment of ''securities'' held in a ''futures account,'' did not mean to imply that securities held in a Cleared Swaps Customer Account would not be treated as customer property. Accordingly, the Commission will adopt a technical clarification, as suggested by ICE's comments, to avoid the implication that portfolio margining arrangements involving swaps do not receive the same bankruptcy protection as portfolio margining arrangements involving futures. Thus, where the Commission has referred to a ''futures account'' in the definition of ''customer'' in § 190.01(k) and the definition of ''customer property'' in § 190.08(a)(1)(i)(F), the Commission is adding a reference to a ''Cleared Swaps Customer Account.'' The Commission is otherwise adopting these changes as proposed.

The Commission also proposed certain technical corrections to sections 190.02 and 190.06. The Commission notes, however, that substantively identical technical corrections were completed in a prior rulemaking, and thus no further action is necessary in this regard herein.[144]

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires Federal agencies to consider the impact of its rules on ''small entities.'' [145] A regulatory flexibility analysis or certification typically is required for ''any rule for which the agency publishes a general notice of proposed rulemaking pursuant to'' the notice-and-comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b).[146]

With respect to the proposed release, while the Commission provided an RFA statement that the proposed rule would impose regulatory obligations on SDs and MSPs and noted that SDs and MSPs were new categories of registrants, the Commission determined that the SDs and MSPs were like FCMs and large traders that have been determined not to be small entities.[147] Thus, in the proposal, the Commission certified that the rulemaking would not have a significant economic effect on a substantial number of small entities. Comments on that certification were sought.

As indicated in the NPRM, the final rule will impose regulatory obligations on SDs and MSPs. The conclusion that the rule will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA remains valid for the final rule, which like the proposed rule, imposes duties only on SDs and MSPs. Subsequent to the publication of the NPRM for this rule, the Commission has determined in other rulemakings that SDs and MSPs should not be considered small entities based on their size and characteristics analogous to non-small entities that pre-dated the adoption of the Dodd-Frank Act and has certified that these entities are not small entities for RFA purposes.[148] As stated in prior rules, because of the SDs and MSPs size and characteristics and the ''de minimis'' requirements, SDs and MSPs should not be considered small entities for purposes of the RFA and SBA regulations.[149] Nevertheless, in the ''entities'' rule that further defined the terms SD and MSP, supplementing the statutory definitions of those terms, the Commission expected that if any small entity were to engage in the activities covered by the definition, most such entities would be eligible for the ''de minimis'' exception from the definition.[150] Also, the Commission noted that the MSP participant definition applies only to persons with very large swap positions, and therefore the definition of MSP is incompatible with small entity status.[151] Thus, the ''entities'' final rule concluded that the rule, insofar as it affected SDs and MSPs, would not have a significant economic impact on a substantial number of small entities.[152] The same reasoning applies to the present rule.

One commenter, representing a number of market participants in the energy business, submitted a comment related to the RFA, stating that ''[e]ach of the complex and interrelated regulations currently being proposed by the Commission has both an individual, and a cumulative, effect on . . . small entities.'' [153] Upon consideration of this commenter's statements, the CFTC notes that it is not required to consider the cumulative economic impact of the entire mosaic of rules under the Dodd-Frank Act, since an agency is only required to consider the impact of how it exercises its discretion to implement the statute through a particular rule. In all rulemakings, the Commission performs an RFA analysis for that particular rule. The observations of this commenter therefore do not provide a reason to conclude that the rules being promulgated in this rulemaking will have a significant economic impact on a substantial number of small entities within the legal meaning of the RFA. This is so because, as explained above, the rules in question impose duties only on SDs and MSPs and not on other entities, small or otherwise.

Accordingly, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that the final rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

1. Introduction

Provisions of new regulation Part 23, specifically regulations 23.701 and 23.704, include information disclosure requirements that constitute the collection of information within the meaning of the Paperwork Reduction

[141] *Id.* at 2.

[142] AIMA letter at 3.

[143] ICI letter at 6–7.

[144] *See* Protection of Cleared Swaps Customer Contracts and Collateral; Conforming Amendments to the Commodity Broker Bankruptcy Provisions, 77 FR 6336 (Feb. 7, 2012).

[145] 5 U.S.C. 601 et seq.

[146] 5 U.S.C. 601(2), 603, 604 and 605.

[147] 75 FR 75432, 75435–36 (Dec. 3, 2010).

[148] *See* 77 FR 48208, 48306 (Aug. 13, 2012); Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, citing 76 FR 29868–29869 (May 23, 2011). *See* also, Swap Dealer and Major Swap Participant Recordkeeping, Reporting, and Duties Rules; Futures Commission Merchant and Introducing Broker Conflicts of Interest Rules; and Chief Compliance Officer Rules for Swap Dealers, Major Swap Participants, and Futures Commission Merchants, 77 FR 20128, 20193 (Apr. 3, 2012); Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2620 (Jan. 19, 2012), citing 75 FR 71379, 71385 (Nov. 23, 2010) (Registration of Swap Dealers and Major Swap Participants).

[149] The Small Business Administration (''SBA'') identifies (by North American Industry Classification System codes) a small business size standard of $7 million or less in annual receipts for Subsector 523—Securities, Commodity Contracts, and Other Financial Investments and Related Activities. 13 CFR 121.201 (1–1–11 Edition). 65 FR 30840 (May 15, 2000).

[150] Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant'' and ''Eligible Contract Participant,'' 77 FR 30596, 30701 (May 23, 2012).

[151] *See id.*

[152] 77 FR at 30701 (May 23, 2012). *See also* ''Registration of Swap Dealers and Major Swap Participants,'' 77 FR 2613, 2620 (Jan. 19, 2012) (''Registration Adopting Release'') (''In terms of affecting a substantial number of small entities . . . the Commission is statutorily required to exempt from designation as an SD those entities that engage in a de minimis quantity of swaps dealing.'').

[153] NRECA letter at 16.

Act of 1995 (''PRA'').[154] The Commission therefore has submitted this collection of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. Under the PRA, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.[155] The title for this collection of information is ''Disclosure and Retention of Certain Information Relating to Swaps Customer Collateral,'' OMB Control Number 3038–0075, which has been submitted to OMB for approval. The collection of information will be mandatory. The information in question will be held by private entities and, to the extent it involves consumer financial information, may be protected under Title V of the Gramm-Leach-Bliley Act as amended by the Dodd-Frank Act.[156] 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.

2. Comments Received on Collection of Information Proposed in NPRM

Estimates of the expected information collection burden related to regulations 23.701 and 23.704 were published for comment in the NPRM.[157] General comments on these regulations and the Commission's response are discussed in a previous section of this preamble. The Commission received two comments specifically addressing the Commission's numerical PRA burden estimate for regulation 23.701.[158] A comment from ISDA stated that the annual burden estimate of 0.3 hours per counterparty for this requirement appeared insufficient. The comment stated:

Specifically, the following documentation-related functions would be necessary: Scheduling, drafting, issuing, tracking, receipt, validation, classification and storage. As a result, we believe that the process contemplated by the Proposed Rules would entail multiple hours of staff time per counterparty.[159]

The second comment made substantially the same point.[160] In response to these comments, and certain other considerations, the Commission has reevaluated the per-disclosure burden estimate for regulation 23.701 and has modified the estimate as discussed below.

3. Adjustments to Estimate of Information Collection Burden Based on New Estimate of Expected Total Number of Swap Dealers and Major Swap Participants

The Commission has determined to adjust the burden estimate for Regulations 23.701 and 23.704 based on a number of considerations. Both regulations apply to SDs and MSPs. At the time the NPRM was published, it was estimated, for purposes of the PRA burden estimate, that the total number of SDs and MSPs would be about 300 entities. Based on information developed since that time, the Commission now estimates that the total number of SDs and MSPs, and thus the total number of entities required to engage in information collection pursuant to these rules, will be about 125 entities.[161]

For the disclosure required by regulation 23.701 the Commission is also adjusting its estimate of the per disclosure burden, for a number of reasons. First, the final regulation requires that the disclosure (a) identify one or more custodians for segregated initial margin acceptable to the SD or MSP, at least one of which must be legally independent of the parties to the transactions and (b) provide information on the price of segregation for each identified custodian to the extent that the SD or MSP has such information. As a result of these changes, it is expected that part of the disclosure required by the regulation will be standardized, with accompanying efficiencies in drafting and making disclosure, but that part of the disclosure may be specific to particular transactions. Second, as noted above, commenters suggested that the burden estimate in the NPRM was insufficient to cover all of the tasks necessary to make the required disclosure.

In the NPRM, the Commission estimated that disclosure required by regulation 23.701 would require 0.3 hours of work per disclosure, which could be performed by staff with a salary level of approximately $20 per hour. The Commission has adjusted this time estimate to 2 hours per disclosure based on the considerations discussed immediately above. The Commission further estimates that the average dollar cost of the disclosure per hour will be $50, giving a cost of $100 for 2 hours of work.[162] In addition, for purposes of the NPRM, the Commission estimated that each SD and MSP would make the disclosure once per year to an average of between 433 and 666 counterparties.[163] The Commission is adjusting the estimate of number of disclosures per SD or MSP per year based on the reduction, noted above, in the estimate of the total number of SDs and MSPs from about 300 to about 125. Assuming a roughly similar total number of counterparties will be doing business with SDs and MSPs, this implies that the number of counterparties doing business with each individual SD or MSP in a year will probably be higher on average than was estimated at the time of the NPRM. To account for this likely effect, the Commission now estimates that each SD and MSP will, on average, make the disclosure to approximately 1300 counterparties each year. As at the time of the NPRM, the Commission expects that the number of counterparties per SD or MSP per year is likely to be considerably higher than this average figure for the largest SDs and MSPs, and smaller than this average figure for some other SDs and MSPs. Given the absence of experience with this newly promulgated rule, these estimates are subject to an inherent degree of uncertainty.

The Commission, in the NPRM, estimated that regulation 23.701 would require a total of approximately 130,000–200,000 disclosures per year, generating an estimated total annual information collection burden of approximately 40,000–60,000 hours and $800,000–$1,200,000. Based on the adjustments described above the

[154] 44 U.S.C. 3501 *et seq.*

[155] *Id.*

[156] *See generally* Notice of Proposed Rulemaking, Privacy of Consumer Financial Information; Conforming Amendments Under Dodd-Frank Act 75 FR 66014 (Oct. 27, 2010).

[157] In the NPRM these provisions were numbered as regulation 23.601 and 23.604.

[158] The comments referred to regulation 23.601, reflecting the numbering in the NPRM.

[159] ISDA letter at 5.

[160] SIFMA/ISDA letter at 4.

[161] *See* discussion in Registration of Swap Dealers and Major Swap Participants, 77 FR 2613, 2622 (Jan. 19, 2012).

[162] This estimate is based on the assumption that about three quarters of the work will be done by junior level staff with a salary of approximately $25 per hour and that about one quarter of the work will be done by senior level staff with a salary of approximately $100 per hour. Compare SIFMA, Report on Management and Professional Earnings in the Securities Industry-2011 at 4 (national average total compensation for a junior level compliance specialist in the survey equaled $50,998 per year, an hourly equivalent of approximately $25), 8 (national average total compensation for a compliance attorney in the survey equaled $131,304 per year, an hourly equivalent of approximately $65).

[163] The estimate in the NPRM assumed that the largest SDs and MSPs would make the required disclosure to an average of 5,000–10,000 counterparties per year and that smaller SDs and MSPs would make the required disclosure to an average of about 200 counterparties per year. *See* 75 FR at 75436 (Dec. 3, 2010) and n. 29.

Commission estimates that regulation 23.701 will require a total of approximately 162,500 disclosures per year, generating an estimated total annual information collection burden of approximately 325,000 hours and cost of $16,250,000.

The Commission, in the NPRM, estimated that regulation 23.704 would require a total of approximately 260,000–400,000 disclosures per year, generating an estimated total annual information collection burden of approximately 80,000–120,000 hours and $2,400,000–$3,500,000.[164] The Commission is adjusting this estimate based on the reduced estimate of the number of affected SDs and MSPs from 300 to 125, and the increased estimate of 1300 counterparties per SD or MSP. In the absence of more specific information, the Commission continues to assume for purposes of this calculation that half of counterparties will elect not to segregate, and will receive the required quarterly disclosure. The Commission notes that the cost per counterparty can be divided into two costs: An initial cost and an on-going, annual cost. In respect of the initial cost, the Commission estimates a total of twenty hours of the Chief Compliance Officer's time to prepare and design the SD or MSP's compliance procedures for its 23.704 disclosure requirements. In respect of ongoing costs, the Commission recognizes that, while the degree of disclosure to particular counterparties may differ (e.g., agreements may require no disclosure, high-level disclosure only or more in-depth disclosure), it is likely that the levels of disclosures may coalesce around certain intervals such that efficiencies may be observed in respect of analysis and preparation of current disclosures and ongoing updates to the same. The Commission estimates that the Chief Compliance Officer will spend five hours, on an annual basis, updating the existing procedures and reviewing compliance with such procedures as well as an additional hour, on a non-regular basis in perhaps 2% of the cases, addressing non-routine issues that may arise in respect of a particular disclosure to a counterparty. The Commission further estimates that a junior compliance officer will spend, on average, approximately 0.3 hours per counterparty on a quarterly basis, analyzing the procedures followed and preparing the disclosure to be sent.

Based on these adjustments, the Commission now estimates that regulation 23.704 will require initial costs of approximately $280,000 and, on an ongoing basis, a total of approximately 325,000 disclosures per year generating an estimated total annual information collection burden of approximately $3.7 million, based on the following: An annual cost of $29,300 per SD/MSP comprising eighteen hours for the Chief Compliance Officer with a salary level of approximately $110.97 per hour and the annual cost of 780 hours for junior compliance staff with a salary level of approximately $35 per hour, multiplied by an estimated 125 SD/MSPs.

C. Cost-Benefit Considerations

1. Background

Prior to the passage of the Dodd-Frank Act, the decision to segregate and the mechanics of such segregation were unregulated and left to the negotiation of the parties to the swap. Under new CEA section 4s(l)(1)(A), an SD or MSP is required to notify the counterparty of its right to segregation. Upon request by the counterparty, the SD or MSP must segregate the funds for the benefit of the counterparty, among other requirements under section 4s(l)(1)(B). Other paragraphs of section 4s(l) outline the applicability of the segregation notification, the nature of the custodian and the reporting requirement for unsegregated initial margin.

This legislative act is indicative of Congress's broad intent to increase the safety of the swaps market. While many aspects of Title VII of the Dodd-Frank Act promote the increased clearing of swaps, section 4s(l) indicates Congress' intent to increase the safety in the market for uncleared swaps by creating a self-effectuating requirement for the segregation of counterparty initial margin in an entity legally separate from the SD or MSP.

In the NPRM, the Commission invited the public ''to submit any data or other information that they may have quantifying or qualifying the costs and benefits of the proposal with their comment letters.'' [165] The Commission received no such quantitative data or information with respect to these rules. While the Commission did not receive comments directly on the costs and benefit analysis, it did receive comments that alluded to costs, as discussed in more detail in the sections below. For example, some commenters believed that the notification of counterparties of their right to segregation would create an administrative cost (although no commenters attempted to quantify such costs). FHLB, MetLife and EEI characterized transaction-by-transaction notification as repetitive and redundant.[166] Some commenters believed that even yearly notification was unnecessary.[167] On the topic of investing initial margin only as allowed under regulation 1.25, Federated directly stated that this would cause a loss of investment returns.[168] Finally, the Working Group wrote that requiring quarterly reporting for non-segregated margin would be unnecessarily burdensome, indicating that producing such reports might create a needless administrative cost.[169]

2. Statutory Mandate To Consider Costs and Benefits

Section 15(a) of the CEA requires the Commission to consider the costs and benefits of its action before promulgating a regulation.[170] In particular, costs and benefits must 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. Accordingly, the Commission considers the costs and benefits resulting from its own discretionary determinations with respect to the section 15(a) factors.

In issuing these final rules, the Commission has considered the costs and benefits of each aspect of the rules, as well as alternatives to them. In addition, the Commission has evaluated

[164] This estimate in the NPRM was based on the requirement of regulation 23.704 that SDs and MSPs make the required disclosure four times each year to each of their uncleared swaps counterparties that does not choose to require segregation of initial margin. It was further based on estimates that each disclosure would require, on average, approximately 0.3 hours of staff time by staff with a salary level of approximately $30 per hour although, per the terms of the rule, this would vary depending on the specifics of the agreement of the parties with regard to the back-office procedures of the SD or MSP and the extent to which such procedures were standardized. The estimate further assumed that about half of all uncleared swaps counterparties would not choose segregation of initial margin and that, as a result, the largest SDs and MSPs would make the required disclosure to an average of 2,500–5,000 counterparties four times per year and that smaller SDs and MSPs would make the required disclosure to an average of about 100 counterparties four times per year. *See* 75 FR at 75436 (Dec. 3, 2010) and n. 30; SIFMA, Report on Management and Professional Earnings in the Securities Industry-2011 at 4 (national average total compensation for a junior level compliance specialist in survey equaled $50,998 per year, an hourly equivalent of approximately $25).

[165] 75 FR at 75437 (Dec. 3, 2010).

[166] FHLB letter at 6, MetLife letter at 2, EEI letter at 3.

[167] SIFMA/ISDA letter at 4, ISDA letter at 4, AMG letter at 7.

[168] Federated letter at 7, 11.

[169] Working Group letter at 6.

[170] 7 U.S.C. 19(a).

comments received regarding costs and benefits in response to its proposal. Where quantification has not been reasonably estimable due to lack of necessary underlying information, the Commission has considered the costs and benefits of the final rules in qualitative terms.

3. Benefits and Costs of the Final Rule

A discussion of the costs and benefits of this rule and the relevant comments is set out immediately below and continues in the discussion of the section 15(a) factors. The discussion of costs and benefits here should be read in conjunction with the discussion of rule provisions and comments in the remainder of the preamble, which was also taken into account in the Commission's overall consideration of costs and benefits as part of its decision to promulgate the rule.

The major provisions of this final rule reflect specific requirements compelled by the CEA, as amended by the Dodd-Frank Act. This discussion of costs and benefits focuses on the areas in which the Commission used its discretion to introduce standards or requirements beyond those which were required by statute.

a. Benefits

The final rule, in regulation 23.701(e), requires notification of the right to segregation once per each year that a new swap is entered into rather than, *e.g.,* at the beginning of a swap transaction or notification only when a counterparty first does business with the SD or MSP. Annual notification offers the benefit of ensuring that the right to segregation is called to the attention of counterparties reasonably close in time to the point at which decisions are made with respect to the handling of collateral for particular swaps transactions without requiring excessive or repetitive notification in cases where a counterparty engages in multiple swaps with a particular SD or MSP over the course of a year. Annual notification also reduces the likelihood that required information regarding custodians and pricing will become obsolete, which would be a significant possibility if notification were given only at the beginning of a multi-year business relationship between a counterparty and the SD or MSP.

The final rule, in regulation 23.701(a)(2), requires the SD or MSP to identify, in the notification, at least one creditworthy non-affiliate acceptable to the SD or MSP as a custodian. As discussed above, there are benefits to requiring that the counterparty have the option of using a non-affiliate custodian for collateral because of the likely higher correlation of default risk between an affiliate custodian and the SD or MSP. There are also benefits to requiring the identity of such a custodian acceptable to the SD or MSP to be specifically disclosed because the identity of the custodian is a material aspect of any segregation package.

The final rule also requires, in regulation 23.701(a)(3), the SD or MSP to provide the counterparty with the price of segregation to the extent that the SD or MSP has such information (*e.g.,* where the custodian is an affiliate of, or a regular custodian for, the SD or MSP). Requiring the SD or MSP to disclose price information that it has available is beneficial because knowledge of the price of segregation is essential in order for the counterparty to determine the net value of choosing segregation. In transactions in which the parties have agreed that a withdrawal of segregated margin may be made without the written consent of both the counterparty and the SD or MSP, the final rule, in regulation 23.702(c)(2), includes a perjury standard for a party unilaterally representing to the custodian that it is entitled to segregated initial margin. The benefit of a perjury standard for unilateral requests for collateral is that it provides a disincentive to parties who might otherwise be inclined to fraudulently request collateral, particularly in circumstances where financial distress may create incentives to cut corners.

The final rule requires, in regulation 23.703(a), that any investments of segregated initial margin given to an SD or MSP conform to regulation 1.25. While not required by statute, this aspect of the final rule is beneficial because it will serve to safeguard segregated initial margin in the same way that regulation 1.25 safeguards futures and cleared swaps customer collateral. Without this requirement, there exists a possible moral hazard concern that an SD or MSP may engage in excessive risk taking with the funds of a counterparty. This moral hazard arises out of either (i) lack of customer awareness, (ii) agency costs facing the customer that make it difficult to contract around issues of collateral use (*e.g.,* monitoring costs of the SD's or MSP's activities by the customer), or (iii) existence of a potential government backstop, which lessens the incentive of either SDs or MSPs or their customers to impose restrictions on collateral investment.

The final rule, in regulation 23.704(a), also makes the Chief Compliance Officer of the SD or MSP required by section 4s(k) of the CEA responsible for the report to each counterparty that elects not to require segregation whether or not the back office procedures relating to margin and collateral requirements of the SD or MSP were out of compliance with the agreement between the SD or MSP and the counterparty, consistent with the Chief Compliance Officer's section4s(k)(2)(D) of the CEA duties. This provision should enhance compliance by SDs and MSPs with these aspects of their agreements with their counterparties by highlighting breaches and by incentivizing SDs and MSPs to avoid breaches that would have to be reported. Compliance by SDs and MSPs with provisions concerning margin and collateral requirements should lead to better protection of counterparties in the event of the insolvency of the SD or MSP.

b. Costs

As noted previously, the final rule, in regulation 23.701(e), requires yearly notification of the right to segregation. This is less costly than a requirement that such notification be given with each swap transaction, which would result from a more literal reading of the statute.[171]

An estimate of the cost of the required yearly notification is given in the Paperwork Reduction Act section of this preamble, above. The Commission believes that the cost of requiring SDs and MSPs to deliver one notification per year to each counterparty is not overly burdensome, particularly when one considers the importance of the counterparty's decision to require segregation and the large dollar volume of business that is typically done by SDs and MSPs.[172] The increased cost associated with an annual notification requirement, as compared to a requirement that notification only be required at the beginning of a swap relationship between the parties as was urged by some commenters, is the difference in the administrative costs of sending each additional yearly notification as opposed to just one initial notification. Commenters who favored less-than-annual notification did not provide specific estimates of this cost difference. Based on its assessment of the cost of annual notification, the Commission does not

[171] *See* CEA section 4s(l)(1)(A) (A swap dealer or major swap participant shall be required to notify the counterparty of the swap dealer or major swap participant at the beginning of a swap transaction that the counterparty has the right to require segregation.).

[172] *See generally* Further Definition of ''Swap Dealer,'' ''Security-Based Swap Dealer,'' ''Major Swap Participant,'' ''Major Security-Based Swap Participant'' and ''Eligible Contract Participant,'' 77 FR 30596 (May 23, 2012).

believe that this cost difference would impose an unreasonable burden.[173]

The requirement that SDs or MSPs reveal to counterparties the identity of one or more potential custodians (one of which must be unaffiliated), and their respective prices of segregation, should impose minimal costs. It is likely that both the identities of custodians and related pricing information would, in the ordinary course, be included in any negotiation between an SD or MSP and a counterparty. In any event, the SD's or MSP's own custodial and pricing decisions are known (or certainly readily knowable) by the SD or MSP, and thus requiring them to be disclosed should introduce minimal cost upon the SD or MSP. There may be an administrative cost to the SD or MSP in initially selecting an unaffiliated custodian, if the SD or MSP did not previously have a relationship with such an entity. This administrative expense need only be a one-time cost and should not be overly burdensome.

The perjury standard introduces a heightened punishment for the inappropriate seizure of customer collateral based on false representations. The primary cost of such a standard is the exercise of excessive caution by SDs or MSPs in asserting their right to this collateral, even in instances where that right is warranted.

The requirement that investments of segregated margin given to an SD or MSP adhere to regulation 1.25 may impose costs. The primary cost would be a loss of investment returns to SDs and MSPs under the rule as opposed to investment returns that would have been permitted without the regulation's restriction. Regulation 1.25 requires that investments of customer collateral by an SD or MSP adhere to a list of enumerated investments, concentration limits and other restrictions because certain investments may not adequately meet the statute's paramount goal of protecting customer funds.[174] Nonetheless, the Commission recognizes that restricting the type and form of permitted investments could result in certain SDs and MSPs earning less income from their investments of customer funds. The Commission has (conservatively) estimated the excess return (or spread) of investing without restrictions, as compared to investing according to regulation 1.25 guidelines, to be between 0% and 4%.[175] The associated cost of imposing regulation 1.25, which needs to also consider the (risk-based) preferences of counterparties over the set of foregone investment opportunities, exists somewhere within this range. Secondarily, there may be administrative costs to SDs and MSPs in ensuring compliance with regulation 1.25 limitations. However, the Commission notes that parties are free to negotiate arrangements outside of the final rule.

An estimate of the cost of the quarterly reporting required pursuant to regulation 23.704 is given in the Paperwork Reduction Act section of this preamble, above. As noted above, the Chief Compliance Officer and junior compliance officers' time may result in an added cost to the implementation of regulation 23.704. The Chief Compliance Officer's involvement with design and implementation of these procedures, however, is commensurate with its section 4s(k)(2)(D) CEA responsibilities for ''administrating each policy and procedure that is required to be established pursuant to [section 4s].'' In addition, this cost is outweighed by the relative benefit of the design and implementation of effective recordkeeping procedures for the large number of counterparties served by each SD or MSP.

c. Consideration of Alternatives

In arriving at the final rules, in areas in which the Commission exercised its discretion, the Commission has considered a number of alternatives suggested by commenters.

The Commission asked in the NPRM whether the SD or MSP should be required to disclose the price of segregation, the fees to be paid to the custodian (if the SD or MSP was aware of such costs) or differences in the terms of the swap that the SD or MSP is willing to offer to the counterparty if the counterparty elects or renounces the right to segregation. SIFMA/ISDA wrote that mandating disclosure is not necessary or desirable because ''a counterparty can always, in accordance with current market practice, request disclosures it considers necessary from its SD/MSP … [and] mandatory disclosure by the SD/MSP is impractical because much of the material costs are within the control of a third party: The custodian.'' [176] ICI sought to distinguish between fees charged by the custodian—which ICI does not believe need to be disclosed by the SD or MSP—and fees embedded in the SD's or MSP's pricing.[177] State Street suggested that ''the Commission should … provide that, although the pricing of the same transaction with and without a segregated account may differ, the pricing difference should be reflective of actual out-of-pocket costs expected to be incurred by the [SD or MSP] as a result of use of the segregated account, and that the nature and amounts of those costs should be fully disclosed.'' [178]

The Commission could have chosen to take the path requested by SIFMA/ISDA, in which no disclosures are mandated by the regulation, or the path requested by ICI, in which only fees embedded in the SD's or MSP's pricing for segregated margin are disclosed. However, as discussed by several commenters, what is relevant to the counterparty in determining whether to segregate (and with which custodian) is the sum of all associated costs; [179] both those directly associated with the custodian, and any additional charges imposed by the SD or MSP.

The SD or MSP will typically be in a better position to know the fees charged by the custodian than the counterparty. In such instances, the alternatives suggested by SIFMA/ISDA and ICI could result in a lack of pricing information for the counterparty, or at best, a more difficult path for a counterparty to obtain such information. The SD or MSP is responsible for segregation and for using an independent third-party custodian, and providing price information about the total cost of segregation to the counterparty is a key component of evaluating a custodian's service.

The Commission notes State Street's argument, but believes that mandating that the difference in prices charged by the SD or MSP should only reflect the SD's or MSP's out-of-pocket costs would be excessively proscriptive. To the extent that this rule promotes price transparency, it will foster more competitive pricing.

In addition, several commenters requested the Commission eliminate the once-per-year notification in the Commission's proposed rule. SIFMA/ISDA and AMG each wrote that an initial notification is all that should be required. The Commission considered requiring only an initial notification, however it opted for a yearly notification. Yearly notification serves

[173] For the Commission's analysis and estimate of the costs of annual notification, please see the discussion in the Paperwork Reduction Act section of this preamble, above.

[174] *See generally* 7 U.S.C. 6d.

[175] This range is based on an average yield on 10-year T-bonds between 4% and 6% and a long-run annualized return on equities between 6% and 8%.

[176] SIFMA/ISDA letter at 3 and ISDA letter at 3–4.

[177] ICI letter at 3.

[178] State Street letter at 3.

[179] *See generally* MFA Letter at 4 and State Street letter at 3.

as an appropriate means for calling attention to the importance of the right to segregate collateral, and offers a number of benefits, relative to one-time-only disclosure, as has been discussed above. Similarly, the Commission has concluded that any difference in administrative costs should not be excessively burdensome.

The alternative to a perjury standard for unilateral requests to withdraw collateral from segregation is not to have one. However, it is the Commission's view that heightening the penalty for fraudulently requesting funds to which one is not entitled reduces the incidence of such claims, and may serve the general intent of section 4s(l) to increase the safety and financial integrity of the uncleared swap market and to safeguard the initial margin of parties to uncleared swaps, once segregated, while still providing the benefits of a unilateral ability to withdraw collateral to parties who agree to such an approach.[180]

The alternatives to subjecting the investment of segregated initial margin to regulation 1.25 are to subject it to no restrictions at all or to subject it to some other collateral investment regime. The Commission notes that none of the commenters proposed an alternative investment framework or detailed set of restrictions.[181] It is the Commission's view that the purpose of section 4s(l) is to increase the safety of the uncleared swaps market and to protect initial margin, once segregated. Regulation 1.25 is used by the Commission for both futures and cleared swaps as a means by which to protect segregated customer funds against risky investment. Having created a legal standard for this purpose, it makes sense to apply it to uncleared swaps transactions in which counterparties choose to have their collateral segregated within a regulatory framework established by the Commission under the authority of section 4s(l).

Alternatives to reporting requirements to non-segregated collateral would be to require reports less frequently than quarterly and to not place responsibility for such reports on the chief compliance officer. The Commission notes that while quarterly reporting may impose certain administrative burdens on SDs and MSPs, such quarterly reporting, as contemplated by regulation 23.704, is expressly required by the statute.[182] In addition, under section 4s(k)(2)(D) of the CEA, the chief compliance officer is ''responsible for administering each policy and procedure that is required to be established pursuant to [section 4s].'' Thus, responsibility for compliance with the quarterly reporting requirement, a procedure required by section 4s(l)(4) of the CEA, properly rests with the chief compliance officer.

4. Section 15(a) Factors

As noted above, in this final rule, the Commission considers the costs and benefits that result from the regulations issued herein according to the requirements of section 15(a) of the CEA. Previous sections identify four main issues for cost-benefit considerations: (1) Notification of the right to segregate, (2) requirements to reveal the price of segregation, (3) statements affirming the right to seize collateral, and (4) adherence to regulation 1.25 in the investment of segregated collateral. This section discusses those considerations in light of the section 15(a) criteria described above.

a. Annual Notification of the Right to Segregate

This requirement ensures that the right to segregation is called to the attention of counterparties reasonably close in time to the point at which they make decisions regarding the handling of collateral for particular swaps transactions and therefore increases the likelihood that counterparties will make informed decisions on whether to elect segregation. It thereby furthers the protection of market participants and the public and promotes sound risk management practices.

b. Revealing the Price of Segregation and Identifying a Custodian

The statute requires the SD or MSP to notify the counterparty of its right to segregation. The final regulation goes beyond the statutory requirement by also requiring that the SD or MSP provide an unaffiliated custodian that it would be willing to use as well as the price associated with segregation. The Commission has determined that the benefits for this requirements are compelling and do not entail any significant costs.

The requirement also promotes the protection of market participants and the public and promotes sound risk management practices. The ability of a counterparty to know the custodian and the price associated with segregation is important because it facilitates the counterparty's decisions regarding whether to segregate initial margin and with whom it wishes to transact swaps. In addition to benefitting counterparties facilitating decisions regarding protection of collateral in uncleared swaps transactions benefits the public. Notwithstanding the movement towards clearing, a large number of swaps will remain bilateral contracts. Congress has determined that systemic risk will be reduced by offering counterparties the right to segregate collateral to avoid losses brought about by default of an SD or MSP and providing information on custodians and pricing promotes the exercise of this right.

This requirement also promotes market efficiency, competitiveness and financial integrity by facilitating counterparty comparison of custodians, which may influence its choice of the SD or MSP with which it wishes to transact swaps. To the extent that such price transparency promotes competition among custodians, one can expect reductions in the cost of segregation, which, in turn, may lead to increased use of the segregation option, with the resultant positive implications for sound risk management practices. Second, requiring that pricing information be obtained by the party best positioned to know such information eliminates a circumstance where a party at a comparative disadvantage for obtaining such information has to do so.

c. Perjury Standard for Statements Affirming the Right to Unilaterally Withdraw Collateral From a Custodian

The baseline for comparison of this requirement is typical market practice, which may include civil and criminal actions against a party falsely claiming that it is entitled to funds to which it, in fact, is not.

Introducing a perjury standard for unilateral requests for collateral will serve as an additional disincentive for parties who might otherwise be inclined to fraudulently request collateral. To the extent this standard reduces the incidence of such false claims, the rule acts to promote the protection of market participants and the public. In addition, fraudulent requests for collateral, if

[180] As discussed below, the perjury rule may in certain instances lead to excess caution by SDs and MSPs in cases where they do have a right to the collateral. In such instances, the perjury rule could adversely affect sound risk management.

[181] While Federated provided some general suggestions, such as setting concentration limits on investments with a particular fund or family of funds, it argued that there ''should be no limits on investment of collateral for uncleared or cleared swaps.'' *See* Federated letter at 10–11.

[182] The reporting requirement found in section 4s(l)(4) of the CEA states that if the counterparty does not choose to require segregation of the funds or other property supplied to margin, guarantee, or secure the obligations of the counterparty, the swap dealer or major swap participant shall report to the counterparty of the swap dealer or major swap participant on a quarterly basis that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties.

honored, can shake victimized parties' confidence in the uncleared segregation regime and damage public confidence in the safety of the uncleared swap market. Heightening disincentives for fraudulent conduct will therefore help to safeguard the financial integrity of the uncleared swap market place. As previously mentioned, a primary cost of this standard is the exercise of excessive caution by SDs or MSPs in asserting their right to this collateral, even in instances where the SD or MSP believes that the unilateral withdrawal of such collateral is authorized, because of the costs and risks of exposure to a potential criminal action. To the extent that this potential cost arises, therefore, the requirement can negatively impact the practice of sound risk management.

d. Adherence to Regulation 1.25

Absent this requirement, an SD or MSP's investment options for collateral would be left up to the negotiation of the counterparties.

As discussed above, without this requirement, there exists a possible moral hazard concern that an SD or MSP may engage in excessive risk taking with the funds of a counterparty. The Commission agrees with commenters who claim that this requirement may constrain the investment returns of SDs and MSPs relative to those returns achievable absent the enhanced safety criteria. Recognizing that there may be some reduction in returns, applying regulation 1.25 standards to segregated initial margin of uncleared swaps will benefit market participants and the public by safeguarding such segregated funds.

This regulation also benefits the financial integrity of the market place. A party who invests its customer's segregated funds is required to replenish any losses in the customer account with its own funds. During a period of market stress, such a party might be experiencing losses in other areas, which may increase the difficulty of making the customer whole. In that regard, even if there are not losses in the customer account, strains on the SD's or MSP's sources of funds may cause delays in a counterparty receiving funds to which it is entitled. Regulation 1.25 requires that customer fund investments be made in an enumerated list of instruments which preserve principal and maintain liquidity.

Finally, requiring that investments of segregated initial margin adhere to regulation 1.25 benefits sound risk management practices by ensuring that segregated funds are invested in a safe manner. This benefits the counterparty, whose initial margin is safeguarded, and the market as a whole, because of the decreased likelihood of a market shock causing a chain reaction which results in the loss of segregated funds. While the Commission realizes that there may be administrative costs in ensuring that regulation 1.25 requirements are followed, the Commission expects that SDs and MSPs are sophisticated firms that should be able to make the necessary adjustments without much delay or expense. The overall benefits of safeguarding segregated funds and the resultant reductions in risk to portfolios, as compared to those based on a regulatory framework without such limitations, exceed those costs.[183]

List of Subjects

17 CFR Part 23

Consumer protection, Reporting and recordkeeping requirements, Swaps.

17 CFR Part 190

Bankruptcy, Brokers, Commodity futures, Reporting and recordkeeping requirements, Swaps.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR parts 23 and 190 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, 21.

■ 2. Add and reserve subpart K.

■ 3. Add subpart L to read as follows:

Subpart L—Segregation of Assets Held as Collateral in Uncleared Swap Transactions

Sec.
23.700 Definitions.
23.701 Notification of right to segregation.
23.702 Requirements for segregated margin.
23.703 Investment of segregated margin.
23.704 Requirements for non-segregated margin.

Subpart L—Segregation of Assets Held as Collateral in Uncleared Swap Transactions

§ 23.700 Definitions.

As used in this subpart:

Initial Margin means money, securities, or property posted by a party to a swap as performance bond to cover potential future exposures arising from changes in the market value of the position.

Margin means both Initial Margin and Variation Margin.

Segregate. To segregate two or more items is to keep them in separate accounts, and to avoid combining them in the same transfer between two accounts.

Variation Margin means a payment made by or collateral posted by a party to a swap to cover the current exposure arising from changes in the market value of the position since the trade was executed or the previous time the position was marked to market.

§ 23.701 Notification of right to segregation.

(a) Prior to the execution of each swap transaction that is not submitted for clearing, a swap dealer or major swap participant shall:

(1) Notify each counterparty to such transaction that the counterparty has the right to require that any Initial Margin the counterparty provides in connection with such transaction be segregated in accordance with § 23.702 and § 23.703;

(2) Identify one or more custodians, one of which must be a creditworthy non-affiliate and each of which must be a legal entity independent of both the swap dealer or major swap participant and the counterparty, as an acceptable depository for segregated Initial Margin; and

(3) Provide information regarding the price of segregation for each custodian identified in paragraph (a)(2) of this section, to the extent that the swap dealer or major swap participant has such information.

(b) The right referred to in paragraph (a) of this section does not extend to Variation Margin.

(c) The notification referred to in paragraph (a) of this section shall be made to an officer of the counterparty responsible for the management of collateral. If no such party is identified by the counterparty to the swap dealer or major swap participant, then the notification shall be made to the Chief Risk Officer of the counterparty, or, if there is no such Officer, the Chief Executive Officer, or if none, the highest-level decision-maker for the counterparty.

(d) Prior to confirming the terms of any such swap, the swap dealer or major swap participant shall obtain from the counterparty confirmation of receipt by the person specified in paragraph (c) of this section of the notification specified in paragraph (a) of this section, and an election to require such segregation or not. The swap dealer or major swap participant shall maintain such

[183] Based on the subject matter of the rule and comments received, the Commission does not expect the rule to have a significant effect on price discovery or on other public interest considerations not already discussed.

confirmation and such election as business records pursuant to § 1.31 of this chapter.

(e) Notification pursuant to paragraph (a) of this section to a particular counterparty by a particular swap dealer or major swap participant need only be made once in any calendar year.

(f) A counterparty's election to require segregation of Initial Margin, or not to require such segregation, may be changed at the discretion of the counterparty upon written notice delivered to the swap dealer or major swap participant, which changed election shall be applicable to all swaps entered into between the parties after such delivery.

§ 23.702 Requirements for segregated margin.

(a) The custodian of Margin, segregated pursuant to an election under § 23.701, must be a legal entity independent of both the swap dealer or major swap participant and the counterparty.

(b) Initial Margin that is segregated pursuant to an election under § 23.701 must be held in an account segregated for and on behalf of the counterparty, and designated as such. Such an account may, if the swap dealer or major swap participant and the counterparty agree, also hold Variation Margin.

(c) Any agreement for the segregation of Margin pursuant to this section shall be in writing, shall include the custodian as a party, and shall provide that:

(1) Any withdrawal of such Margin, other than pursuant to paragraph (c)(2) of this section, shall only be made pursuant to the agreement of both the counterparty and the swap dealer or major swap participant, and notification of such withdrawal shall be given immediately to the non-withdrawing party;

(2) Turnover of control of such Margin shall be made without the written consent of both parties, as appropriate, to the counterparty or to the swap dealer or major swap participant, promptly upon presentation to the custodian of a statement in writing, made under oath or under penalty of perjury as specified in 28 U.S.C. 1746, by an authorized representative of either such party, stating that such party is entitled to such control pursuant to an agreement between the parties. The other party shall be immediately notified of such turnover.

§ 23.703 Investment of segregated margin.

(a) Margin that is segregated pursuant to an election under § 23.701 may only be invested consistent with § 1.25 of this chapter.

(b) Subject to paragraph (a) of this section, the swap dealer or major swap participant and the counterparty may enter into any commercial arrangement, in writing, regarding the investment of such Margin, and the related allocation of gains and losses resulting from such investment.

§ 23.704 Requirements for non-segregated margin.

(a) The chief compliance officer of each swap dealer or major swap participant shall report to each counterparty that does not choose to require segregation of Initial Margin pursuant to § 23.701(a), no later than the fifteenth business day of each calendar quarter, on whether or not the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements were, at any point during the previous calendar quarter, not in compliance with the agreement of the counterparties.

(b) The obligation specified in paragraph (a) of this section shall apply with respect to each counterparty no earlier than the 90th calendar day after the date on which the first swap is transacted between the counterparty and the swap dealer or major swap participant.

PART 190—BANKRUPTCY

■ 4. The authority citation for part 190 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7a, 12, 19, and 24, and 11 U.S.C. 362, 546, 548, 556, and 761–766, unless otherwise noted.

■ 5. In § 190.01, revise paragraph (l) to read as follows:

§ 190.01 Definitions.

* * * * *

(l) *Customer* shall have the same meaning as that set forth in section 761(9) of the Bankruptcy Code. To the extent not otherwise included, customer shall include the owner of a portfolio margining account carried as a futures account or cleared swaps customer account.

* * * * *

■ 6. In § 190.08, redesignate paragraph (a)(1)(i)(F) as paragraph (a)(1)(i)(G) and add new paragraph (a)(1)(i)(F) to read as follows:

§ 190.08 Allocation of property and allowance of claims.

* * * * *

(a) * * *

(1) * * *

(i) * * *

(F) To the extent not otherwise included, securities held in a portfolio margining account carried as a futures account or a cleared swaps customer account;

* * * * *

Issued in Washington, DC, on October 31, 2013, by the Commission.

Melissa D. Jurgens,

Secretary of the Commission.

Appendices to Protection of Collateral of Counterparties to Uncleared Swaps; Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy—Commission Voting Summary and Statement of Chairman

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

Appendix 1—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.

Appendix 2—Statement of Chairman Gary Gensler

I support the final rule enhancing the protection of customer funds when entering into uncleared swap transactions. Today's final rule fulfills Congress' mandate that counterparties of swap dealers be given a choice regarding whether or not they get the protections that come from segregation of monies and collateral they post as initial margin. These are important customer protections for counterparties as they enter into customized swaps with swap dealers.

Swap dealers will be required to give each of their counterparties the choice with regard to segregation. The dealers also will have to provide the prices for the various segregation choices. Further, the dealers must give the customers at least one custodial arrangement choice not affiliated with the swap dealer's bank.

In addition, this rule provides clarifying changes to ensure that if a counterparty chooses segregation for its funds, those funds will not be tied up in the bankruptcy of its swap dealer.

These rules are critical to protecting insurance companies, pension funds, community banks and municipal governments wishing to hedge a risk in using the customized swaps market.

[FR Doc. 2013–26479 Filed 11–5–13; 8:45 am]

BILLING CODE 6351–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2013–0023]

RIN 0960–AH59

Extension of the Expiration Date for State Disability Examiner Authority To Make Fully Favorable Quick Disability Determinations and Compassionate Allowances

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending the expiration date of our rules that authorizes State agency disability examiners to make fully favorable determinations without the approval of a State agency medical or psychological consultant in claims that we consider under our quick disability determination (QDD) and compassionate allowance (CAL) processes. The current rules will expire on November 12, 2013. In this final rule, we are changing the November 12, 2013 expiration or ''sunset'' date to November 14, 2014, extending the authority for 1 year. We are making no other substantive changes, although we are making minor, nonsubstantive editorial changes to the rule for clarity.

DATES: This final rule is effective November 6, 2013.

FOR FURTHER INFORMATION CONTACT: Terry Dodson, Office of Disability Programs, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–0143, for information about this final rule. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background of the QDD and CAL Disability Examiner Authority

On October 13, 2010, we published final rules that temporarily authorized State agency disability examiners to make fully favorable determinations without the approval of a State agency medical or psychological consultant in claims that we consider under our QDD and CAL processes. 75 FR 62676.

We included in 20 CFR 404.1615(c)(3) and 416.1015(c)(3) provisions by which the State agency disability examiners' authority to make fully favorable determinations without medical or psychological consultant approval in QDD and CAL claims would no longer be effective on November 12, 2013, unless we decided to terminate the rules earlier or extend them beyond that date by publication of a final rule in the **Federal Register**. 75 FR 62676.

Explanation of Provision

This final rule extends for 1 year the authority in the rules we published on October 13, 2010 allowing disability examiners to make fully favorable determinations in certain disability claims under our QDD and CAL processes without the approval of a medical or psychological consultant. This rule is consistent with our strategic goal to make fully favorable determinations when we can as quickly as possible.[1] The rule will also help us process cases more efficiently because it will allow State agency medical and psychological consultants to spend their time on cases that require their expertise.

In the rules we published on October 13, 2010, we noted that our experience adjudicating QDD and CAL cases led us to our decision to allow disability examiners to make some fully favorable determinations without a medical or psychological consultation. When we implemented the rules, we also knew that State agencies would require some time to establish procedures, adopt necessary software modifications, and satisfy collective bargaining obligations. Extending the rule will provide us at least three years of data on the active processes.

This final rule will allow us to continue to adjudicate fully favorable determinations more quickly under our QDD and CAL processes. Our reviews of cases in fiscal years 2012 and 2013 adjudicated under the current rules show that the rules have not had an adverse effect on the quality of our determinations, and we are continuing to review more recent data. In fact, QDD and CAL cases adjudicated under these rules have accuracy rates that are comparable to, if not higher than, the accuracy rates of other cases involving a medical or psychological consultation. Moreover, among cases for which our reviews identified an error, a significantly smaller share contained material errors that resulted in an incorrect outcome. For these reasons, we have decided to extend the expiration date in §§ 404.1615(c)(3) and 416.1015(c)(3). Accordingly, we are extending the rule for 1 year, until November 14, 2014. As before, we reserve the authority to terminate the rule earlier or to extend it by publishing a final rule in the **Federal Register**.

We are also making minor, nonsubstantive editorial changes to the first sentence of current §§ 404.1615(c)(3) and 416.1015(c)(3). These minor changes merely improve the clarity of the current sentence.

Regulatory Procedures

Justification for Issuing a Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. However, the APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest.

We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. 5 U.S.C. 553(b)(B). Good cause exists because this final rule only extends the expiration date of the existing provision and makes minor nonsubstantive editorial changes to the rule. It makes no substantive changes. The current regulations expressly provide that we may extend or terminate this rule. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this rule as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule. 5 U.S.C. 553(d)(3). We are not making any substantive changes in our current rule, but are only extending the expiration date of the rule and making minor editorial changes. In addition, as discussed above, the change we are making in this final rule will allow us to better utilize our scarce administrative resources in light of the current budgetary constraints under which we are operating. For these reasons, we find that it is contrary to the public interest to delay the effective date of our rule.

Executive Order 12866, as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not

[1] See Social Security Administration Agency Strategic Plan 2013–2016, Strategic Goal 1, Objective III, at *http://www.ssa.gov/asp/plan-2013-2016.pdf*

meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review it.

We also determined that this final rule meets the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

This final rule does not create any new or affect any existing collections and, therefore, does not require OMB approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure; Blind, Disability benefits; Old-age, Survivors and Disability Insurance; Reporting and recordkeeping requirements; Social security.

20 CFR Part 416

Administrative practice and procedure; Reporting and recordkeeping requirements; Supplemental Security Income (SSI).

Dated: October 30, 2013.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart Q of part 404 and subpart J of part 416 of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–____)

Subpart Q—[Amended]

■ 1. The authority citation for subpart Q of part 404 continues to read as follows:

Authority: Secs. 205(a), 221, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 421, and 902(a)(5)).

■ 2. Amend § 404.1615 by revising paragraph (c)(3) to read as follows:

§ 404.1615 Making disability determinations.

* * * * *

(c) * * *

(3) A State agency disability examiner alone if the claim is adjudicated under the quick disability determination process (see § 404.1619) or the compassionate allowance process (see § 404.1602), and the initial or reconsidered determination is fully favorable to you. This paragraph will no longer be effective on November 14, 2014 unless we terminate it earlier or extend it beyond that date by publication of a final rule in the **Federal Register**; or

* * * * *

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart J—[Amended]

■ 3. The authority citation for subpart J continues to read as follows:

Authority: Secs. 702(a)(5), 1614, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382c, 1383, and 1383b).

■ 4. Amend § 416.1015 by revising paragraph (c)(3) to read as follows:

§ 416.1015 Making disability determinations.

* * * * *

(c) * * *

(3) A State agency disability examiner alone if you are not a child (a person who has not attained age 18), and the claim is adjudicated under the quick disability determination process (see § 416.1019) or the compassionate allowance process (see § 416.1002), and the initial or reconsidered determination is fully favorable to you. This paragraph will no longer be effective on November 14, 2014 unless we terminate it earlier or extend it beyond that date by publication of a final rule in the **Federal Register**; or

* * * * *

[FR Doc. 2013–26524 Filed 11–5–13; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9639]

RIN 1545–BK13

Modifications of Certain Derivative Contracts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the transfer or assignment of certain derivative contracts. The final regulations provide guidance to the nonassigning counterparty to a derivative contract and an assignee on certain notional principal contracts that are derivative contracts. The final regulations provide that the nonassigning counterparty does not have an exchange for purposes of § 1.1001–1(a) when certain derivative contracts are transferred or assigned and clarify that the embedded loan rules of § 1.446–3(g)(4) do not apply to such transactions.

DATES: *Effective Date:* These regulations are effective on November 6, 2013.

Applicability Date: For the date of applicability, see § 1.1001–4(d).

FOR FURTHER INFORMATION CONTACT: Andrea M. Hoffenson, (202) 622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to 26 CFR part 1. On July 22, 2011, temporary regulations (TD 9538) relating to the effect of the transfer or assignment of certain derivative contracts under section 1001 of the Internal Revenue Code (Code) were published in the **Federal Register** (76 FR 43892). A notice of proposed rulemaking (REG–109006–11) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (76 FR 43957). A correction to the temporary regulations was published on August 19, 2011, in the **Federal Register** (76 FR 51878). No public hearing was requested or held. No written or electronic comments responding to the notice of proposed rulemaking were received. The proposed regulations are adopted as amended by this Treasury decision, and the corresponding temporary regulations are removed.

Section 1001 provides rules for the computation and recognition of gain or loss from a sale or other disposition of property. For purposes of section 1001, § 1.1001–1(a) of the Income Tax Regulations generally provides that gain or loss is realized upon an exchange of property for other property differing materially either in kind or in extent. As a general matter, the assignment of a derivative contract is treated as a taxable disposition to a nonassigning counterparty if the resulting contract differs materially either in kind or in extent. See *Cottage Savings Association*

v. *Commissioner,* 499 U.S. 554, 566 (1991) [1991–2 CB 34, 38] (''Under [the Court's] interpretation of [section] 1001(a), an exchange of property gives rise to a realization event so long as the exchanged properties are 'materially different'—that is, so long as they embody legally distinct entitlements.''). The temporary regulations provide, however, that the transfer or assignment of a derivative contract by a dealer or clearinghouse to another dealer or clearinghouse is not treated as a deemed exchange of the contract by the nonassigning counterparty for purposes of § 1.1001–1(a) provided that the transfer or assignment is permitted by the terms of the contract and the terms of the contract are not otherwise modified.

Explanation of Revisions

The final regulations adopt the general rule in the temporary regulations providing that a transfer or assignment of a derivative contract that satisfies the conditions specified in the regulations is generally not treated by the nonassigning counterparty as a deemed exchange of the original contract under § 1.1001–1(a). As explained below, a sentence has been added to the final regulations to clarify that a loan is not created when a notional principal contract (NPC) is transferred or assigned under the conditions specified in these final regulations.

In general, § 1.446–3(h) provides rules that prescribe the treatment of a termination payment made or received by the assignor or assignee pursuant to an assignment of an NPC, while the consequences to the nonassigning counterparty are governed by section 1001. A termination payment made or received on an NPC is treated by the assignee as a nonperiodic payment under § 1.446–3(h)(3). See § 1.446–3(h)(5), *Example 2.* In addition, § 1.446–3(h)(3) makes the special rules of § 1.446–3(g)(4) applicable to a termination payment made pursuant to an NPC. Section 1.446–3(g)(4) generally provides that a swap with significant nonperiodic payments is treated as two transactions, an on-market, level payment swap and a loan.

These final regulations expressly provide that a payment between the party transferring or assigning its rights and obligations under the contract and the party to which the rights and obligations are transferred or assigned pursuant to the transfer or assignment of an NPC that meets the conditions specified in these regulations is not subject to the embedded loan rules in § 1.446–3(g)(4). Thus, neither the assignee nor the nonassigning counterparty is treated as having an embedded loan under § 1.446–3(g)(4) as a result of a payment made between the assignor and the assignee of an NPC pursuant to a transfer or assignment that satisfies the requirements of § 1.1001–4(a). The Treasury Department and the IRS believe that it would be inconsistent for an embedded loan to result from such a payment in circumstances in which the general rule in § 1.1001–4(a) treats the transfer or assignment of an NPC as not creating a taxable event for the nonassigning counterparty.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

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

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.1001–4 is revised to read as follows:

§ 1.1001–4 Modifications of certain derivative contracts.

(a) *Certain assignments.* For purposes of § 1.1001–1(a), the transfer or assignment of a derivative contract is not treated by the nonassigning counterparty as a deemed exchange of the original contract for a modified contract that differs materially either in kind or in extent if—

(1) Both the party transferring or assigning its rights and obligations under the derivative contract and the party to which the rights and obligations are transferred or assigned are either a dealer or a clearinghouse;

(2) The terms of the derivative contract permit the transfer or assignment of the contract, whether or not the consent of the nonassigning counterparty is required for the transfer or assignment to be effective; and

(3) The terms of the derivative contract are not otherwise modified in a manner that results in a taxable exchange under section 1001.

(b) *Definitions*—(1) *Dealer.* For purposes of this section, a *dealer* is a taxpayer who meets the definition of a dealer in securities in section 475(c)(1) or is a dealer in commodities derivative contracts.

(2) *Clearinghouse.* For purposes of this section, a *clearinghouse* is a derivatives clearing organization (as such term is defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)) or a clearing agency (as such term is defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) that is registered, or exempt from registration, under each respective Act.

(3) *Derivative contract.* For purposes of this section, a *derivative contract* is a contract described in—

(i) Section 475(c)(2)(D), 475(c)(2)(E), or 475(c)(2)(F) without regard to the last sentence of section 475(c)(2) referencing section 1256;

(ii) Section 475(e)(2)(B), 475(e)(2)(C), or 475(e)(2)(D); or

(iii) Section 1.446–3(c)(1).

(c) *Consideration for the assignment.* Any payment between a party transferring or assigning its rights and obligations under the contract and the party to which the rights and obligations are transferred or assigned pursuant to a transfer or assignment described in paragraph (a) of this section will not affect the treatment of the nonassigning counterparty for purposes of this section. A payment described in the preceding sentence made or received to transfer or assign rights and obligations under a notional principal contract (as defined in § 1.446–3(c)(1)) is not subject to § 1.446–3(g)(4).

(d) *Effective/applicability date.* This section applies to transfers or assignments of derivative contracts on or after July 22, 2011.

§ 1.1001–4T [Removed]

■ **Par. 3.** Section 1.1001–4T is removed.

Heather C. Maloy,

Acting Deputy Commissioner for Services and Enforcement.

Approved: October 29, 2013.

Mark Mazur,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2013–26575 Filed 11–5–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. OSHA–2013–0005]

RIN 1218–AC77

Incorporation by Reference; Accident Prevention Signs and Tags; Correction

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations, which were published in the **Federal Register** of Thursday, June 13, 2013 (78 FR 35559). The regulations update OSHA's general industry and construction signage standards by adding references to the latest American National Standards Institute (ANSI) standards on specifications for accident prevention signs and tags.

DATES: Effective on November 6, 2013.

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Frank Meilinger, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

Technical inquiries: Kenneth Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Ave. NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663; email: *stevanus.ken@dol.gov.*

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections superseded their predecessor regulations in 29 CFR parts 1910 and 1926 on the effective date, and affect employers required to use accident prevention signs and tags under the specified standards.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and ambiguous references to illustrative figures in incorporated-by-reference ANSI standards. Specifically, the incorporation-by-reference provisions in 29 CFR 1910.6(e)(66) and (e)(67) and 1926.6(h)(28)–(h)(30) misidentify the vendors and locations where the public can purchase the updated ANSI Z535 standards. In addition, the references in 29 CFR 1926.200(b) and (c), ''Accident prevention signs and tags,'' to figures in ANSI Z535.2–2011 are ambiguous. These references need to be clarified because the figures they denote illustrate sign specifications that employers have the option of following.

List of Subjects in 29 CFR Parts 1910 and 1926

Construction, General industry, Incorporation by reference, Safety, Signs, Tags.

Accordingly, 29 CFR parts 1910 and 1926 are corrected by making the following correcting amendments:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Subpart A—General

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

Authority: 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 1–90 (55 FR 9033), 6–96 (62 FR 111), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable.

Sections 1910.6, 1910.7, 1910.8 and 1910.9 also issued under 29 CFR 1911. Section 1910.7(f) also issued under 31 U.S.C. 9701, 29 U.S.C. 9a, 5 U.S.C. 553; Public Law 106–113 (113 Stat. 1501A–222); Pub. L. 11–8 and 111–317; and OMB Circular A–25 (dated July 8, 1993) (58 FR 38142, July 15, 1993).

■ 2. In § 1910.6, revise paragraphs (e)(66) and (e)(67) to read as follows:

§ 1910.6 Incorporation by reference.

* * * * *

(e) * * *

(66) ANSI Z535.1–2006 (R2011), Safety Colors, reaffirmed July 19, 2011; IBR approved for §§ 1910.97(a) and 1910.145(d). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: 877–413–5184; Web site: *www.global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: 877–699–9277; Web site: *www.techstreet.com.*

(67) ANSI Z535.2–2011, Environmental and Facility Safety Signs, published September 15, 2011; IBR approved for § 1910.261(c). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: 877–413–5184; Web site: *www.global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: 877–699–9277; Web site: *www.techstreet.com.*

* * * * *

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

Subpart A—General

■ 3. The authority citation for subpart A continues to read as follows:

Authority: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 6–96 (62 FR 111), 5–2007 (72 FR 31160), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 4. In § 1926.6, revise paragraphs (h)(28), (h)(29), and (h)(30) to read as follows:

§ 1926.6 Incorporation by reference.

* * * * *

(h) * * *

(28) ANSI Z535.1–2006 (R2011), Safety Colors, reaffirmed July 19, 2011; IBR approved for § 1926.200(c). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: 877–413–5184; Web site: *www.global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: 877–699–9277; Web site: *www.techstreet.com.*

(29) ANSI Z535.2–2011, Environmental and Facility Safety Signs, published September 15, 2011; IBR approved for § 1926.200(b), (c), and (i). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: 877–413–5184; Web site: *www.global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: 877–699–9277; Web site: *www.techstreet.com.*

(30) ANSI Z535.5–2011, Safety Tags and Barricade Tapes (for Temporary Hazards), published September 15, 2011, including Errata, November 14, 2011; IBR approved for § 1926.200(h) and (i). Copies available for purchase from the:

(i) American National Standards Institute's e-Standards Store, 25 W 43rd Street, 4th Floor, New York, NY 10036; telephone: 212–642–4980; Web site: *http://webstore.ansi.org/;*

(ii) IHS Standards Store, 15 Inverness Way East, Englewood, CO 80112; telephone: 877–413–5184; Web site: *www.global.ihs.com;* or

(iii) TechStreet Store, 3916 Ranchero Dr., Ann Arbor, MI 48108; telephone: 877–699–9277; Web site: *www.techstreet.com.*

* * * * *

Subpart G—Signs, Signals, and Barricades

■ 5. The authority citation for subpart G continues to read as follows:

Authority: 40 U.S.C. 333; 29 U.S.C. 653, 655, 657; Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736), 3–2000 (65 FR 50017), 5–2002 (67 FR 65008), 5–2007 (72 FR 31159), 4–2010 (75 FR 55355), or 1–2012 (77 FR 3912), as applicable; and 29 CFR part 1911.

■ 6. In § 1926.200, revise paragraphs (b)(1) and (c)(1) to read as follows:

§ 1926.200 Accident prevention signs and tags.

* * * * *

(b) *Danger signs.* (1) Danger signs shall be used only where an immediate hazard exists, and shall follow the specifications illustrated in Figure 1 of ANSI Z35.1–1968 or in Figures 1 to 13 of ANSI Z535.2–2011, incorporated by reference in § 1926.6.

* * * * *

(c) *Caution signs.* (1) Caution signs shall be used only to warn against potential hazards or to caution against unsafe practices, and shall follow the specifications illustrated in Figure 4 of ANSI Z35.1–1968 or in Figures 1 to 13 of ANSI Z535.2–2011, incorporated by reference in § 1926.6.

* * * * *

Signed at Washington, DC, on October 30, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–26338 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. OSHA–2013–0005]

RIN 1218–AC77

Updating OSHA Standards Based on National Consensus Standards; Signage

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule; confirmation of effective date.

SUMMARY: On June 13, 2013, OSHA published in the **Federal Register** (78 FR 35559) a direct final rule that revised its signage standards for general industry and construction by updating the references to national consensus standards approved by the American National Standards Institute, a clearinghouse that verifies that the criteria for approval of consensus standards have been met. OSHA stated in that **Federal Register** notice that it would withdraw the companion proposed rule and confirm the effective date of the direct final rule if the Agency received no significant adverse comments on the direct final rule. Since OSHA received no such significant adverse comments, the Agency now confirms that the direct final rule became effective as a final rule on September 11, 2013.

DATES: The direct final rule published on June 13, 2013 (78 FR 35559), became effective as a final rule on September 11, 2013. For the purposes of judicial review, OSHA considers November 6, 2013, the date of issuance of the final rule.

ADDRESSES: In compliance with 28 U.S.C. 2112(a), OSHA designates the Associate Solicitor of Labor for Occupational Safety and Health as the recipient of petitions for review of the final standard. Contact Joseph M. Woodward, Associate Solicitor, at the Office of the Solicitor, Room S–4004, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–5445; email: *woodward.joseph@dol.gov.*

FOR FURTHER INFORMATION CONTACT:

General information and press inquiries: Frank Meilinger, Director, OSHA Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

Technical information: Ken Stevanus, Directorate of Standards and Guidance, Room N–3609, OSHA, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2260; fax: (202) 693–1663; email: *stevanus.ken@dol.gov.*

SUPPLEMENTARY INFORMATION:

*Copies of this **Federal Register** notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This **Federal Register** notice, as well as news releases and other relevant information, also are available at OSHA's Web page at *http://www.osha.gov.*

Confirmation of the effective date: On June 13, 2013, OSHA published a direct final rule (DFR) in the **Federal Register** that revised its signage standards for general industry at 29 CFR 1910.97, 1910.145, and 1910.261, and construction at 29 CFR 1926.200, by updating references to the American National Standards Institute (ANSI) signage protection standards (*see* 78 FR 35559). Specifically, the DFR updated the signage references in OSHA's existing general industry and construction standards, including references to ANSI Z53.1–1967 (Safety Color Code for Marking Physical Hazards), Z35.1–1968 (Specifications for Accident Prevention Signs), and Z35.2–1968 (Specifications for Accident Prevention Tags), by adding references to the latest ANSI standards, including ANSI Z535.1–2006 (R2011) (Safety Colors), Z535.2–2011 (Environmental and Facility Safety Signs), and Z535.5–2011 (Safety Tags and Barricade Tapes (for Temporary Hazards)). Thus, the DFR allowed employers to follow either the updated ANSI standards or the older ANSI signage standards already referenced in OSHA's existing general industry and construction standards.

The DFR also incorporated by reference Part VI of the Manual of Uniform Traffic Control Devices, 1988 Edition, Revision 3, into 29 CFR 1926.6,

and amended citations in two provisions of the construction standards to show the correct incorporation-by-reference section.

In the DFR, OSHA stated that it would confirm the effective date of the DFR if it received no significant adverse comments. OSHA received eight favorable and no adverse comments on the DFR (*see* ID: OSHA–2013–0005–0008 thru –0015 in the docket for this rulemaking). Accordingly, OSHA is confirming the effective date of the final rule.

In addition to explicitly supporting the DFR, several of the commenters provided supplemental information. Mr. Charles Johnson of AltairStrickland stated that as a result of ''[OSHA's] incorporating both the 1968 and the [2011] versions of the ANSI Z535 standard by reference[,] both manufacturers and employers will likely migrate to the newer versions and the older versions will likely fade away as demand declines'' (ID: OSHA–2013–0005–0011). Mr. Johnson also commented that ''[h]ad OSHA deleted the reference to the ANSI Z35.1–1968 language, these signs would require replacement at considerable and unnecessary cost to employers.'' *Id.*

A second commenter, Mr. Blair Brewster of MySafetySign.com, described several advantages and limitations of the updated ANSI signage standards, concluding that ''[i]t would be arrogant to assume that a single standard is best. The ANSI Z535 designs, the traditional safety sign and tag designs, as well as the countless other designs to come, will all have their place and will all coexist'' (ID: OSHA–2013–0005–0014).

A third commenter, Mr. Kyle Pitsor of the National Electrical Manufacturers Association (NEMA) stated that ''[w]hile we would have preferred that the references to the outdated standards be removed entirely from OSHA's regulations, NEMA agrees that giving employers the option of using signs and tags that meet either the 1967–1968 or the most recent versions of the standards will provide the greatest flexibility without imposing additional costs'' (ID: OSHA–2013–0005–0013). Mr. Pitsor also helpfully noted that, contrary to proposed §§ 1910.6(e)(66) and (e)(67) and 1926.6(h)(28)–(h)(30), the International Safety Equipment Association (ISEA) is not authorized to sell the ANSI Z535 standards proposed for incorporation by reference, and these standards are not sold on the ISEA Web site, *www.safetyequipment.org.* In response to Mr. Pitsor's comment, OSHA is correcting the incorporation-by-reference provisions in question in 29 CFR 1910.6 and 1926.6 in a separate **Federal Register** notice identifying the three locations where the public can purchase the updated ANSI Z535 standards.

Finally, OSHA received an email from Jonathan Stewart, Manager, Government Relations, NEMA, after the comment period ended (ID: OSHA–2013–0005–0015). In his email, Mr. Stewart mentioned NEMA's earlier comments to the docket (ID: OSHA–2013–0005–0013), and stated that ''[w]hile reflective of NEMA's position, those comments did not include a clarification regarding the language that the NRPM used in Sec. 1926.200 Accident prevention signs and tags.'' He further indicated that ''[t]he language, while not inaccurate, was unclear regarding which figure(s) it intended to reference in the ANSI Z535.2–2011 standard.'' Although this comment was late, OSHA considered it because it was a purely technical comment, pointing out an ambiguity in the cited provision's reference to figures in the updated version of the national consensus standard, ANSI Z535.2–2011. OSHA finds that the comment has merit, and accordingly is clarifying the language in 29 CFR 1926.200(b) and (c) specifying which figures employers must follow in ANSI Z535.2–2011.

List of Subjects in 29 CFR Parts 1910 and 1926

Signage, Incorporation by reference, Occupational safety and health, Safety.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this final rule. OSHA is issuing this final rule pursuant to 29 U.S.C. 653, 655, and 657, 5 U.S.C. 553, Secretary of Labor's Order 1–2012 (77 FR 3912), and 29 CFR part 1911.

Signed at Washington, DC, on October 30, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–26336 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–26–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 19

[FRL–9901–98–OECA]

RIN 2020–AA49

Civil Monetary Penalty Inflation Adjustment Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With this action, EPA is promulgating a final rule that amends the Civil Monetary Penalty Inflation Adjustment Rule. This action is mandated by the Debt Collection Improvement Act of 1996 (DCIA) to adjust for inflation certain statutory civil monetary penalties that may be assessed for violations of EPA-administered statutes and their implementing regulations. The Agency is required to review the civil monetary penalties under the statutes it administers at least once every four years and to adjust such penalties as necessary for inflation according to a formula prescribed by the DCIA. The regulations contain a list of all civil monetary penalty authorities under EPA-administered statutes and the applicable statutory amounts, as adjusted for inflation, since 1996.

DATES: This rule is effective December 6, 2013.

FOR FURTHER INFORMATION CONTACT: Caroline Hermann, Special Litigation and Projects Division (2248A), Office of Civil Enforcement, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 564–2876.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note, each federal agency is required to issue regulations adjusting for inflation the statutory civil monetary penalties [1] (''civil penalties'' or ''penalties'') that can be imposed under the laws administered by that agency. The purpose of these adjustments is to

[1] Section 3 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note, defines ''civil monetary penalty'' to mean ''any penalty, fine or other sanction that—(A)(i) is for a specific monetary amount as provided by federal law; or (ii) has a maximum amount provided for by federal law. . . .''

maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes. The DCIA requires adjustments to be made at least once every four years following the initial adjustment. EPA's initial adjustment to each statutory civil penalty amount was published in the **Federal Register** on December 31, 1996 (61 FR 69360), and became effective on January 30, 1997 (''the 1996 Rule''). EPA's second adjustment to civil penalty amounts was published in the **Federal Register** on February 13, 2004 (69 FR 7121), and became effective on March 15, 2004 (''the 2004 Rule''). EPA's third adjustment to civil penalty amounts was published in the **Federal Register** on December 11, 2008 (73 FR 75340), as corrected in the **Federal Register** on January 7, 2009 (74 FR 626), and became effective on January 12, 2009 (''the 2008 Rule'').

Where necessary under the DCIA, this rule, specifically Table 1 in 40 CFR 19.4, adjusts for inflation the maximum and, in some cases, the minimum amount of the statutory civil penalty that may be imposed for violations of EPA-administered statutes and their implementing regulations. Table 1 of 40 CFR 19.4 identifies the applicable EPA-administered statutes and sets out the inflation-adjusted civil penalty amounts that may be imposed pursuant to each statutory provision after the effective dates of the 1996, 2004 and 2008 rules. Where required under the DCIA formula, this rule amends the adjusted penalty amounts in Table 1 of 40 CFR 19.4 for those violations that occur after the effective date of this rule.

The formula prescribed by the DCIA for determining the inflation adjustment, if any, to statutory civil penalties consists of the following four-step process:

1. *Determine the Cost-of-Living Adjustment (COLA).* The COLA is determined by calculating the percentage increase, if any, by which the Consumer Price Index [2] for all-urban consumers (CPI–U) for the month of June of the calendar year preceding the adjustment exceeds the CPI–U for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted.[3] Accordingly, the COLA applied under this rule equals the percentage by which the CPI–U for June 2012 (*i.e.,* June of the year preceding this year), exceeds the CPI–U for June of the year in which the amount of a specific penalty was last adjusted (*i.e.,* 2008, 2004 or 1996, as the case may be). Given that the last inflation adjustment was published on December 11, 2008, the COLA for most civil penalties set forth in this rule was calculated by determining the percentage by which the CPI–U for June 2012 (229.478) exceeds the CPI–U for June 2008 (218.815), resulting in a COLA of 4.87 percent. For those few civil penalty amounts that were last adjusted under the 2004 Rule, the COLA equals 20.97 percent, calculated by determining the percentage by which the CPI–U for June 2012 (229.478) exceeds the CPI–U for June 2004 (189.7). In the case of the maximum civil penalty that can be imposed under section 311(b)(7)(A) of the Clean Water Act, 33 U.S.C. 1321(b)(7)(A), which is the sole civil penalty last adjusted under the 1996 Rule, the COLA is 46.45 percent, determined by calculating the percentage by which the CPI–U for June 2012 (229.478) exceeds the CPI–U for June 1996 (156.7).

2. *Calculate the Raw Inflation Increase.* Once the COLA is determined, the second step is to multiply the COLA by the current civil penalty amount to determine the raw inflation increase.

3. *Apply the DCIA's Rounding Rule to the Raw Inflation Increase.* The third step is to round this raw inflation increase according to section 5(a) of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note. The DCIA's rounding rules require that any increase be rounded to the nearest multiple of: $10 in the case of penalties less than or equal to $100; $100 in the case of penalties greater than $100 but less than or equal to $1,000; $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000; $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000; $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and $25,000 in the case of penalties greater than $200,000. (*See* section 5(a) of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note.)

4. *Add the Rounded Inflation Increase, if any, to the Current Penalty Amount.* Once the inflation increase has been rounded pursuant to the DCIA, the fourth step is to add the rounded inflation increase to the current civil penalty amount to obtain the new, inflation-adjusted civil penalty amount. For example, in this rule, the current statutory maximum penalty amounts that may be imposed under Clean Air Act (CAA) section 113(d)(1), 42 U.S.C. 7413(d)(1), and CAA section 205(c)(1), 42 U.S.C. 7524(c)(1), are increasing from $295,000 to $320,000. These penalty amounts were last adjusted with the promulgation of the 2008 Rule, when these penalties were adjusted for inflation from $270,000 to $295,000. Applying the COLA adjustment to the current penalty amount of $295,000 results in a raw inflation increase of $14,376 for both penalties. As stated above, the DCIA rounding rule requires the raw inflation increase to be rounded to the nearest multiple of $25,000 for penalties greater than $200,000. Rounding $14,376 to the nearest multiple of $25,000 equals $25,000. That rounded increase increment of $25,000 is then added to the $295,000 penalty amount to arrive at a total inflation adjusted penalty amount of $320,000. Accordingly, once this rule is effective, the statutory maximum amounts of these penalties will increase to $320,000.

In contrast, this rule does not adjust those civil penalty amounts where the raw inflation amounts are not high enough to round up to the required multiple stated in the DCIA. For example, under section 3008(a)(3) of the Resource Conservation and Recovery Act, 42 U.S.C. 6928(a)(3), the Administrator may assess a civil penalty of up to $37,500 per day of noncompliance for each violation. This penalty was last adjusted for inflation under the 2008 Rule. Multiplying the applicable 4.87 percent COLA to the statutory civil penalty amount of $37,500, the raw inflation increase equals only $1,827.40; the DCIA rounding rule requires a raw inflation increase increment to be rounded to the nearest multiple of $5,000 for penalties greater than $10,000 but less than or equal to $100,000. Because this raw inflation increase is not sufficient to be rounded up to a multiple of $5,000, in accordance with the DCIA's rounding rule, this rule does not increase the $37,500 penalty amount. However, if during the development of EPA's next Civil Monetary Penalty Inflation Adjustment Rule, anticipated to be

[2] Section 3 of the DCIA defines ''Consumer Price Index'' to mean ''the Consumer Price Index for all-urban consumers published by the Department of Labor.'' Interested parties may find the relevant Consumer Price Index, published by the Department of Labor's Bureau of Labor Statistics, on the Internet. To access this information, go to the CPI Home Page at: *ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.*

[3] Section 5(b) of the DCIA defines the term ''cost-of-living adjustment'' to mean ''the percentage (if any) for each civil monetary penalty by which—(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds (2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.''

promulgated in 2017, the raw inflation increase can be rounded up to the next multiple of $5,000, statutory maximum penalty amounts currently at $37,500 will be increased to $42,500.

Because of the low rate of inflation since 2008, coupled with the application of the DCIA's rounding rules, only 20 of the 88 statutory civil penalty provisions implemented by EPA are being adjusted for inflation under this rule. Assuming there are no changes to the mandate imposed by the DCIA, EPA intends to review all statutory penalty amounts and adjust them as necessary to account for inflation in the year 2017 and every four years thereafter.

II. Technical Revision to Table 1 of 40 CFR 19.4 To Break Out Each of the Statutory Penalty Authorities Under Section 325(b) of the Emergency Planning and Community Right-To-Know Act (EPCRA)

EPA is revising the row of Table 1 of 40 CFR 19.4, which lists the statutory maximum penalty amounts that can be imposed under section 325(b) of EPCRA, 42 U.S.C. 11045(b), to break out separately the three penalty authorities contained in subsection (b). Since 1996, EPA has been adjusting for inflation all of the statutory maximum penalty amounts specified under EPCRA section 325(b), 42 U.S.C. 11045(b). Under past rules, the Agency has grouped the maximum penalty amounts that may be assessed under section 325(b) under the heading of 42 U.S.C. 11045(b) in Table 1 of 40 CFR 19.4. For example, under the 2008 Rule, Table 1 of 40 CFR 19.4 reflects that the statutory maximum penalties that can be imposed under any subparagraph of EPCRA section 325(b) are $37,500 and $107,500. Consistent with how the other penalty authorities are displayed under Part 19.4, Table 1 now delineates, on a subpart-by-subpart basis, the penalty authorities enumerated under section 325(b) of EPCRA, 42 U.S.C. 11045(b) (*i.e.,* 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)). That is, upon the effective date of this rule, the statutory maximum penalty that can be imposed under section 325(b)(1)(A) is $37,500; the statutory maximum penalties that can be imposed under section 325(b)(2) are $37,500 and $117,500; and the statutory maximum penalties that can be imposed under section 325(b)(3) are $37,500 and $117,500.

III. Effective Date

Section 6 of the DCIA provides that ''any increase under [the DCIA] in a civil monetary penalty shall apply only to violations which occur after the date the increase takes effect.'' (*See* section 6 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note, as amended by the DCIA, 31 U.S.C. 3701 note.) Thus, the new inflation-adjusted civil penalty amounts may be applied only to violations that occur after the effective date of this rule.

IV. Good Cause

Section 553(b) of the Administrative Procedure Act (APA) provides that, when an agency for good cause finds that ''notice and public procedure . . . are impracticable, unnecessary, or contrary to the public interest,'' the agency may issue a rule without providing notice and an opportunity for public comment. EPA finds that there is good cause to promulgate this rule without providing for public comment. The primary purpose of this final rule is merely to implement the statutory directive in the DCIA to make periodic increases in civil penalty amounts by applying the adjustment formula and rounding rules established by the statute. Because the calculation of the increases is formula-driven and prescribed by statute, EPA has no discretion to vary the amount of the adjustment to reflect any views or suggestions provided by commenters. Accordingly, it would serve no purpose to provide an opportunity for public comment on this rule. Thus, notice and public comment is unnecessary.

In addition, EPA is making the technical revisions discussed above without notice and public comment. Because the technical revisions to Table 1 of 40 CFR 19.4 more accurately reflect the statutory provisions under each of the subparagraphs of section 325(b) (*i.e.,* under 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)) and do not constitute substantive revisions to the rule, these changes do not require notice and comment.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and therefore is not subject to review under the Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521. Burden is defined at 5 CFR 1320.3(b). This rule merely increases the amount of civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations.

C. Regulatory Flexibility Act

Today's final rule is not subject to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules subject to notice and comment rulemaking requirements under the APA or any other statute. This rule is not subject to notice and comment requirements under the APA or any other statute because although the rule is subject to the APA, the Agency has invoked the ''good cause'' exemption under 5 U.S.C. 553(b), therefore it is not subject to the notice and comment requirements.

D. Unfunded Mandates Reform Act

This action contains no federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The action implements mandates specifically and explicitly set forth by Congress in the DCIA without the exercise of any policy discretion by EPA. By applying the adjustment formula and rounding rules prescribed by the DCIA, this rule adjusts for inflation the statutory maximum and, in some cases, the minimum, amount of civil penalties that can be assessed by EPA in an administrative enforcement action, or by the U.S. Attorney General in a civil judicial case, for violations of EPA-administered statutes and their implementing regulations. Because the calculation of any increase is formula-driven, EPA has no policy discretion to vary the amount of the adjustment. Given that the Agency has made a ''good cause'' finding that this rule is not subject to notice and comment requirements under the APA or any other statute (*see* Section IV of this notice), it is not subject to sections 202 and 205 of UMRA. EPA has also determined that this action is not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This rule merely increases

the amount of civil penalties that could conceivably be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations.

E. Executive Order 13132 (Federalism)

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This rule merely increases the amount of civil penalties that could conceivably be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This rule merely increases the amount of civil penalties that could be imposed in the context of a federal civil administrative enforcement action or civil judicial case for violations of EPA-administered statutes and their implementing regulations. This final rule will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), 15 U.S.C. 272 note, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through the U.S. Office of Management and Budget, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA lacks the discretionary authority to address environmental justice in this final rulemaking. The primary purpose of this final rule is merely to apply the DCIA's inflation adjustment formula to make periodic increases in the civil penalties that may be imposed for violations of EPA-administered statutes and their implementing regulations. Thus, because calculation of the increases is formula-driven, EPA has no discretion in updating the rule to reflect the allowable statutory civil penalties derived from applying the formula. Since there is no discretion under the DCIA in determining the statutory civil penalty amount, EPA cannot vary the amount of the civil penalty adjustment to address other issues, including environmental justice issues.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 19

Environmental protection, Administrative practice and procedure, Penalties.

Dated: October 29, 2013.

Gina McCarthy,

Administrator, Environmental Protection Agency.

For the reasons set out in the preamble, title 40, chapter I, part 19 of the Code of Federal Regulations is amended as follows:

PART 19—ADJUSTMENT OF CIVIL MONETARY PENALTIES FOR INFLATION

■ 1. The authority citation for part 19 continues to read as follows:

Authority: Pub. L. 101–410, 28 U.S.C. 2461 note; Public Law 104–134, 31 U.S.C. 3701 note.

■ 2. Revise § 19.2 to read as follows:

§ 19.2 Effective date.

The increased penalty amounts set forth in the seventh and last column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations which occur after December 6, 2013. The penalty amounts in the sixth column of Table 1 to § 19.4 apply to violations under the applicable statutes and regulations which occurred after January 12, 2009, through December 6, 2013. The penalty amounts in the fifth column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations

which occurred after March 15, 2004, through January 12, 2009. The penalty amounts in the fourth column of Table 1 to § 19.4 apply to all violations under the applicable statutes and regulations which occurred after January 30, 1997, through March 15, 2004.

■ 3. Revise § 19.4 to read as follows:

§ 19.4 Penalty adjustment and table.

The adjusted statutory penalty provisions and their applicable amounts are set out in Table 1. The last column in the table provides the newly effective statutory civil penalty amounts.

TABLE 1 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS

U.S. Code Citation	Environmental statute	Statutory penalties, as enacted	Penalties effective after January 30, 1997 through March 15, 2004	Penalties effective after March 15, 2004 through January 12, 2009	Penalties effective after January 12, 2009 through December 6, 2013	Penalties effective after December 6, 2013
7 U.S.C. 136*l*.(a)(1)	FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA).	$5,000	$5,500	$6,500	$7,500	$7,500
7 U.S.C. 136*l*.(a)(2)	FIFRA	$500/$1,000	$550/$1,000	$650/$1,100	$750/$1,100	$750/$1,100
15 U.S.C. 2615(a)(1)	TOXIC SUBSTANCES CONTROL ACT (TSCA).	$25,000	$27,500	$32,500	$37,500	$37,500
15 U.S.C. 2647(a)	TSCA	$5,000	$5,500	$6,500	$7,500	$7,500
15 U.S.C. 2647(g)	TSCA	$5,000	$5,000	$5,500	$7,500	$7,500
31 U.S.C. 3802(a)(1)	PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA).	$5,000	$5,500	$6,500	$7,500	$7,500
31 U.S.C. 3802(a)(2)	PFCRA	$5,000	$5,500	$6,500	$7,500	$7,500
33 U.S.C. 1319(d)	CLEAN WATER ACT (CWA).	$25,000	$27,500	$32,500	$37,500	$37,500
33 U.S.C. 1319(g)(2)(A)	CWA	$10,000/$25,000	$11,000/$27,500	$11,000/$32,500	$16,000/$37,500	$16,000/$37,500
33 U.S.C. 1319(g)(2)(B)	CWA	$10,000/$125,000	$11,000/$137,500	$11,000/$157,500	$16,000/$177,500	$16,000/$187,500
33 U.S.C. 1321(b)(6)(B)(i)	CWA	$10,000/$25,000	$11,000/$27,500	$11,000/$32,500	$16,000/$37,500	$16,000/$37,500
33 U.S.C. 1321(b)(6)(B)(ii).	CWA	$10,000/$125,000	$11,000/$137,500	$11,000/$157,500	$16,000/$177,500	$16,000/$187,500
33 U.S.C. 1321(b)(7)(A)	CWA	$25,000/$1,000	$27,500/$1,100	$32,500/$1,100	$37,500/$1,100	$37,500/$2,100
33 U.S.C. 1321(b)(7)(B)	CWA	$25,000	$27,500	$32,500	$37,500	$37,500
33 U.S.C. 1321(b)(7)(C)	CWA	$25,000	$27,500	$32,500	$37,500	$37,500
33 U.S.C. 1321(b)(7)(D)	CWA	$100,000/$3,000	$110,000/$3,300	$130,000/$4,300	$140,000/$4,300	$150,000/$5,300
33 U.S.C. 1414b(d)(1) [1]	MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA).	$600	$660	$760	$860	$860
33 U.S.C. 1415(a)	MPRSA	$50,000/$125,000	$55,000/$137,500	$65,000/$157,500	$70,000/$177,500	$75,000/$187,500
33 U.S.C. 1901 note (*see* 1409(a)(2)(A)).	CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO).	$10,000/$25,000	$10,000/$25,000 [2]	$10,000/$25,000	$11,000/$27,500	$11,000/$27,500
33 U.S.C. 1901 note (*see* 1409(a)(2)(B)).	CACSO	$10,000/$125,000	$10,000/$125,000	$10,000/$125,000	$11,000/$137,500	$11,000/$147,500
33 U.S.C. 1901 note (*see* 1409(b)(1)).	CACSO	$25,000	$25,000	$25,000	$27,500	$27,500
42 U.S.C. 300g–3(b)	SAFE DRINKING WATER ACT (SDWA).	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 300g–3(g)(3)(A).	SDWA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 300g–3(g)(3)(B).	SDWA	$5,000/$25,000	$5,000/$25,000	$6,000/$27,500	$7,000/$32,500	$7,000/$32,500
42 U.S.C. 300g–3(g)(3)(C).	SDWA	$25,000	$25,000	$27,500	$32,500	$32,500
42 U.S.C. 300h–2(b)(1)	SDWA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 300h–2(c)(1)	SDWA	$10,000/$125,000	$11,000/$137,500	$11,000/$157,500	$16,000/$177,500	$16,000/$187,500
42 U.S.C. 300h–2(c)(2)	SDWA	$5,000/$125,000	$5,500/$137,500	$6,500/$157,500	$7,500/$177,500	$7,500/$187,500
42 U.S.C. 300h–3(c)	SDWA	$5,000/$10,000	$5,500/$11,000	$6,500/$11,000	$7,500/$16,000	$7,500/$16,000
42 U.S.C. 300i(b)	SDWA	$15,000	$15,000	$16,500	$16,500	$21,500
42 U.S.C. 300i–1(c)	SDWA	$20,000/$50,000	$22,000/$55,000 [3]	$100,000/ $1,000,000	$110,000/ $1,100,000	$120,000/ $1,150,000
42 U.S.C. 300j(e)(2)	SDWA	$2,500	$2,750	$2,750	$3,750	$3,750
42 U.S.C. 300j–4(c)	SDWA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 300j–6(b)(2)	SDWA	$25,000	$25,000	$27,500	$32,500	$32,500
42 U.S.C. 300j–23(d)	SDWA	$5,000/$50,000	$5,500/$55,000	$6,500/$65,000	$7,500/$70,000	$7,500/$75,000
42 U.S.C. 4852d(b)(5)	RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992.	$10,000	$11,000	$11,000	$16,000	$16,000
42 U.S.C. 4910(a)(2)	NOISE CONTROL ACT OF 1972.	$10,000	$11,000	$11,000	$16,000	$16,000
42 U.S.C. 6928(a)(3)	RESOURCE CONSERVATION AND RECOVERY ACT (RCRA).	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 6928(c)	RCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 6928(g)	RCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 6928(h)(2)	RCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 6934(e)	RCRA	$5,000	$5,500	$6,500	$7,500	$7,500
42 U.S.C. 6973(b)	RCRA	$5,000	$5,500	$6,500	$7,500	$7,500

TABLE 1 OF SECTION 19.4—CIVIL MONETARY PENALTY INFLATION ADJUSTMENTS—Continued

U.S. Code Citation	Environmental statute	Statutory penalties, as enacted	Penalties effective after January 30, 1997 through March 15, 2004	Penalties effective after March 15, 2004 through January 12, 2009	Penalties effective after January 12, 2009 through December 6, 2013	Penalties effective after December 6, 2013
42 U.S.C. 6991e(a)(3)	RCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 6991e(d)(1)	RCRA	$10,000	$11,000	$11,000	$16,000	$16,000
42 U.S.C. 6991e(d)(2)	RCRA	$10,000	$11,000	$11,000	$16,000	$16,000
42 U.S.C. 7413(b)	CLEAN AIR ACT (CAA)	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 7413(d)(1)	CAA	$25,000/$200,000	$27,500/$220,000	$32,500/$270,000	$37,500/$295,000	$37,500/$320,000
42 U.S.C. 7413(d)(3)	CAA	$5,000	$5,500	$6,500	$7,500	$7,500
42 U.S.C. 7524(a)	CAA	$2,500/$25,000	$2,750/$27,500	$2,750/$32,500	$3,750/$37,500	$3,750/$37,500
42 U.S.C. 7524(c)(1)	CAA	$200,000	$220,000	$270,000	$295,000	$320,000
42 U.S.C. 7545(d)(1)	CAA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 9604(e)(5)(B)	COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA).	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 9606(b)(1)	CERCLA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 9609(a)(1)	CERCLA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 9609(b)	CERCLA	$25,000/$75,000	$27,500/$82,500	$32,500/$97,500	$37,500/$107,500	$37,500/$117,500
42 U.S.C. 9609(c)	CERCLA	$25,000/$75,000	$27,500/$82,500	$32,500/$97,500	$37,500/$107,500	$37,500/$117,500
42 U.S.C. 11045(a)	EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT (EPCRA).	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 11045(b)(1)(A) [4].	EPCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 11045(b)(2)	EPCRA	$25,000/$75,000	$27,500/$82,500	$32,500/$97,500	$37,500/$107,500	$37,500/$117,500
42 U.S.C. 11045(b)(3)	EPCRA	$25,000/$75,000	$27,500/$82,500	$32,500/$97,500	$37,500/$107,500	$37,500/$117,500
42 U.S.C. 11045(c)(1)	EPCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 11045(c)(2)	EPCRA	$10,000	$11,000	$11,000	$16,000	$16,000
42 U.S.C. 11045(d)(1)	EPCRA	$25,000	$27,500	$32,500	$37,500	$37,500
42 U.S.C. 14304(a)(1)	MERCURY-CONTAINING AND RECHARGEABLE BATTERY MANAGEMENT ACT (BATTERY ACT).	$10,000	$10,000	$11,000	$16,000	$16,000
42 U.S.C. 14304(g)	BATTERY ACT	$10,000	$10,000	$11,000	$16,000	$16,000

[1] Note that 33 U.S.C. 1414b (d)(1)(B) contains additional penalty escalation provisions that must be applied to the penalty amounts set forth in this Table. The amounts set forth in this Table reflect an inflation adjustment to the calendar year 1992 penalty amount expressed in section 104B(d)(1)(A), which is used to calculate the applicable penalty amount under MPRSA section 104B(d)(1)(B) for violations that occur in any subsequent calendar year.

[2] CACSO was passed on December 21, 2000 as part of Title XIV of the Consolidated Appropriations Act of 2001, Pub. L. 106–554, 33 U.S.C. 1901 note.

[3] The original statutory penalty amounts of $20,000 and $50,000 under section 1432(c) of the SDWA, 42 U.S.C. 300i–1(c), were subsequently increased by Congress pursuant to section 403 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law No. 107–188 (June 12, 2002), to $100,000 and $1,000,000, respectively. EPA did not adjust these new penalty amounts in its 2004 Civil Monetary Penalty Inflation Adjustment Rule (''2004 Rule''), 69 FR 7121 (February 13, 2004), because they had gone into effect less than two years prior to the 2004 Rule.

[4] Consistent with how the EPA's other penalty authorities are displayed under Part 19.4, this Table now delineates, on a subpart-by-subpart basis, the penalty authorities enumerated under section 325(b) of EPCRA, 42 U.S.C. 11045(b) (*i.e.,* 42 U.S.C. 11045(b)(1)(A), (b)(2), and (b)(3)).

[FR Doc. 2013–26648 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0335; FRL–9902–50–Region 6]

Approval and Promulgation of Implementation Plans; Texas; Procedures for Stringency Determinations and Minor Permit Revisions for Federal Operating Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On September 10, 2013, EPA published a direct final rule approving portions of three revisions to the Texas State Implementation Plan (SIP) concerning the Texas Federal Operating Permits Program. The direct final action was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if we received relevant, adverse comments by October 10, 2013, EPA would publish a timely withdrawal in the **Federal Register**. EPA subsequently received timely adverse comments on the direct final rule. Therefore, EPA is withdrawing the direct final approval and will proceed to respond to all relevant, adverse comments in a subsequent action based on the parallel proposal published on September 10, 2013. As stated in the parallel proposal, EPA will not institute a second comment period on this action.

DATES: The direct final rule published on September 10, 2013 (78 FR 55221), is withdrawn as of November 6, 2013.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, Dallas, TX 75202–2733. The telephone number is (214) 665–2115. Ms. Wiley can also be reached via electronic mail at *wiley.adina@epa.gov*.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 28, 2013.

Ron Curry,

Regional Administrator, Region 6.

Accordingly, the amendments to 40 CFR 52.2270 published in the **Federal Register** on September 10, 2013 (78 FR

55221), which were to become effective on November 12, 2013, are withdrawn.

[FR Doc. 2013–26494 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0107; FRL–9399–4]

Spirotetramat; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of spirotetramat in or on corn, sweet, kernel plus cob with husks removed and persimmon and revises established tolerances in or on feijoa, papaya, and Spanish lime, under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 6, 2013. Objections and requests for hearings must be received on or before January 6, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0107, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0107 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 6, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2012–0107, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for spirotetramat including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with spirotetramat follows.

In the **Federal Register** of July 17, 2013 (78 FR 42736) (FRL–9391–6), the EPA proposed, on its own initiative under FFDCA section 408(e), 21 U.S.C. 346a(e), to establish a tolerance for residues of the insecticide spirotetramat in or on corn, sweet kernel plus cob with husks removed at 1.5 parts per million (ppm) and persimmon at 2.5 ppm. Additionally, EPA proposed to revise 40 CFR 180.641 by amending established tolerances in or on feijoa from 0.30 ppm to 2.5 ppm, papaya from

2.5 ppm to 0.40 ppm, and Spanish lime from 0.60 ppm to 13 ppm. The proposed rule referenced a recently published spirotetramat final rule printed in the **Federal Register** of May 15, 2013 (78 FR 28507) (FRL–9382–8); in the risk assessments associated with that final rule, the EPA also considered these proposed uses. Since that time, the toxicity profile of spirotetramat has not changed, and the risk assessments that supported the establishment of those spirotetramat tolerances published in the May 15, 2013 **Federal Register** final rule remain valid. For a detailed discussion of the aggregate risk assessments and determination of safety that support these new and revised uses, please refer to the May 15, 2013 **Federal Register** final rule and its supporting documents, available at *http://www.regulations.gov.*

Therefore, EPA concludes that there is a reasonable certainty that no harm will result to the general population and to infants and children from aggregate exposure to spirotetramat residues. EPA relies upon the findings made in the May 15, 2013 **Federal Register** final rule and the underlying risk assessments in order to establish the new and revised tolerances as detailed in the July 17, 2013 **Federal Register** proposed rule.

III. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology, a high-performance liquid chromatography with tandem mass spectrometry (HPLC–MS/MS), is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has established a MRL for spirotetramat in or on papaya at 0.4 milligram/kilogram (mg/kg). This MRL is the same as the tolerance established for spirotetramat in or on papaya at 0.40 ppm in the United States. There are no Codex MRLs established for the other commodities associated with this final rule.

C. Response to Comments

The EPA received one comment to the proposed rule which stated that no tolerances should be allowed for spirotetramat. The commenter expressed a general opposition to the use of ''toxic chemicals'' on food and faulted EPA for not conducting toxicity testing that combined spirotetramat with the ''thousands'' of other approved pesticides. The Agency understands the commenter's concerns and recognizes that some individuals believe that certain pesticide chemicals should not be permitted in our food. However, the existing legal framework provided by FFDCA section 408 states that tolerances may be set when the pesticide meets the safety standard imposed by that statute. The Agency is required by FFDCA section 408 to estimate the risk of the potential exposure to these residues. EPA has concluded that there is a reasonable certainty that no harm will result from aggregate human exposure to spirotetramat residues from these uses. As far as the toxicity testing relied upon by EPA, testing requirements for pesticide tolerances have been specified by rulemaking after allowing for notice and comment by the public and peer review by appropriate scientific bodies. See 40 CFR part 158. Toxicity testing of a pesticide in combination with all other approved pesticides is neither required by the testing regulations nor practical.

IV. Conclusion

Therefore, tolerances are established for residues of spirotetramat, (cis-3-(2,5-dimethlyphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl-ethyl carbonate) and its metabolites, cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]dec-3-en-2-one, cis-3-(2,5-dimethylphenyl)-3-hydroxy-8-methoxy-1-azaspiro[4.5]decane-2,4-dione, cis-3-(2,5-dimethylphenyl)-8-methoxy-2-oxo-1-azaspiro[4.5]dec-3-en-4-yl beta-D-glucopyranoside-, and cis-3-(2,5-dimethylphenyl)-4-hydroxy-8-methoxy-1-azaspiro[4.5]decan-2-one, calculated as the stoichiometric equivalent of spirotetramat, in or on corn, sweet, kernel plus cob with husks removed at 1.5 ppm; and persimmon at 2.5 ppm. Additionally, the regulation amends established tolerances in or on feijoa from 0.30 ppm to 2.5 ppm, papaya from 2.5 ppm to 0.40 ppm, and Spanish lime from 0.60 ppm to 13 ppm.

V. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain

any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VI. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 25, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.641, in the table in paragraph (a)(1):

■ a. Add alphabetically ''corn, sweet, kernel plus cob with husks removed'' and ''persimmon''; and

■ b. Revise the entries for ''feijoa,'' ''papaya,'' and ''Spanish lime''.

The additions and revisions read as follows:

§ 180.641 Spirotetramat; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Corn, sweet, kernel plus cob with husks removed	1.5
* * * * *	
Feijoa	2.5
* * * * *	
Papaya	0.40
* * * * *	
Persimmon	2.5
* * * * *	
Spanish lime	13
* * * * *	

* * * * *

[FR Doc. 2013–26643 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0583; FRL–9401–9]

Imazapyr; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of imazapyr in or on lentil at 0.2 parts per million (ppm); and rapeseed subgroup 20A and sunflower subgroup 20B at 0.05 ppm. BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 6, 2013. Objections and requests for hearings must be received on or before January 6, 2014, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2012–0583, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl*.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2012–0583 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 6, 2014. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified

by docket ID number EPA–HQ–OPP–2012–0583, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html*.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets*.

II. Summary of Petitioned-for Tolerance

In the **Federal Register** of August 22, 2012 (77 FR 163) (FRL–9358–9), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2E8045) by BASF Corporation, 26 Davis Drive, Research Triangle Park, NC 27709. The petition requested that 40 CFR 180.500 be amended by establishing tolerances for residues of the herbicide, imazapyr [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridinecarboxylic acid], in or on lentil at 0.2 ppm; and rapeseed subgroup 20A and sunflower subgroup 20B at 0.05 ppm. That document referenced a summary of the petition prepared by BASF Corporation, the registrant, which is available in the docket, *http://www.regulations.gov*. There were no comments received in response to the notice of filing.

EPA has revised the tolerance expression to clarify the chemical moieties that are covered by the tolerances and specify how compliance with the tolerance is to be measured. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for imazapyr including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with imazapyr follows.

In 2003, EPA quantitatively assessed the risk of imazapyr tolerances in connection with the final rule published in the **Federal Register** of September 26, 2003 (68 FR 55475) (FRL–7321–4) establishing tolerances for imazapyr in or on grass, forage; grass, hay; fish; shellfish; fats of cattle, sheep, goats, and horses; kidney of cattle, sheep, goats, and horses; meat byproducts (except kidney) of cattle, sheep, goats, and horses; meat of cattle, sheep, goats, and horses; and milk. At that time, EPA determined that the aggregate risks from exposure to imazapyr were minimal. In reviewing the current tolerance petition, EPA determined that the toxicity database for imazapyr is complete and no additional studies are needed. EPA also determined that the toxicity data identified no hazard from imazapyr regardless of the route of exposure or the species tested. In the absence of evidence of neurotoxicity, immunotoxicity, genotoxicity, carcinogenicity, or other acute or chronic toxicity in conjunction with no adverse developmental or reproductive effects, the Agency concluded that a quantitative risk assessment for imazapyr was no longer needed and that EPA could determine based on a qualitative assessment of the imazapyr database that the proposed import tolerances are safe. This conclusion is supported by the findings in the last risk assessment, which were based on conservative (protective) toxicity endpoints showing only negligible aggregate exposures and risks identified from dietary, residential, and swimming and occupational routes. As previously indicated, EPA has determined that this prior quantitative assessment overstated risk because the current toxicology database shows no evidence of adverse effects from exposure to imazapyr. Because EPA is not quantitatively assessing the risk of imazapyr based on a reliance on the use of safety factors, EPA has not retained the additional safety factor described in FFDCA section 408(b)(2)(C) for the protection of infants and children.

Therefore, based on EPA's qualitative assessment of the imazapyr risk and the prior quantitative risk assessment discussed in the final rule published in the **Federal Register** of September 26, 2003 (68 FR 55475) (FRL–7321–4), EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to imazapyr and its metabolites or degradates.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (liquid chromatography with tandem mass spectrometric detection (LC/MS/MS)) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov*.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level. The Codex has not established MRLs for imazapyr on rapeseed, sunflower, or lentils.

C. Revisions to Petitioned-for Tolerances

EPA is revising the tolerance expressions for plant and livestock commodities to clarify the chemical moieties that are covered by the tolerances and specify how compliance with the tolerances is to be measured. The revised tolerance expression makes clear that the tolerances cover ''residues of imazapyr, including its metabolites and degradates,'' as specified in FFDCA section 408(a)(3), and that compliance with the tolerance levels is to be determined by measuring only the residues of imazapyr [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-3-pyridinecarboxylic acid]. EPA has determined that it is reasonable to make this change final without prior proposal and opportunity for comment because public comment is not necessary, in that the change has no substantive effect on the tolerance, but rather incorporates statutory requirements and is merely intended to clarify the existing tolerance expression.

V. Conclusion

Therefore, tolerances are established for residues of imazapyr [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl]-3-pyridinecarboxylic acid], in or on lentil at 0.2 ppm; rapeseed subgroup 20A and sunflower subgroup 20B at 0.05 ppm.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 22, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.500, paragraph (a) is amended by revising the introductory text and alphabetically adding the following commodities to the table to read as follows:

§ 180.500 Imazapyr; tolerances for residues.

(a) General. Tolerances are established for residues of the herbicide, imazapyr, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels is to be determined by measuring only the residues of imazapyr [2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-3-pyridinecarboxylic acid].

Commodity	Parts per million
* * * * *	
Lentil [1]	0.2
* * * * *	
Rapeseed subgroup 20A [1]	0.05
* * * * *	
Sunflower subgroup 20B [1]	0.05

[1] There are no U.S. Registrations.

* * * * *

[FR Doc. 2013–26364 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 153, 155, 156, 157, and 158

[CMS–9964–F3]

RIN–0938–AR51

Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2014; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Correcting amendment.

SUMMARY: In the March 11, 2013 issue of the **Federal Register**, we published a

final rule entitled, ''Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2014''. This correcting amendment corrects several technical and typographical errors identified in the March 11, 2013 final rule.

DATES: This correcting amendment is effective November 6, 2013.

FOR FURTHER INFORMATION CONTACT:

Jeff Wu, (301) 492–4305.
Adrianne Glasgow, (410) 786–0686.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2013–04902 (78 FR 15410), the final rule entitled, ''Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2014'' there were technical and typographical errors that are identified and corrected in the regulations text of this correcting amendment. The effective date of the final rule was April 30, 2013.

A. Summary of Errors in the Preamble

On page 15421, in our discussion of factors included in the HHS risk adjustment models, we inadvertently omitted language regarding how an enrollee's age for risk score calculation will be determined.

On page 15493, in our discussion of limiting the definition of cost sharing to Essential Health Benefits, we inadvertently included the incorrect section reference to the Affordable Care Act.

On page 15495, in our discussion of estimating the value of cost-sharing reductions to be provided under the limited cost sharing plan variation open to Indians regardless of household income, we made typographical errors.

On pages 15503 and 15504 in our discussion regarding determining employer size for purposes of participation in the Small Business Health Option Program, we made inadvertent minor errors. On page 15505, in our discussion of the medical loss ratio formula, a phrase was erroneously included.

On page 15506, in our discussion of the technical correction to § 158.232(d), we made an inadvertent technical error.

B. Summary of Errors in the Regulations Text

On page 15526, in the regulation text of—

- Section153.220(c)(2), we inadvertently used the term ''if'' instead of the term ''of;'' and
- Section 153.230(a), we inadvertently omitted the term ''collected'' after the phrase ''for reinsurance payments from contributions.''

On page 15529, in the regulations text of § 153.405(b), we inadvertently omitted references to paragraphs (f) and (g) of this section.

On page 15540, in the regulation text of § 158.232(d), we inadvertently used the term ''and'' instead of the term ''an.''

II. Correction of Errors in the Preamble

1. On page 15421, first column, second full paragraph, lines 4 through 10, the sentence ''To align with model calibration, an enrollee's age for risk score calculation will be the age as of the enrollee's last day of enrollment in a risk adjustment covered plan in the applicable benefit year will be used for enrollees in program operation.'' is corrected to read ''To align with model calibration, an enrollee's age for risk score calculation for all enrollment periods will be based on the enrollee's age in years on the last date of enrollment in the applicable benefit year in any risk adjustment covered plan for the issuer''.

2. On page 15493, third column, fourth full paragraph, line 2, ''section 1301(c)'' is corrected to read ''section 1302(c)(3).''

3. On page 15495, third column, first full paragraph, lines 1 through 15, the sentences ''We are finalizing both our proposal for annual rulemaking in the notice of benefits and payment provisions to establish a methodology for advance payments for cost-sharing reductions under the limited cost sharing plan variation, and our proposal of a specific methodology for the 2014 benefit year. As in the case of the other plan variation, we plan to review the methodology for calculating the advance payments once more data is available, and future notices of benefits and payment parameters may include different methodologies.'' is corrected to read ''We are finalizing both our proposal for annual rulemaking in the HHS notice of benefit and payment parameters provisions to establish a methodology for advance payments for cost-sharing reductions under the limited cost sharing plan variation, and our proposal of a specific methodology for the 2014 benefit year. As in the case of the other plan variations, we plan to review the methodology for calculating the advance payments once more data is available, and future HHS notices of benefit and payment parameters may include different methodologies.''

4. On page 15503, third column,

a. Second full paragraph, line 10 ''IRC'' is corrected to read ''Code.''

b. Third full paragraph,

(1) Line 6, ''IRC'' is corrected to read ''Code.''

(2) Line 8, ''IRC'' is corrected to read ''Code.''.

5. On page 15504, first column,

a. First full paragraph, line 3, ''this Notice'' is corrected to read ''this final rule''.

b. Second full paragraph, line 3, ''IRC'' is corrected to read ''Code''.

6. On page 15505, second column, last paragraph, lines 1 through 4, the sentence ''Issuers must provide rebates to enrollees if their MLRs fall short of the applicable MLR standard for the reporting year.'' is corrected to read ''Issuers must provide rebates if their MLRs fall short of the applicable MLR standard for the reporting year.''.

7. On page 15506, third column, last paragraph, line 9, the phrase ''50 percent—n'' is corrected to read ''50 percent ^ n''.

8. On page 15540, second column, second paragraph, line 3, the sentence ''Beginning with the 2013 MLR reporting year, the credibility adjustment for and MLR based on partially credible experience is zero if both of the following conditions are met:'' is corrected to read ''Beginning with the 2013 MLR reporting year, the credibility adjustment for an MLR based on partially credible experience is zero if both of the following conditions are met:''

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds there is good cause to do so, and the agency incorporates a statement of the findings and its reasons in the rule issued.

This document merely corrects technical and typographic errors in the Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2014 final rule that was

published on March 11, 2013 and became effective on April 30, 2013. The changes are not substantive changes to the standards set forth in the final rule. Therefore, we believe that undertaking further notice and comment procedures to incorporate these corrections and delay the effective date for these changes is unnecessary. In addition, we believe it is important for the public to have the correct information as soon as possible, and believe it is contrary to the public interest to delay when they become effective. For the reasons stated previously, we find there is good cause to waive notice and comment procedures and the 30-day delay in the effective date for this correction notice.

List of Subjects

45 CFR Part 153

Administrative practice and procedure, Adverse selection, Health care, Health insurance, Health records, Organization and functions (Government agencies), Premium stabilization, Reporting and recordkeeping requirements, Reinsurance, Risk adjustment, Risk corridors, Risk mitigation, State and local governments.

45 CFR Part 158

Administrative practice and procedure, Claims, Health care, Health insurance, Health plans, penalties, Reporting and recordkeeping requirements, Premium revenues, Medical loss ratio, Rebating.

As noted in section I of this correcting amendment, the Department of Health and Human Services is making the following correcting amendments to 45 CFR parts 153 and 158.

PART 153—STANDARDS RELATED TO REINSURANCE, RISK CORRIDORS, AND RISK ADJUSTMENT UNDER THE AFFORDABLE CARE ACT

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

Authority: Secs. 1311, 1321, 1341–1343, Pub. L. 111–148, 24 Stat. 119.

§ 153.220 [Amended]

■ 2. In § 153.220(c)(2), the phrase ''if this section'' is removed and the phrase ''of this section'' is added in its place.

§ 153.230 [Amended]

■ 3. In § 153.230(a), the phrase ''for reinsurance payments from contributions'' is removed and the phrase ''for reinsurance payments from contributions collected'' is added in its place.

§ 153.405 [Amended]

■ 4. In § 153.405(b), the phrase ''(d) or (e) of this section'' is removed and the phrase ''(d) through (g) of this section'' is added in its place.

PART 158—ISSUER USE OF PREMIUM REVENUE: REPORTING AND REBATE REQUIREMENTS

■ 5. The authority citation for part 158 continues to read as follows:

Authority: Section 2718 of the Public Health Service Act (42 U.S.C. 300gg–18, as amended).

§ 158.232 [Amended]

■ 6. In § 158.232(d) introductory text, the phrase ''adjustment for and'' is removed and the phrase ''adjustment for an'' is added in its place.

Dated: October 30, 2013.

Jennifer M. Cannistra,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2013–26579 Filed 11–5–13; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–2013–0120]

RIN 2127–AL49

Consumer Information; Uniform Tire Quality Grading Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: The Uniform Tire Quality Grading Standards (UTQGS) contain detailed testing procedures for generating consumer information about the treadwear, traction, and temperature resistance of passenger car tires. To ensure the uniformity of treadwear grades, the grading procedures specify a 400-mile test course located near San Angelo, Texas. Two or four-vehicle convoys equipped with candidate tires travel along this course to evaluate the tire treadwear performance. Because flooding is currently affecting several water crossings along a portion of the test course, NHTSA is issuing this interim final rule to add an alternate treadwear test course route to avoid the inaccessible portions of the course. This change will not compromise the reliability of the treadwear grades, and will not impose or relax any substantive requirements or burdens on manufacturers. Although the addition of the alternative course route is effective immediately, in order to benefit from comments which interested parties and the public may have, the agency is requesting that comments be submitted to the docket for this rule. Following the close of the comment period, the agency will publish a document responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

DATES: *Effective date:* This interim final rule is effective November 6, 2013. *Comments:* You should submit your comments early enough to be received not later than January 6, 2014.

ADDRESSES: You may submit comments, identified by the docket number at the heading of this notice, by any of the following methods:

Online: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments on the electronic docket site by clicking on ''Help'' or ''FAQs.''

Fax: 1–202–493–2251.

Mail: U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

Hand Delivery: 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number. 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 discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Telephone: (202) 366–9826.

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 (65 FR 19477–78) or you may visit *http://www.dot.gov/privacy.html.*

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Operations at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

FOR FURTHER INFORMATION CONTACT:

For technical and policy issues: Hisham Mohamed, Office of International Policy, Fuel Economy, and Consumer Standards, NHTSA, 1200 New Jersey Ave. SE., West Building, W43–437, Washington, DC 20590. Telephone: (202) 366–0307.

For legal issues: William H. Shakely, Office of the Chief Counsel, NHTSA, 1200 New Jersey Ave. SE., West Building, W41–227, Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

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I. UTQGS and the Treadwear Test Course

The Uniform Tire Quality Grading Standards (UTQGS) require motor vehicle and tire manufacturers and tire brand name owners to provide information indicating the relative performance of passenger car tires in the areas of treadwear, traction, and temperature resistance. This information aids consumers in making informed choices in the purchase of passenger car tires.

Treadwear grades are expressed, in multiples of 20, as a percentage of a nominal treadwear value of 100.[1] For example, a treadwear grade of 160 means the candidate tire tread life should be 1.6 times longer compared to NHTSA's ''control tire.''[2] Although treadwear grades do not predict the actual mileage that a particular tire will achieve, they are sufficiently accurate to help consumers choose among tires based on their relative tread life.

To ensure the uniformity of treadwear grades, Appendix A of 49 CFR 575.104 specifies a 400-mile treadwear test course. Two or four-vehicle convoys equipped with candidate tires travel along this course to evaluate the tire treadwear performance. The test course consists of three loops in the geographical vicinity of Goodfellow Air Force Base near San Angelo, Texas. The first loop (''Southern Loop'') runs south 143 miles through the cities of Eldorado, Sonora, and Juno, Texas to the Camp Hudson Historical Marker, and returns by the same route. The second loop (''Eastern Loop'') runs east over Farm and Ranch Roads and returns to its starting point. The third loop (''Northwestern Loop'') runs northwest to Water Valley, northeast toward Robert Lee and returns via Texas 208 to the vicinity of Goodfellow AFB.[3]

As a result of recent overflow of the Devils River, the treadwear testing convoys cannot access Texas 189 due to road washout and cannot cross at least one of the several water crossings along Texas 163 and, therefore, cannot safely use a portion of the Southern Loop. Specifically, FM 189 and several low water crossings along Texas 163, located between US 277 and the Camp Hudson Historical Marker, are impassable or submerged under several inches of water.

II. Change to the Treadwear Test Course

Because the affected portion of the Southern Loop will be inaccessible for an indeterminate time and there is an immediate need for testing, the agency is adding an alternate test course route that substitutes different sections of the course for the flooded portion of the Southern Loop. Test convoys will have the option of using this alternate route to conduct treadwear testing. As explained above, the regular course route consists of the Southern Loop, the Eastern Loop, and the Northwestern Loop, in that order. Test convoys using the alternate route will travel on portions of the Southern Loop and then continue on the Eastern Loop and the Northwestern Loop. After completing the Northwestern Loop, the convoys will repeat the Eastern Loop, travel on the Northwestern Loop (including travel on portions of the Northwestern Loop in the reverse direction), and then complete the Eastern Loop a third time. Making the additional trips on the Eastern Loop and the Northwestern Loop will make up the distance that is usually traveled on Texas 163 and FM 189.

Specifically, instead of traveling south on FM 189 and Texas 163, each test convoy will travel south from Sonora on US 277 as normal for approximately 5.5 miles to a picnic area on right. At this location the test convoy will reverse course and proceed to the completion of the Southern Loop. After completing this modified Southern Loop, the Eastern Loop and Northwestern Loop to the intersection of Loop 306 and FM 388, the test convoy will turn left on FM 388 and run the Eastern Loop a second time. On completion of the second Eastern Loop at FM 388 and Loop 306, the convoys will turn right to travel on the Northwestern Loop a second time with the following modification: The convoys will follow the normal Northwestern Loop until they reach the intersection of FM 2105 and Texas 208, where the convoys will turn right onto Texas 208. The convoys will travel on Texas 208 until the intersection with FM 2034. The convoys will turn left onto FM 2034 and travel on FM 2034 to the intersection with US 87, where they will turn left onto US 87. At the intersection of US 87 and FM 2105, the convoys will turn left onto FM 2105 and continue to the intersection with US 277. The convoys will then turn right onto US 277 and continue to the intersection of Loop 306 and FM 388. At this point the convoy will turn left and run the Eastern Loop a third and final time, returning to the intersection of Loop 306 and FM 388. This will be the completion of the full route.

The distance between the picnic area on US 277 and the Camp Hudson Historical Marker is approximately equivalent to the combined distance of the modified Northwestern Loop and two trips on the Eastern Loop. Accordingly, the agency has concluded that using the alternative treadwear course route will not compromise the reliability of the treadwear grades and will not impose or relax any substantive requirements or burdens on manufacturers. The agency has further determined that the impact of this interim final rule is so minimal as to not warrant the preparation of a full regulatory evaluation.

III Request for Comment

Although this interim final rule is effective immediately, in order to

[1] *See* 49 CFR 575.104(e)(2)(ix)(F).

[2] *See http://www.safercar.gov/Vehicle+Shoppers/Tires/Tires+Rating/Treadwear.*

[3] *See* Figure 3, Appendix A, 49 CFR 575.104.

benefit from comments which interested parties and the public may have, the agency is requesting that comments be submitted to the docket for this notice. Following the close of the comment period, the agency will publish a notice responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

IV. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may be submitted to the docket electronically by logging onto the Docket Management System Web site at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

You may also submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/subject_areas/statistical_policy_and_research/data_quality_guidelines/index.html.*

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider, we will consider that comment as an informal suggestion for future rulemaking action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

IV. Regulatory Analyses and Notices

A. Immediate Effective Date and Request for Comments

Section 553 of the Administrative Procedure Act (5 U.S.C. 553) provides that when an agency, for good cause, finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment (5 U.S.C. 553(b)(B)). NHTSA has determined that there is good cause to issue this interim final rule without notice and an opportunity for public comment because such notice and opportunity for comment would be impracticable. Flooding is presently making portions of the treadwear test course inaccessible, and there is an immediate need to continue testing. This testing would be unavoidably prevented by undertaking notice and comment rulemaking proceedings before specifying an alternate treadwear test course route.

Section 553 further requires that that a rule be published at least 30 days prior to its effective date unless one of three exceptions applies. One of these exceptions is when the agency finds good cause for a shorter period. For the reasons stated above, i.e., the inaccessibility of portions of the test course and the immediate need for testing, the agency finds that there is good cause to make this rule effective immediately.

Although the agency is issuing this interim final rule, which is effective immediately, without notice and opportunity for public comment, the agency is requesting that comments be submitted to the docket for this notice in order to benefit from comments which interested parties and the public may have. Following the close of the comment period, the agency will publish a notice responding to the comments and, if appropriate, the agency will amend the provisions of this rule.

B. Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies require determinations as to whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the aforementioned Executive Orders. Executive Order 12866 defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

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

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

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

We have considered the potential impact of this interim final rule under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This interim final rule specifies an alternate route for test convoys using the treadwear test course in order to avoid portions of the course that are currently inaccessible due to flooding. The agency has determined that this rule will not impose or relax any substantive requirements or burdens on manufacturers. Accordingly, it has been determined to be not ''significant'' under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures and was not reviewed by the Office of Management and Budget.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) (codified as amended at 5 U.S.C. 601 et seq.), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required if the head of an agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

The interim final rule affects tire manufacturers and brand name owners. Specifically, the agency is adding an alternate route for test convoys using the treadwear test course in order to avoid portions of the course that are currently inaccessible due to flooding. The agency has concluded that specifying this alternate route will not compromise the reliability of the treadwear grades, and will not result in any additional costs to these entities. Accordingly, we certify that the interim final rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13132 (Federalism)

NHTSA has examined today's interim final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the interim final rule does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The interim final rule, which specifies an alternate route for test convoys using the treadwear test course, would not have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' The agency expects that general principles of preemption law would operate so as to displace any conflicting State law or regulations.

D. Executive Order 12988 (Civil Justice Reform)

When promulgating a regulation, *Executive Order 12988* specifically requires that the agency must make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this interim final rule is discussed above in connection with Executive Order 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). In 2011 dollars, this threshold is $139 million.[4] This interim final rule would not result in the expenditure by State, local, or tribal governments, in the aggregate, of more than $139 million annually, and would not result in the expenditure of that magnitude by the private sector.

F. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that this rulemaking will not have any significant impact on the quality of the human environment.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, et. seq.), Federal agencies must obtain approval from the Office of Management and Budget for each collection of information they conduct, sponsor, or require through regulations. This rulemaking does not establish any new information collection requirements.

H. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments.

I. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information

[4] Adjusting this amount by the implicit gross domestic product price deflator for the year 2011 results in $139 million (113.361/81.606 = 1.39).

Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. 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 organization, 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) or you may visit *http://www.dot.gov/privacy.html*

List of Subjects in 49 CFR Part 575

Consumer protection, Motor vehicle safety, Reporting and recordkeeping requirements, and tires.

In consideration of the foregoing, NHTSA is amending 49 CFR part 575 as follows:

PART 575—CONSUMER INFORMATION

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

Authority: 49 U.S.C. 32302, 32304A, 30111, 30115, 30117, 30123, 30166, 30181, 30182, 30183, and 32908, Pub. L. 104–414, 114 Stat. 1800, Pub. L. 109–59, 119 Stat. 1144, Pub. L. 110–140, 121 Stat. 1492, 15 U.S.C. 1232(g); delegation of authority at 49 CFR 1.95.

■ 2. Amend Appendix A to § 575.104 by adding the paragraphs entitled, ''Alternate Route When FM 189 and Texas 163 are Closed,'' ''Modified Southern Loop,'' ''Eastern Loop and Northwestern Loop,'' ''Modified Northwestern Loop,'' and ''Repeat Eastern Loop'' after the paragraph entitled ''Northwestern Loop'' to read as follows:

§ 575.104 Uniform tire quality grading standards.

* * * * *

Appendix A—Treadwear Test Course and Driving Procedures

* * * * *

Alternate Route When FM 189 and Texas 163 are Closed. This alternate test course route consists of a *Modified Southern Loop,* the *Eastern Loop* and *Northwestern Loop* described above, and a *Modified Northwestern Loop.*

Modified Southern Loop. The course begins at the intersection (1) of Ft. McKavitt Road and Paint Rock Road (FM 388) at the northwest corner of Goodfellow AFB. Drive east via FM 388 to junction with Loop Road 306 (2). Turn right onto Loop Road 306 and proceed south to junction with US 277 (3). Turn onto US 277 and proceed south through Eldorado and Sonora (4), continuing on US 277 approximately 5.5 miles (from traffic light at separation of US 277 and Loop 467) to picnic area on right. Reverse route at this location and proceed north to junction of Loop 306 and FM 388 (2).

Eastern Loop and Northwestern Loop. From junction of Loop Road 306 and FM 388 (2), complete the *Eastern Loop,* the *Northwestern Loop,* and then, from junction of Loop Road 306 and FM 388 (2), repeat the *Eastern Loop.*

Modified Northwestern Loop. Proceed north on Northwestern Loop as normal until reaching the intersection of FM 2105 and Texas 208 and turn right onto Texas 208. Proceed on Texas 208 until the intersection with FM 2034. Turn left onto FM 2034 and continue on FM 2034 to the intersection with US 87. Turn left onto US 87. At the intersection of US 87 and FM 2105 turn left onto FM 2105 and proceed to the intersection with US 277. Turn right onto US 277 and proceed to the intersection of Loop Road 306 and FM 388 (2).

Repeat Eastern Loop. Turn left onto FM 388 and repeat the *Eastern Loop.* For convoys that originate at Goodfellow AFB, continue on FM 388 and proceed to starting point at junction of Ft. McKavitt Road and FM 388 (1). For convoys that do not originate at Goodfellow AFB, turn left onto Loop Road 306.

* * * * *

Issued on: October 31, 2013 in Washington, DC, under authority delegated in 49 CFR 1.95.

David L. Strickland,

Administrator.

[FR Doc. 2013–26581 Filed 11–1–13; 4:15 pm]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register

Vol. 78, No. 215

Wednesday, November 6, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

[NRC–2013–0050]

RIN 3150–AJ24

Potential Changes to Interlocutory Appeals Process for Adjudicatory Decisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is withdrawing an advance notice of proposed rulemaking (ANPR) that presented possible changes to its interlocutory appeals process for certain adjudicatory decisions. The NRC published the ANPR on April 5, 2013, and solicited public comments. Based upon the limited public comments received, the NRC does not believe that amendments to the current regulations are warranted at this time.

DATES: The ANPR to make changes to the NRC's interlocutory appeals process for certain adjudicatory decisions that was published on April 5, 2013 (78 FR 20498), is withdrawn on November 6, 2013.

ADDRESSES: Please refer to Docket ID NRC–2013–0050 when contacting the NRC about the availability of information for this final rule. You may access publicly-available information related to this final rule by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0050. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this final rule.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Tison Campbell, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8579; email: *Tison.Campbell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 5, 2013 (78 FR 20498), the NRC published an ANPR soliciting public comment on proposed changes to its process for interlocutory review of rulings on requests for hearings or petitions to intervene under § 2.311 of Title 10 of the *Code of Federal Regulations* (10 CFR). The NRC presented four options for amending the 10 CFR 2.311 interlocutory review provision:

(1) Retaining the current rule without any change (status quo), which permits interlocutory appeals, without any threshold requirements, of rulings on requests for hearings or petitions to intervene regarding only whether the hearing or intervention should be granted or denied in its entirety.

(2) Increasing the scope of 10 CFR 2.311 beyond just whether the hearing or intervention should be granted or denied in its entirety to encompass the interlocutory review of each individual contention admissibility determination. All appeals would have to be made immediately following the issuance of the ruling by the presiding officer.

(3) Increasing the scope of 10 CFR 2.311 to encompass the interlocutory review of each individual contention admissibility determination, except for the admission or denial of contentions grounded in the National Environmental Policy Act of 1969, as amended (NEPA). For decisions on environmental contentions partially admitting or partially denying a request or petition, the appeal of which would only be entertained either a) after the issuance of a final Environmental Impact Statement (or other NEPA document) or, alternatively, b) after a final decision in the proceeding (noninterlocutory).

(4) Reducing the scope of 10 CFR 2.311 to include only interlocutory review of whether a request for hearing or petition to intervene was properly denied in its entirety. Orders granting a hearing, but only admitting some contentions would not be immediately appealable by any party.

In addition to presenting these options, the NRC sought comment on clarifying the interlocutory review process.

II. Public Comment on the Potential Changes to 10 CFR 2.311

The NRC received a single response during the public comment period, from the Nuclear Energy Institute (NEI). NEI suggested that the rulemaking be deferred, suspended, or withdrawn because it will not clearly improve safety or efficiency, and therefore should not be an agency priority. In its comments, NEI indicated that there is little information available to help predict the advantages and disadvantages of each potential option described in the ANPR. Because of this, NEI supported Option 1—to not take any action at this time. NEI noted that if the NRC were to proceed with a rulemaking, Option 2 may result in some increased efficiency. NEI did not support Options 3 or 4, and stated that Option 4 would be an inequitable standard.

III. Reasons for Withdrawing the ANPR

The sole public response to the ANPR argued that the NRC should preserve its existing interlocutory appeals standards. No public comments were received in favor of modifying the rule. Accordingly, the NRC believes that there is not significant public interest in a rule change at this time. The NRC also received no public comments suggesting that the current interlocutory appeals process is inefficient, prejudicial, or otherwise deficient. For these reasons, the NRC is withdrawing the ANPR.

Dated at Rockville, Maryland, this 25th day of October 2013

For the Nuclear Regulatory Commission.

Margaret M. Doane,

General Counsel, Office of the General Counsel.

[FR Doc. 2013–26582 Filed 11–5–13; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 380

RIN 3064–AE05

Restrictions on Sales of Assets of a Covered Financial Company by the Federal Deposit Insurance Corporation

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') is proposing a rule to implement a section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act''). Under the section, individuals or entities that have, or may have, contributed to the failure of a ''covered financial company'' cannot buy a covered financial company's assets from the FDIC. This proposed rule establishes a self-certification process that is a prerequisite to the purchase of assets of a covered financial company from the FDIC.

DATES: Written comments must be received by the FDIC not later than January 6, 2014.

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

- *Agency Web site: http://www.fdic.gov/regulations/laws/federal/propose.html.* Follow instructions for submitting comments on the Agency Web site.
- *Email: Comments@FDIC.gov.* Include ''RIN 3064–AE05'' in the subject line of the message.
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EDT).
- *Federal eRulemaking Portal: http://www.regulations.gov/.* Follow the instructions for submitting comments.
- *Public Inspection:* All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal/propose.html* including any personal information provided. Paper copies of public comments may be ordered from the Public Information Center by telephone at 703–562–2200 or 1–877–275–3342.

FOR FURTHER INFORMATION CONTACT: Marc Steckel, Deputy Director, Division of Resolutions and Receiverships, 202–898–3618; Craig Rice, Senior Capital Markets Specialist, Division of Resolutions and Receiverships, 202–898–3501; Chuck Templeton, Senior Resolution Planning & Implementation Specialist, Office of Complex Financial Institutions, 202–898–6774; Elizabeth Falloon, Supervisory Counsel, Legal Division, 703–562–6148; Shane Kiernan, Counsel, Legal Division, 703–562–2632; Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Section 210(r) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5390(r) (''Section 210(r)''), prohibits certain sales of assets held by the FDIC in the course of liquidating a covered financial company, including sales of equity stakes in subsidiaries. The Dodd-Frank Act requires the FDIC to promulgate regulations which, at a minimum, prohibit the sale of an asset of a covered financial company by the FDIC to: (1) Any person who has defaulted, or was a member of a partnership or an officer or director of a corporation that has defaulted, on one or more obligations exceeding $1,000,000 to such covered financial company, has been found to have engaged in fraudulent activity in connection with such obligation, and proposes to purchase any such asset in whole or in part through the use of financing from the FDIC; (2) any person who participated, as an officer or director of such covered financial company or of any affiliate of such company, in a material way in any transaction that resulted in a substantial loss to such covered financial company; or (3) any person who has demonstrated a pattern or practice of defalcation regarding obligations to such covered financial company.

A similar restriction applicable to sales of assets of insured depository institutions in conservatorship or receivership is found in section 11(p) the Federal Deposit Insurance Act, 12 U.S.C. 1821(p) (''Section 11(p)''). The FDIC promulgated a rule implementing this statutory proscription on July 1, 2000. That rule, entitled ''Restrictions on the Sale of Assets by the Federal Deposit Insurance Corporation,'' can be found at 12 CFR part 340 [1] (''Part 340'').

Because Section 210(r) and Section 11(p) share substantially similar statutory language, Part 340 serves as a model for the proposed rule. Although Part 340 and the proposed rule are similar in many ways, the proposed rule is distinct because it applies to sales of covered financial company assets by the FDIC and does not apply to sales of failed insured depository institution assets. A covered financial company resolution will be different from an insured depository institution resolution because the nature of the assets and the manner in which sales are conducted will be different. Furthermore, although the FDIC has been appointed as receiver of hundreds of insured depository institutions, appointment of the FDIC as receiver for a covered financial company is expected to be rare. The proposed rule would not apply to sales of assets of a failed insured depository institution by the FDIC and prospective purchasers seeking to buy assets of an insured depository institution from the FDIC should refer to Part 340 only.

The proposed rule addresses the statutory prohibitions contained in Section 210(r). It does not address other restrictions on sales of assets. For instance, the proposed rule does not address sales of assets by the FDIC to its own employees or to contractors it engages. Further, the proposed rule is separate and apart from any policy that the FDIC has, or may adopt or amend, regarding collection of amounts owed by obligors of a failed insured depository institution or a covered financial company. The focus of a collection policy is to encourage delinquent obligors to promptly repay or settle obligations, which is outside the scope of Section 210(r) and the proposed rule.

Section-by-Section Analysis

Paragraph (a)(1) of the proposed rule states its purpose, which is to prohibit individuals or entities who profited or engaged in wrongdoing at the expense of a covered financial company, or seriously mismanaged a covered financial company, from buying assets of any covered financial company from the FDIC.

Paragraph (a)(2) describes the proposed rule's applicability. Paragraph (a)(2)(i) states that the proposed rule applies to sales of assets of a covered financial company by the FDIC. The assets of a covered financial company vary in character and composition, and

[1] See 65 FR 14816 (July 1, 2000).

range from personal property to ownership of subsidiary companies and entire operating divisions.

The proposed rule would apply to sales by the FDIC both as receiver and in its corporate capacity. The FDIC may, in its corporate capacity, purchase a covered financial company's assets from the receiver and then market those assets to the public. The proposed rule makes clear that the prohibitions on sales to certain individuals and entities apply to sales by the FDIC in any capacity.

Paragraph (a)(2)(ii) delineates the applicability of the proposed rule to sales by a bridge financial company. Sales of bridge financial company assets are not expressly subject to the statutory prohibition under Section 210(r) because once such assets are transferred to the bridge financial company, they are no longer ''assets of a covered financial company'' that are being sold ''by the [FDIC].'' The statute permits the FDIC to promulgate a more restrictive regulation than is required under Section 210(r), which sets forth a ''minimum'' requirement. The proposed rule would cover sales by a bridge financial company if the FDIC's approval of the sale is required under the bridge financial company's corporate governance structure. Sales conducted in the ordinary course of business by staff of the bridge financial company would not, on the other hand, require approval.

In general, the FDIC anticipates that a bridge financial company's charter, articles of incorporation or bylaws will require that the bridge financial company obtain approval from the FDIC as receiver before conducting certain significant transactions, such as a sale of a material subsidiary or line of business. Because a bridge financial company would be established by the FDIC to more efficiently resolve a covered financial company, the FDIC believes that the imposition of the restrictions set forth in the proposed rule on certain sales by a bridge financial company furthers the objective of Section 210(r) by prohibiting the same persons restricted from buying covered financial company assets (officers and directors who engaged in fraudulent activity or caused substantial losses to a covered financial company, for example) from buying those assets after those assets have been transferred to a bridge financial company.

Paragraph (a)(2)(iii) clarifies the proposed rule's applicability to sales of securities backed by a pool of assets (which pool may include assets of a covered financial company) by a trust or other entity. It provides that the restriction applies only to the sale of assets by the FDIC to an underwriter in an initial offering, and not to any other purchaser of the securities because subsequent sales to other purchasers would not be conducted by the FDIC.

Paragraph (a)(2)(iv) clarifies the applicability of Section 210(r) and the proposed rule to certain types of transactions involving marketable securities and other financial instruments. Paragraph (a)(3)(i) expressly states that the prohibition does not apply to the sale of a security, commodity, ''qualified financial contract'' (as defined in 12 U.S.C. 1821(e)(10)), or other financial instrument where the customary manner for sale and settlement does not permit the seller to exercise any control in selecting the purchaser and the sale actually is conducted in this customary manner. For example, if the FDIC as receiver for a covered financial company were to sell publicly-traded stocks or bonds that the covered financial company held for investment, it might well order the covered financial company's broker or custodian to conduct the sale. The broker or custodian would then tender the securities to the market and accept prevailing market terms offered by another broker, a specialist, a central counterparty or a similar financial intermediary who would then sell the security to another purchaser. In this scenario it is not possible for the FDIC as receiver to control selection of the end purchaser at the time of sale, thus such a transaction is not a ''sale . . . by the [FDIC]'' to a prospective purchaser within the meaning of the statute because the FDIC has no way to select the prospective purchaser. Moreover, a prospective purchaser of such assets will not be able to select the FDIC as the seller and therefore could not determine whether Section 210(r) and the proposed rule apply to the transaction.

Under paragraph (a)(2)(v), judicial or trustee's sales of property that secures an obligation to the FDIC as receiver for a covered financial company would not be covered. Although the FDIC as receiver has a security interest in the property serving as collateral and has authority to initiate the foreclosure action, the selection of the purchaser and terms of the sale are not within the FDIC's control. Rather, the court or trustee conducts the sale in accordance with applicable State law and selects the purchaser. In this situation, the sale is not a sale by the FDIC. This exception does not affect sales of collateral by the FDIC where the FDIC is in possession of the property and conducts the sale itself. Where the FDIC has control over the manner and terms of the sale, it will require the purchaser's certification that the purchaser is not prohibited from purchasing the asset.

Section 210(r) creates an exception from the prohibition on asset sales for sales made pursuant to a settlement agreement with the prospective purchaser. It states that the prohibition does not apply if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement of, one or more claims that have been, or could have been, asserted by the FDIC against the person regardless of the amount of such claims or obligations. The proposed rule provides in paragraph (a)(2)(vi) that such sales are outside the scope of the proposed rule.

Paragraph (a)(3) makes expressly clear that the FDIC retains the authority to establish other policies restricting asset sales and expressly contemplates, among other things, the adoption of a policy prohibiting the sale of assets to other prospective purchasers, such as certain employees or contractors that the FDIC engages, or individuals or entities who are in default on obligations to the FDIC. The restrictions of the proposed rule are, however, limited to sales of assets of a covered financial company.

Paragraph (b) sets forth definitions used in the proposed rule. Several of these definitions have been adopted from Part 340, such as the definitions of ''person,'' ''associated person'' and ''default.'' The term ''financial intermediary,'' which is not found in Part 340, has been defined for use in the proposed rule as well.

Paragraph (c) of the proposed rule sets forth the operative rule for restricting asset sales. An individual or entity is ineligible to purchase assets from a covered financial company if it or its ''associated person'' has committed an act that meets one or more of the conditions under which the sale would be prohibited. In applying the rule, the first step is to determine whether the ''person'' who is the prospective purchaser is an individual or an entity. The next step is to determine who qualifies as an ''associated person'' (as defined in paragraph (b)(1) of the proposed rule) of that prospective purchaser. If the prospective purchaser is an individual, then the prospective purchaser is ineligible to purchase any asset of a covered financial company from the FDIC if that individual or (i) that individual's spouse dependent child or member of his or her household, or (ii) any partnership or limited liability company of which the individual is or was a member, manager or general or limited partner, or (iii) any

corporation of which the individual is or was an officer or director has committed an act that would render the individual ineligible to purchase. If the prospective purchaser is a partnership or other entity, then it is ineligible to purchase if either the purchasing entity or (i) its managing or general partner or managing member, or (ii) an individual or entity that owns or controls 25% or more of the entity has committed an act that would render the entity ineligible to purchase.

The proposed rule describes the conditions under which a sale would be prohibited in paragraph (c)(1). A person is ineligible to purchase any asset of a covered financial company from the FDIC if it or its associated person, prior to the appointment of the FDIC as receiver for the covered financial company: (A) Has participated as an officer or director of a covered financial company or an affiliate thereof in a ''material way in a transaction that caused a substantial loss to a covered financial company'' (as defined in paragraph (c)(2) discussed below); (B) has been removed from, or prohibited from participating in the affairs of, an insured depository institution, an insurance company or a financial company pursuant to any final enforcement action by its primary financial regulatory agency; (C) has demonstrated a pattern or practice of defalcation regarding obligations to any financial company; (D) has been convicted of committing or conspiring to commit any offense under 18 U.S.C. 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343 or 1344 (having generally to do with financial crimes, fraud and embezzlement) affecting any covered financial company and is in default with respect to one or more obligations owed by that person or its associated person; or (E) would be prohibited from purchasing assets from a failed insured depository institution under 12 U.S.C. 1821(p) and its implementing regulation at 12 CFR part 340.

The proposed rule establishes parameters to determine whether an individual or entity has participated in a ''material way in a transaction that caused a substantial loss to a covered financial company'' as this concept is used but not defined in the statute. Under paragraph (c)(2), a person has participated in a material way in a transaction that caused a substantial loss to a covered financial company if, in connection with a substantial loss to a covered financial company, that person has been found in a final determination by a court or administrative tribunal, or is alleged in a judicial or administrative action brought by the FDIC or by any component of the government of the United States or of any State to have: (1) Violated any law, regulation, or order issued by a Federal or State regulatory agency, or breached or defaulted on a written agreement with a Federal or State regulatory agency or breached a written agreement with a covered financial company; or (2) breached a fiduciary duty owed to a covered financial company. A ''substantial loss,'' defined in paragraph (b)(9), means: (1) An obligation that is delinquent for ninety (90) or more days and on which a balance of more than $50,000 remains outstanding; (2) a final judgment in excess of $50,000 remains unpaid, regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding; (3) a deficiency balance following a foreclosure or other sale of collateral in excess of $50,000 exists, regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding; or (4) any loss in excess of $50,000 evidenced by an IRS Form 1099–C (Information Reporting for Cancellation of Debt). There is no reprieve for a prospective purchaser who has participated in a material way in a transaction that caused a substantial loss to a covered financial company. Such prospective purchaser is indefinitely prohibited from purchasing assets of any covered financial company from the FDIC notwithstanding the passage of any amount of time.

The approach to determine whether a person has participated in a material way in a transaction that has caused a substantial loss to a covered financial company is comparatively similar to the approach under Part 340. In the proposed rule, the dollar threshold for a substantial loss is set at $50,000, just as it is in Part 340. The FDIC believes that the $50,000 threshold is consistent with the Act because the statute sets the standards that the FDIC shall, at a minimum, establish by regulation and leaves the interpretation of subjective terms within the FDIC's discretion.

Under paragraph (c)(3) of the proposed rule, a person or its associated person has demonstrated a ''pattern or practice of defalcation'' with respect to obligations to a covered financial company if the person or associated person has engaged in more than one transaction that created an obligation on the part of such person or its associated person with intent to cause a loss to a covered financial company or with reckless disregard for whether such transactions would cause a loss and the transactions, in the aggregate, caused a substantial loss to one or more covered financial companies.

Although the statute restricts only the sale of assets of the covered financial company that held the defaulted obligation of the prospective purchaser, restrictions contained in the proposed rule apply regardless of which covered financial company's assets are being sold. The FDIC believes adopting this more stringent approach is consistent with the Act because the statute sets only the minimum standards that the FDIC must meet with its proposed rule.

Paragraph (d) of the proposed rule restricts asset sales when the FDIC provides seller financing, including financing authorized under section 210(h)(9) of the Dodd-Frank Act. It restricts a prospective purchaser from borrowing money or accepting credit from the FDIC in connection with the purchase of covered financial company assets if there has been a default with respect to one or more obligations totaling in excess of $1,000,000 owed by that person or its associated person and the person or its associated person made any fraudulent misrepresentations in connection with such obligation(s).

In this proposed rule, the FDIC does not intend to imply that it will provide seller financing in connection with any asset sales nor that, if it elects to provide seller financing, it will do so to a person who does not meet other criteria that the FDIC may lawfully impose, such as creditworthiness. The FDIC has no obligation to provide seller financing even if the person is not in any way disqualified from purchasing assets from the FDIC under the restrictions set forth in the proposed rule. Further, under paragraph (e) of the proposed rule, the FDIC expressly reserves its authority to promulgate other policies and rules restricting purchaser eligibility to buy assets from the FDIC.

Paragraph (f) sets forth the requirement that a prospective purchaser certify, before purchasing any asset from the FDIC and under penalty of perjury, that none of the restrictions in the proposed rule applies to the sale. This requirement creates an effective mechanism to comply with Section 210(r) and the proposed rule. The FDIC will provide the form for the certification and the proposed rule contemplates that the form may change over time. Certain types of entities are exempt from this self-certification requirement, unless the Director of the FDIC's Division of Resolutions and Receiverships (or designee) determines that a certification is required. These exempted entities are: (1) State or political subdivisions of a State; (2) Federal agencies or instrumentalities

such as the Government National Mortgage Association; (3) federally-regulated, government-sponsored enterprises such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation; and (4) bridge financial companies established by the FDIC. Because of the nature of these entities, including their organizational purposes or goals and the fact that they are subject to strict governmental control or oversight, it is reasonable to presume compliance without requiring self-certification.

III. Request for Comments

The FDIC requests comments on any aspect of the proposed rule that would be helpful in refining the proposed rule further. In addition, the FDIC specifically requests comments on the following issues:

- Whether it is appropriate to prohibit individuals or entities who profited or engaged in wrongdoing at the expense of a covered financial company or seriously mismanaged a covered financial company from buying assets of any covered financial company from the FDIC, rather than prohibiting the individual or entity from buying an asset of only the specific covered financial company that the individual or entity had been involved with.
- Whether it is appropriate to prohibit individuals or entities that profited or engaged in wrongdoing at the expense of an insured depository institution or seriously mismanaged an insured depository institution from buying assets of a covered financial company from the FDIC.
- Whether the description in paragraph (a)(3) of the transactions that are not prohibited under Section 210(r) or the proposed rule adequately describes the range of transactions in which the customary manner for sale and settlement does not permit the seller to know the identity of the purchaser or to exercise any control in selecting the purchaser.
- Whether the definition of ''associated person'' should be expanded or clarified.
- Whether the dollar threshold in the definition of ''substantial loss'' is appropriate.
- Whether the scope of entities that would be exempt from the self-certification process described in paragraph (f) should be supplemented with other types of entities that might purchase assets from the FDIC, or whether any of the entities excepted under paragraph (f) should in fact be required to certify compliance.

All comments must be received by the FDIC not later than January 6, 2014.

IV. Regulatory Analysis and Procedure

A. Paperwork Reduction Act

1. Request for Comment on Proposed Information Collection

In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) (the ''PRA''), the FDIC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (''OMB'') control number. As indicated by § 380.13(f) of the proposed rule, the FDIC intends to develop a purchaser eligibility certification form relating to this proposed rule. The form would be used to establish compliance with the proposed rule by a prospective purchaser of assets of a covered financial company from the FDIC. The FDIC believes that the certification is a collection of information under the PRA and, consistent with the requirements of 5 CFR 1320.11, the FDIC has submitted the form to OMB for review under section 3507(d) of the PRA.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility;
- The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- 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; and
- Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record. Commenters may submit comments on the proposed information collection and burden estimates at the addresses listed under the **ADDRESSES** heading above. A copy of the comments may also be submitted to the attention of the OMB desk officer for the FDIC: By mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; by facsimile to 202–395–6974; or by email to: *oira_submission@omb.eop.gov*.

2. Proposed Information Collection

Title of Information Collection: Covered Financial Company Purchaser Eligibility Certification.

Affected Public: Prospective purchasers of covered financial company assets.

Frequency of Response: Event generated.

Estimated Number of Respondents: 20.

Time per Response: 30 minutes.

Total Estimated Annual Burden: 10 hours.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 et seq.) requires an agency that is issuing a proposed rule to prepare and make available an initial regulatory flexibility analysis of a proposed regulation. The Regulatory Flexibility Act provides, however, that an agency is not required to prepare and publish a regulatory flexibility analysis if the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. The FDIC hereby certifies pursuant to 5 U.S.C. 605(b) that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Under regulations issued by the Small Business Administration (13 CFR 121.201), a ''small entity'' includes those firms in the ''Finance and Insurance'' sector whose size varies from $7 million or less in assets to $175 million or less in assets. The proposed rule is promulgated under the Title II of the Dodd-Frank Act, which establishes a regime for the orderly liquidation of the nation's largest, and most systemic companies. For instance, companies subject to enhanced supervision under the Dodd-Frank Act include bank holding companies with assets in excess of $50,000,000.00. The orderly liquidation of assets of such a large, systemic company generally will involve the sale of significant subsidiaries and business lines rather than smaller asset sales, and such sales are unlikely to impact a substantial number of small entities.

Moreover, the burden imposed by this proposed rule is the completion of a certification form described above in the Paperwork Reduction Act section. Completing the certification form does not require the use of professional skills or the preparation of special reports or records and has a minimal economic impact on those individuals and entities that seek to purchase assets from the FDIC. Thus, any impact on small entities will not be substantial.

C. Plain Language

Section 722 of the Gramm-Leach-Bliley Act of 1999 (Pub. L. 106–102, 113 Stat. 1338, 1471) requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The FDIC has sought to present the proposed rule in a simple and straightforward manner. The FDIC invites comments on whether the proposed rule is clearly stated and effectively organized, and how the FDIC might make the proposed rule text easier to understand.

List of Subjects in 12 CFR Part 380

Asset disposition, Bank holding companies, Covered financial companies, Financial companies, Holding companies, Insurance companies, Nonbank financial companies.

For the reasons set forth in the preamble, the Federal Deposit Insurance Corporation proposes to amend 12 CFR 380 as follows:

PART 380—ORDERLY LIQUIDATION AUTHORITY

■ 1. Revise the authority for part 380 to read as follows:

Authority: 12 U.S.C. 5389; 12 U.S.C. 5390(s)(3); 12 U.S.C. 5390(b)(1)(C); 12 U.S.C. 5390(a)(7)(D); 12 U.S.C. 5381(b); 12 U.S.C. 5390(r).

■ 2. Add § 380.13 to read as follows:

§ 380.13 Restrictions on sale of assets of a covered financial company by the Federal Deposit Insurance Corporation.

(a) *Purpose and applicability*—(1) *Purpose.* The purpose of this section is to prohibit individuals or entities that profited or engaged in wrongdoing at the expense of a covered financial company or an insured depository institution, or seriously mismanaged a covered financial company or an insured depository institution, from buying assets of a covered financial company from the FDIC.

(2) *Applicability.* (i) The restrictions of this section apply to the sale of assets of a covered financial company by the FDIC as receiver or in its corporate capacity.

(ii) The restrictions in this section apply to the sale of assets of a bridge financial company if:

(A) The sale is not in the ordinary course of business of the bridge financial company, and

(B) The approval or non-objection of the FDIC is required in connection with the sale according to the charter, articles of association, bylaws or other documents or instruments establishing the governance of the bridge financial company and the authorities of its board of directors and executive officers.

(iii) In the case of a sale of securities backed by a pool of assets that may include assets of a covered financial company by a trust or other entity, this section applies only to the sale of assets by the FDIC to an underwriter in an initial offering, and not to any other purchaser of the securities.

(iv) The restrictions of this section do not apply to a sale of a security or a group or index of securities, a commodity, or any qualified financial contract that customarily is traded through a financial intermediary, as defined in paragraph (b) of this section, where the seller cannot control selection of the purchaser and the sale is consummated through that customary practice.

(v) The restrictions of this section do not apply to a judicial sale or a trustee's sale of property that secures an obligation to the FDIC where the sale is not conducted or controlled by the FDIC.

(vi) The restrictions of this section do not apply to the sale or transfer of an asset if such sale or transfer resolves or settles, or is part of the resolution or settlement of, one (1) or more claims or obligations that have been, or could have been, asserted by the FDIC against the person with whom the FDIC is settling regardless of the amount of such claims or obligations.

(3) The FDIC retains the authority to establish other policies restricting asset sales. Neither 12 U.S.C. 5390(r) nor § 380.13 in any way limits the authority of the FDIC to establish policies prohibiting the sale of assets to prospective purchasers who have injured the respective covered financial company, or to other prospective purchasers, such as certain employees or contractors of the FDIC, or individuals who are not in compliance with the terms of any debt or duty owed to the FDIC in any of its capacities. Any such policies may be independent of, in conjunction with, or in addition to the restrictions set forth in this part.

(b) *Definitions.* Many of the terms used in this section are defined in the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. 5301, *et seq.* Additionally, for the purposes of this section, the following terms are defined:

Associated person. An ''associated person'' of an individual or entity means:

(i) With respect to an individual:

(A) The individual's spouse or dependent child or any member of his or her immediate household;

(B) A partnership of which the individual is or was a general or limited partner or a limited liability company of which the individual is or was a member; or

(C) A corporation of which the individual is or was an officer or director;

(ii) With respect to a partnership, a managing or general partner of the partnership or with respect to a limited liability company, a manager; or

(iii) With respect to any entity, an individual or entity who, acting individually or in concert with one or more individuals or entities, owns or controls 25 percent or more of the entity.

Default. The term ''default'' means any failure to comply with the terms of an obligation to such an extent that:

(i) A judgment has been rendered in favor of the FDIC or a covered financial company; or

(ii) In the case of a secured obligation, the lien on property securing such obligation has been foreclosed.

Financial intermediary. The term ''financial intermediary'' means any broker, dealer, bank, underwriter, exchange, clearing agency registered with the SEC under section 17A of the Securities Exchange Act of 1934, transfer agent (as defined in section 3(a)(25) of the Securities Exchange Act of 1934), central counterparty or any other entity whose role is to facilitate a transaction by, as a riskless intermediary, purchasing a security or qualified financial contract from one counterparty and then selling it to another.

Obligation. The term ''obligation'' means any debt or duty to pay money owed to the FDIC or a covered financial company, including any guarantee of any such debt or duty.

Person. The term ''person'' means an individual, or an entity with a legally independent existence, including: A trustee; the beneficiary of at least a 25 percent share of the proceeds of a trust; a partnership; a limited liability company, a corporation; an association; or other organization or society.

Substantial loss. The term ''substantial loss'' means:

(i) An obligation that is delinquent for ninety (90) or more days and on which there remains an outstanding balance of more than $50,000;

(ii) An unpaid final judgment in excess of $50,000 regardless of whether it becomes forgiven in whole or in part in a bankruptcy proceeding;

(iii) A deficiency balance following a foreclosure of collateral in excess of $50,000, regardless of whether it

becomes forgiven in whole or in part in a bankruptcy proceeding; or

(iv) Any loss in excess of $50,000 evidenced by an IRS Form 1099–C (Information Reporting for Cancellation of Debt).

(c) *Restrictions on the sale of assets.* (1) A person may not acquire any assets of a covered financial company from the FDIC if, prior to the appointment of the FDIC as receiver for the covered financial company, the person or its associated person:

(i) Has participated as an officer or director of a covered financial company or of an affiliate of a covered financial company in a material way in one or more transactions that caused a substantial loss to a covered financial company;

(ii) Has been removed from, or prohibited from participating in the affairs of, a financial company pursuant to any final enforcement action by its primary financial regulatory agency;

(iii) Has demonstrated a pattern or practice of defalcation regarding obligations to a covered financial company;

(iv) Has been convicted of committing or conspiring to commit any offense under 18 U.S.C. 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343 or 1344 affecting any covered financial company and there has been a default with respect to one or more obligations owed by that person or its associated person; or

(v) Would be prohibited from purchasing the assets of a failed insured depository institution from the FDIC under 12 U.S.C. 1821(p) or its implementing regulation at 12 CFR part 340.

(2) For purposes of paragraph (c)(1) of this section, a person has participated in a ''material way in a transaction that caused a substantial loss to a covered financial company'' if, in connection with a substantial loss to the covered financial company, the person has been found in a final determination by a court or administrative tribunal, or is alleged in a judicial or administrative action brought by a primary financial regulatory agency or by any component of the government of the United States or of any state:

(i) To have violated any law, regulation, or order issued by a Federal or State regulatory agency, or breached or defaulted on a written agreement with a Federal or State regulatory agency, or breached a written agreement with a covered financial company; or

(ii) To have breached a fiduciary duty owed to a covered financial company.

(3) For purposes of paragraph (c)(1) of this section, a person or its associated person has demonstrated a ''pattern or practice of defalcation'' regarding obligations to a covered financial company if the person or associated person has:

(i) Engaged in more than one transaction that created an obligation on the part of such person or its associated person with intent to cause a loss to any financial company or with reckless disregard for whether such transactions would cause a loss to any such financial company; and

(ii) The transactions, in the aggregate, caused a substantial loss to one or more covered financial companies.

(d) *Restrictions when FDIC provides seller financing.* A person may not borrow money or accept credit from the FDIC in connection with the purchase of any assets from the FDIC or any covered financial company if:

(1) There has been a default with respect to one or more obligations totaling in excess of $1,000,000 owed by that person or its associated person; and

(2) The person or its associated person made any fraudulent misrepresentations in connection with any such obligation(s).

(e) *No obligation to provide seller financing.* The FDIC still has the right to make an independent determination, based upon all relevant facts of a person's financial condition and history, of that person's eligibility to receive any loan or extension of credit from the FDIC, even if the person is not in any way disqualified from purchasing assets from the FDIC under the restrictions set forth in this section.

(f) *Purchaser eligibility certificate required.* (1) Before any person may purchase any asset from the FDIC that person must certify, under penalty of perjury, that none of the restrictions contained in this section applies to the purchase. The FDIC may establish the form of the certification and may change the form from time to time.

(2) Notwithstanding paragraph (f)(1) of this section, and unless the Director of the FDIC's Division of Resolutions and Receiverships, or designee, in his or her discretion so requires, a certification need not be provided by:

(i) A State or political subdivision of a State;

(ii) A Federal agency or instrumentality such as the Government National Mortgage Association;

(iii) A federally-regulated, government-sponsored enterprise such as Federal National Mortgage Association or Federal Home Loan Mortgage Corporation; or

(iv) A bridge financial company.

Dated at Washington, DC, this 30th day of October 2013.

By Order of the Board of Directors, Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2013–26544 Filed 11–5–13; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0937; Directorate Identifier 2013–CE–029–AD]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH Models DA 42 NG and DA 42 M–NG airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the failure of the alternator indication system to indicate warning when one alternator is inoperative. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by December 23, 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 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-

Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26700 1369; email: *airworthiness@diamond-air.at;* Internet: *http://www.diamond-air.at.* You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0937; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0937; Directorate Identifier 2013–CE–029–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov* in Docket No. FAA–2013–0937, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued AD No.: 2013–0224, dated September 19, 2013 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

During maintenance troubleshooting of the DA 42 NG alternator indication system it has been discovered that, with one alternator inoperative, the system did not give a warning indication as described in the Airplane Flight Manual.

Subsequent investigation results showed that the voltage regulator warning circuit, which is part of the engine, monitors Bus Voltage and is the only trigger for the alternator fail annunciation. As a result, one alternator may fail but the related voltage regulator does not trigger the alternator fail annunciation as the voltage is being held at the regular level by the second alternator on board.

The remaining generating system indication for the pilot is unaffected. The ampere-meter is indicating a load on each alternator and in case of a Low Voltage condition a caution message will be displayed.

This condition, if not corrected, could lead to an undetected loss of one engine alternator and reduced capability of the electrical generating power system, possibly impairing safe continuation of the flight.

Prompted by this event, Diamond Aircraft Industries (DAI) introduced at airframe level an additional independent alternator fail caution trigger by using the G1000 ampere-meter signals. The trigger is set once an alternator provides less than 5A and thus indicates electrical power supply failure to the ship system.

DAI issued Mandatory Service Bulletin (MSB) 42NG–003/12 providing instructions for installation of the Secondary Configuration Card Part Number (P/N) 010–12074–02 ''Additional ALTN FAIL trigger'' with system software P/N 010–00670–10 applicable for all DA 42 NG and DA 42 M–NG aeroplanes.

In addition, model DA 42 M–NG now incorporates an output of the GEA 71 to activate the alternator fail relay. DAI issued Mandatory Service Bulletin (MSB) 42MNG–006 to provide instructions for installation of that additional control cable P/N D62–2510–97–00–SB.

For the reasons described above, this AD requires installation of the Secondary Configuration Card P/N 010–12074–02 ''Additional ALTN FAIL trigger'' and System Software P/N 010–00670–10 for all DA 42 NG and DA 42 M–NG aeroplanes and installation of GEA Alternator fail control cable P/N D62–2510–97–00–SB on certain model DA 42 M–NG aeroplanes.

This AD also prohibits installation of System Software prior to P/N 010–00670–10.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0937.

Relevant Service Information

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletin No. MSB 42NG–003/12; Mandatory Service Bulletin MSB 42MNG–006; and Work Instruction WI–MSB 42MNG–006, all dated July 8, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 26 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $115 per product.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $7,410, or $285 per product.

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 proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national

Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Diamond Aircraft Industries GmbH: Docket No. FAA–2013–0937; Directorate Identifier 2013–CE–029–AD.

(a) Comments Due Date

We must receive comments by December 23, 2013.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Models DA 42 NG and DA 42 M–NG airplanes, all serial numbers certificated in any category, except those that have Supplemental Type Certificate (STC) SA02725NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/286A29A0C46D66048625764900624649?OpenDocument&Highlight=sa02725ny*) incorporated.

Note 1 to paragraph (c) of this AD: STC SA02725NY uses a different electrical system architecture and the unsafe condition addressed in this AD does not apply to that system.

(d) Subject

Air Transport Association of America (ATA) Code 24: Electric Power.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failure of the alternator indication system to indicate warning when one alternator is inoperative. We are issuing this proposed AD to prevent the undetected loss of one engine alternator, which could result in reduced capability of the electrical generating power system.

(f) Actions and Compliance

Unless already done, do the following actions as specified in paragraphs (f)(1) through (f)(3) of this AD, including all subparagraphs:

(1) *For all DA 42 NG airplanes:* Within 12 months after the effective date of this AD, install Secondary Configuration Card part number (P/N) 010–12074–02 ''Additional ALTN FAIL trigger'' and System Software P/N 010–00670–10 following the Accomplishment/Instructions section of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/13, dated October 11, 2013; or the Accomplishment/Instructions section of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/12, dated July 8, 2013.

(2) *For DA 42 M–NG airplanes, serial numbers (S/Ns) 42.339, 42.MN001 through 42.MN0026, and all S/Ns modified through Optional Service Bulletin (OSB) 42–081, using Work Instruction (WI) OSB–42–081 up to Revision 1 inclusive:* Within 100 hours time-in-service after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs first:

(i) Install GEA Alternator fail control cable P/N D62–2510–97–00–SB following the Instructions section of Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42MNG–006, dated July 8, 2013, as specified in the Accomplishments/Instructions section of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42MNG–006, July 8, 2013; and

(ii) Install Secondary Configuration Card P/N 010–12074–02 ''Additional ALTN FAIL trigger'' and System Software P/N 010–00670–10 following the Accomplishment/Instructions section of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/13, dated October 11, 2013; or the Accomplishment/Instructions section of Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/12, dated July 8, 2013.

(3) *For all airplanes:* As of the effective date of this AD, do not install on any airplane System Software prior to P/N 010–00670–10.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0224, dated September 19, 2013; Diamond Aircraft Industries GmbH Optional Service Bulletin OSB 42–081/1; Diamond Aircraft Industries GmbH Work Instruction WI–OSB 42–081, Rev. 1, both dated December 23, 2010; Diamond Aircraft Industries GmbH Optional Service Bulletin OSB 42–081; and Diamond Aircraft Industries GmbH Work Instruction WI–OSB 42–081, Rev. 0, both dated March 17, 2010, 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–2013–0937. For service information related to this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26700 1369; email: *airworthiness@diamond-air.at;* Internet: *http://www.diamond-air.at*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–26571 Filed 11–5–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0938; Directorate Identifier 2012–SW–057–AD]

RIN 2120–AA64

Airworthiness Directives; Eurocopter France (Eurocopter) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

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

Eurocopter Model SA–365N, SA–365N1, AS–365N2, and AS 365 N3 helicopters. This proposed AD would require repetitively inspecting frame number (No.) 9 for a crack. This proposed AD is prompted by a report of a crack in frame No. 9 on an AS365 helicopter. The proposed actions are intended to detect a crack and prevent loss of structural integrity and subsequent loss of control of the helicopter.

DATES: We must receive comments on this proposed AD by January 6, 2014.

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

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

Examining the AD Docket

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

For service information identified in this proposed AD, contact American Eurocopter Corporation, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.eurocopter.com/techpub.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD No. 2012–0108–E, dated June 15, 2012 (AD 2012–0108–E), to correct an unsafe condition for Eurocopter Model SA 365 N, SA 365 N1, AS 365 N2, and AS 365 N3 helicopters with a frame No. 9 installed, if certain ''doublers or repairs have been installed.'' EASA advises that a crack was discovered during the ''T'' inspection of an AS365 helicopter. The crack started at a rivet hole of a doubler that was installed on the frame No. 9 in accordance with Eurocopter Alert Service Bulletin (ASB) 53.00.42, dated January 31, 2001. EASA further states that structural alteration of frame No. 9 by modifications or repairs can result in fatigue crack initiation under normal operational loads. According to EASA, this condition, if not corrected, could lead to crack propagation and failure of frame No. 9, which would adversely affect the structural integrity of the helicopter. For these reasons, AD 2012–0108–E requires repetitive inspections of frame No. 9 for a crack in the area of the doubler or any repair performed in the area of the latch support and stretcher support.

FAA's Determination

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

Related Service Information

Eurocopter has issued one Emergency ASB (EASB) with two numbers: EASB No. 05.00.63, Revision 1, dated June 18, 2012, for Model AS365 helicopters and EASB No. 05.00.30, Revision 1, dated June 18, 2012, for Model AS565 helicopters. The EASB applies to helicopters with a frame No. 9 that has not been modified by modification (MOD) 07 53C17 or MOD 07 53D02, and that has had doublers installed or repairs performed in accordance with certain service instructions. The EASB describes procedures to inspect the frame No. 9 for a crack, and for contacting Eurocopter for further procedures if there is a crack.

Proposed AD Requirements

This proposed AD would require, for helicopters that have a No. 9 frame that has had any repair or alteration made, within 10 hours time-in-service (TIS) and every 110 hours TIS thereafter, inspecting the left-hand (LH) and right-hand (RH) frame No. 9 for a crack in the areas of the latch support and stretcher support with a 10X or higher power magnifying glass. For all other helicopters, this proposed AD would require this inspection within 110 hours TIS and every 110 hours TIS thereafter. If there is a crack, the proposed AD would require, before further flight, repairing the crack.

Differences Between This Proposed AD and the EASA AD

The EASA AD requires contacting Eurocopter for repair instructions if there is a crack, and the proposed AD does not. The proposed AD would apply to all Eurocopter 365 helicopters, not just those that were altered or repaired in accordance with specific Eurocopter MODs.

Costs of Compliance

We estimate that this proposed AD would affect 37 helicopters of U.S. Registry. We estimate that operators may incur the following costs in order to comply with this AD. At an average

labor rate of $85 per hour, inspecting LH and RH frame No. 9 would require about 3 work-hours, for a cost per helicopter of $255 and a total cost to U.S. operators of $9,435 per inspection cycle. Repairing a cracked frame No. 9 would require about 20 work-hours, and required parts would cost about $10,000, for a cost per helicopter of $11,700.

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 proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Eurocopter France Helicopters: Docket No. FAA–2013–0938; Directorate Identifier 2012–SW–057–AD.

(a) Applicability

This AD applies to Eurocopter France (Eurocopter) Model SA–365N, SA–365N1, AS–365N2, and AS 365 N3 helicopters, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in frame number (No.) 9, which could result in failure of frame No. 9, loss of structural integrity, and subsequent loss of control of the helicopter.

(c) Comments Due Date

We must receive comments by January 6, 2014.

(d) Compliance

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

(e) Required Actions

(1) For helicopters that have any repair or alteration to the frame No. 9, within 10 hours time-in-service (TIS) and thereafter at intervals not to exceed 110 hours TIS, using a 10X or higher power magnifying glass, inspect the left-hand (LH) and right-hand (RH) frame No. 9 for a crack in the area of the latch support and stretcher support, as depicted in Figure 1 of Eurocopter AS365 Emergency Alert Service Bulletin No. 05.00.63, Revision 1, dated June 18, 2012.

(2) For all other helicopters, within 110 hours TIS and thereafter at intervals not to exceed 110 hours TIS, perform the inspection in paragraph (e)(1) of this AD.

(3) If there is a crack, before further flight, repair the frame No. 9. Repairing a frame is not terminating action for the repetitive inspections required by paragraphs (e)(1) and (e)(2) of this AD.

(f) Special flight permit

Special flight permits may be issued for up to 10 hours TIS and a maximum crack length of 80 mm.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov.*

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

(h) Additional Information

(1) The subject of this AD is addressed in European Aviation Safety Agency (EASA) Emergency AD No. 2012–0108–E, dated June 15, 2012. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket number FAA–2013–0938.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 5300: Fuselage Structure (General).

Issued in Fort Worth, Texas, on October 30, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–26568 Filed 11–5–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 214

[Docket No. FR–5339–N–02]

Housing Counseling Program: New Certification Requirements; Extension of Public Comment Period

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On September 13, 2013, HUD published a rule in the **Federal Register** inviting public comment on proposed changes to the Housing Counseling Program regulations for the purpose of implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act amendments to the housing counseling statute. This document announces that HUD is extending the public comment period, for an additional 30-day period, to December 12, 2013.

DATES: *Comment Due Date:* For the proposed rule published on September

13, 2013 (78 FR 56625), the comment due date is extended to December 12, 2013.

ADDRESSES: Interested persons are invited to submit comments responsive to this request for information to the Office of General Counsel, Regulations Division, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0001. Communications must refer to the above docket number and title and should contain the information specified in the ''Request for Comments'' of this notice.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *http://www.regulations.gov.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *http://www.regulations.gov* Web site can be viewed by interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

Submission of Hard Copy Comments. Comments may be submitted by mail or hand delivery. To ensure that the information is fully considered by all of the reviewers, each commenter submitting hard copy comments, by mail or hand delivery, should submit comments or requests to the address above, addressed to the attention of the Regulations Division. Due to security measures at all federal agencies, submission of comments or requests by mail often result in delayed delivery. To ensure timely receipt of comments, HUD recommends that any comments submitted by mail be submitted at least 2 weeks in advance of the public comment deadline. All hard copy comments received by mail or hand delivery are a part of the public record and will be posted to *http://www.regulations.gov* without change.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Comments. All comments submitted to HUD regarding this notice will be available, without charge, for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the documents must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). Copies of all comments submitted will also be available for inspection and downloading at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ruth Román, Office of Housing Counseling, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 9224, Washington, DC 20410–8000; telephone number 202–708–0317 (this is not a toll-free number). Persons with hearing or speech challenges may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: On September 13, 2013 (78 FR 56625), HUD published a proposed rule in the **Federal Register** that would implement changes made by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (July 21, 2010)) (Dodd-Frank Act) to HUD's Housing Counseling Program, established pursuant to section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) (1968 Act). The Dodd-Frank Act amended section 106 of the 1968 Act to improve the effectiveness of HUD's Housing Counseling Program by, among other things: defining certain commonly used terms in the program; ensuring that HUD-approved counselors provide counseling covering the entire process of homeownership, from the purchase of a home to its disposition; requiring that housing counseling agencies provide materials on home inspections, as part of home purchase counseling; ensuring that rental or homeownership counseling provided in connection with HUD programs is administered in accordance with procedures established by HUD; and requiring that all HUD-related homeownership counseling and rental housing counseling, provided in connection with any HUD program, is provided by HUD-certified housing counseling agencies through their HUD-certified housing counselors. Interested readers should refer to the preamble of the September 13, 2013, proposed rule for additional information on the proposed regulatory changes.

In the September 13, 2013 proposed rule, HUD established a comment due date of November 12, 2013. In response to recent requests for additional time to submit public comments and given the application of the rule to both housing counseling agencies and individual counselors, HUD believes an extension of the deadline would provide the time needed for housing counseling agencies to disseminate the information to affected housing counselors and time for housing counselors to provide comments. Therefore, HUD is announcing through this notice an extended public comment period, for an additional 30-day period, to December 12, 2013.

Dated: October 31, 2013.

Sarah S. Gerecke,

Deputy Assistant Secretary for Housing Counseling.

[FR Doc. 2013–26586 Filed 11–5–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SATS No. OK–035–FOR; Docket ID: OSM–2013–0004; S1D1SSS08011000SX066A00067F134S180110; S2D2SSS08011000SX066A00033F13XS501520]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposes revisions to its regulations regarding: Definitions; review of permit applications; general provisions for review of permit application information and entry of information into AVS; review of applicant, operator, and ownership and control information; review of permit history; review of compliance history; permit eligibility determination; unanticipated events or conditions at remining sites; eligibility for provisionally issued permits; written findings for permit application approval; performance bond submittal; initial review and finding requirements for improvidently issued permits; notice requirements for improvidently issued permits; suspension or rescission requirements for improvidently issued permits; who may challenge ownership or control listings and findings; how to challenge an owner and controller listing or finding; burden of proof for ownership or control challenges; written agency decision on challenges to

ownership or control listings or findings; post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information; post-permit issuance information requirements for permittees; transfer, assignment, or sale of permit rights; certifying and updating existing permit application information; providing applicant and operator information; providing permit history information; providing property interest information; providing violation information; facilities or structures used in common; hydrologic balance—siltation structures; cessation orders; alternative enforcement—general provisions; criminal penalties; and civil actions for relief. Oklahoma intends to revise its program to be no less effective than the Federal regulations and to improve operational efficiency.

This document gives the times and locations that the Oklahoma program and this proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4:00 p.m., c.d.t., December 6, 2013. If requested, we will hold a public hearing on the amendment on December 2, 2013. We will accept requests to speak at a hearing until 4:00 p.m., c.d.t. on November 21, 2013.

ADDRESSES: You may submit comments, identified by SATS No. OK–035–FOR, by any of the following methods:

- *Mail/Hand Delivery:* Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629.
- *Fax:* (918) 581–6419
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Comment Procedures'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Oklahoma program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office or the full text of the program amendment is available for you to read at *www.regulations.gov.*

Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128–4629, Telephone: (918) 581–6430.

In addition, you may review a copy of the amendment during regular business hours at the following location: Oklahoma Department of Mines, 2915 N. Classen Blvd., Suite 213, Oklahoma City, Oklahoma 73106–5406, Telephone: (405) 427–3859.

FOR FURTHER INFORMATION CONTACT: Paul Ehret, Acting Director, Tulsa Field Office. Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''. . . State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act . . .; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning the Oklahoma program and program amendments at 30 CFR 936.10, 936.15, and 936.16.

II. Description of the Proposed Amendment

By letter dated June 19, 2013 (Administrative Record No. OK–1002), Oklahoma sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. OK–999.01) that OSM sent to Oklahoma in accordance with 30 CFR 732.17(c), with additional changes submitted on its own initiative. Below is a summary of Oklahoma's proposed changes. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES** or at *www.regulations.gov.*

Oklahoma proposes to make changes to Title 460. Department of Mines: Chapter 20, The Permanent Regulations Governing the Coal Reclamation Act of 1979, in the following subchapters.

1. Subchapter 3. Permanent Regulatory Program

Oklahoma proposes to add new definitions at 460:20–3–5. for Applicant/Violator System (AVS); Control or controller; Own, owner, or ownership; Violation; Violation, failure or refusal; and Willful or willfully. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 701.5.

2. Subchapter 15. Requirements for Permits and Permit Processing

Oklahoma proposes to revoke sections 460:20–15–2. Definitions; 460:20–15–6. Review of permit applications; 460:20–15–9. Improvidently issued permits: General procedures; 460:20–15–10. Improvidently issued permits: Rescission procedures; 460:20–15–13. Procedures for challenging ownership or control links shown in AVS; and 460:20–15–14. Standards for challenging ownership or control links and the status of violations.

Oklahoma proposes to add new sections 460:20–15–6.1. Review of permit applications; 460:20–15–6.2. General provisions for review of permit application information and entry of information into AVS; 460:20–15–6.3. Review of applicant, operator, and ownership and control information; 460:20–15–6.4. Review of permit history; 460:20–15–6.5. Review of compliance history; 460:20–15–6.6. Permit eligibility determination; 460:20–15–6.7. Unanticipated events or conditions at remining sites; 460:20–15–6.8. Eligibility for provisionally issued permits; 460:20–15–6.9. Written findings for permit application approval; 460:20–15–6.10. Performance bond submittal; 460:20–15–9.1. Initial review and finding requirements for improvidently issued permits; 460:20–15–9.2. Notice requirements for improvidently issued permits; 460:20–15–10.1. Suspension or rescission requirements for improvidently issued

permits; 460:20–15–10.2. Who may challenge ownership or control listings and findings; 460:20–15–13.1. How to challenge an owner and controller listing or finding; 460:20–15–14.1. Burden of proof for ownership or control challenges; and 460:20–15–14.2. Written agency decision on challenges to ownership or control listings or findings. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 773.7–773.16 and 30 CFR 773.21—773.28.

3. Subchapter 17. Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights

Oklahoma proposes to revoke section 460:20–17–1. Scope and purpose; and replace it with new section 460:20–17–1.1. Scope and purpose. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 774.1.

Oklahoma proposes to add new sections 460:20–17–2.1. Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information; and 460:20–17–2.2. Post-permit issuance information requirements for permittees. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 774.11 and 774.12.

Oklahoma proposes to add language in paragraph (a) of section 460:20–17–5. Transfer, assignment, or sale of permit rights. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 774.17(a).

4. Subchapter 23. Permit Applications: Minimum Requirements for Legal, Financial, Compliance, and Related Information

Oklahoma proposes to revoke sections 460:20–23–2. Identification of interests; and 460:20–23–3. Violation information.

Oklahoma proposes to add new sections 460:20–23–2.1. Certifying and updating existing permit application information; 460:20–23–2.2. Providing applicant and operator information; 460:20–23–2.3. Providing permit history information; 460:20–23–2.4. Providing property interest information; 460:20–23–3.1. Providing violation information; and 460:20–23–10. Facilities or structures used in common. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 778.9–778.14 and 30 CFR 778.22.

5. Subchapter 43. Permanent Program Performance Standards: Surface Mining Standards

Oklahoma proposes to revoke a portion of paragraph (b)(2) in section 460:20–43–12. Hydrologic balance: Siltation structures, which is identical to the Federal regulation at 30 CFR 816.46(b)(2), and replace it with new language regarding surface drainage control, siltation structures, and alternative techniques.

6. Subchapter 59. State Enforcement

Oklahoma proposes to revoke the definition of Willful Violation from section 460:20–59–2. Definitions. Oklahoma proposes this change to closely follow the Federal regulation at 30 CFR 843.5.

Oklahoma proposes to revise paragraph (f) and add new paragraph (g) in section 460:20–59–3. Cessation orders. Oklahoma proposes this change to closely follow paragraphs (f) and (g) of the Federal regulation at 30 CFR 843.11.

7. Subchapter 63. Individual Civil Penalties

Oklahoma proposes to revoke section 460:20–63–2. Definitions. Oklahoma proposes this change to more closely follow the Federal regulation at 30 CFR Part 846 individual civil penalties.

8. Subchapter 64. Alternative Enforcement

Oklahoma proposes to add new subchapter 64 and add new sections 460:20–64–1. Scope; 460:20–64–2. General provisions; 460:20–64–3. Criminal penalties; and 460:20–64–4. Civil actions for relief. Oklahoma proposes these changes to closely follow the Federal regulations at 30 CFR 847.1–847.16.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final regulations will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

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.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t. on November 21, 2013. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rulemaking is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSM for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the **Federal Register** indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 3, 2013.

William L. Joseph,

Acting Regional Director, Mid-Continent Region.

[FR Doc. 2013–26587 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA–HQ–OAR–2010–0929; FRL–9902–64–OAR]

RIN 2060–AQ81

Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations Under the Greenhouse Gas Reporting Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The EPA is announcing an extension of the public comment period for the proposed rule titled ''Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations under the Greenhouse Gas Reporting Program.''

DATES: The public comment period deadline for the proposed rule published on September 11, 2013 (78 FR 55994), has been extended from November 12, 2013 to November 26, 2013. Comments must be received on or before November 26, 2013.

ADDRESSES: You may submit your comments, identified by Docket ID No. EPA–HQ–OAR–2010–0929 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: GHGReportingCBI@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Environmental Protection Agency, EPA Docket Center (EPA/DC), Mailcode 6102T, Attention Docket ID No. EPA–HQ–OAR–2010–0929, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, William Jefferson Clinton Building West, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2010–0929. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the mail or hand/courier delivery address listed above, attention: Docket ID No. EPA–HQ–OAR–2010–0929. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, William Jefferson Clinton Building West, Room B102, 1301 Constitution Ave. NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343–9263; fax number: (202) 343–2342; email address: *GHGreporting@epa.gov.* For technical information, contact the Greenhouse Gas Reporting Rule Helpline at: *http://www.epa.gov/climatechange/emissions/ghgrule_contactus.htm.* Alternatively, contact Carole Cook at 202–343–9263.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposal, memoranda to the docket, and all other related information will also be available through the WWW on the EPA's greenhouse gas reporting rule Web site at *http://www.epa.gov/climatechange/emissions/ghgrulemaking.html.*

SUPPLEMENTARY INFORMATION:

Additional Information on Submitting Comments: To expedite review of your comments by Agency staff, you are encouraged to send a separate copy of your comments, in addition to the copy you submit to the official docket, to Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC–6207J), Environmental Protection Agency, 1200 Pennsylvania Ave. NW.,

Washington, DC 20460, telephone (202) 343–9263, email *GHGReportingCBI@epa.gov.*

Background on Today's Action. In this action, the EPA is providing notice that it is extending the comment period on the proposed rule titled ''Revisions to Reporting and Recordkeeping Requirements, and Proposed Confidentiality Determinations under the Greenhouse Gas Reporting Program,'' which was published on September 11, 2013. The current deadline for submitting public comment on that rule is November 12, 2013. The EPA is extending that deadline to November 26, 2013. This extension will provide the general public additional time for public participation and comments.

List of Subjects in 40 CFR Part 98

Environmental protection, Administrative practice and procedure, Greenhouse gases, Reporting and recordkeeping requirements.

Dated: October 31, 2013.

Sarah Dunham,

Director, Office of Atmospheric Programs.

[FR Doc. 2013–26645 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 224

[Docket No. 130910793–3793–01]

RIN 0648–XC867

Endangered and Threatened Wildlife; 90-Day Finding on a Petition To List Multiple Species of Hagfish and Sea Snakes as Threatened or Endangered Under the Endangered Species Act

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

ACTION: Notice of 90-day petition finding; request for information.

SUMMARY: We (NMFS) announce a 90-day finding on a petition to list three species of hagfish and three species of sea snakes as threatened or endangered under the Endangered Species Act (ESA). We find that the petition presents substantial information indicating that the petitioned action may be warranted for the sea snake, *A. fuscus.* We will conduct a status review of this species to determine if the petitioned action is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial information pertaining to this sea snake from any interested party. We find that the petition does not present substantial scientific or commercial information indicating that the petitioned action may be warranted for the remaining five species: *Eptatretus octatrema, Myxine paucidens, Paramyxine taiwanae, Aipysurus apraefrontalis,* and *A. foliosquama.*

DATES: Information and comments on the subject action must be received by January 6, 2014.

ADDRESSES: You may submit comments, information, or data on this document, identified by the code NOAA–NMFS-2013-0150, by any of the following methods:

- *Electronic Submissions:* Submit all electronic comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0150,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* 301–713–4060, Attn: Lisa Manning.

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

Copies of the petition and related materials are available upon request from the Director, Office of Protected Resources, 1315 East-West Highway, Silver Spring, MD 20910, or online at: *www.nmfs.noaa.gov/pr/species/petition81.htm.*

FOR FURTHER INFORMATION CONTACT: Lisa Manning, Office of Protected Resources, 301–427–8466.

SUPPLEMENTARY INFORMATION:

Background

On July 15, 2013, we received a petition from the WildEarth Guardians to list 81 marine species as threatened or endangered under the ESA and to designate critical habitat under the ESA. Copies of this petition are available from us (see **ADDRESSES**). This notice addresses the three hagfishes (*Eptatretus octatrema, Myxine paucidens,* and *Paramyxine taiwanae*) and the three sea snakes (*Aipysurus apraefrontalis, A. foliosquama,* and *A. fuscus*) petitioned for listing.

Section 4(b)(3)(A) of the ESA of 1973, as amended (U.S.C. 1531 *et seq.*), requires, to the maximum extent practicable, that within 90 days of receipt of a petition to list a species as threatened or endangered, the Secretary of Commerce make a finding on whether that petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, and to promptly publish the finding in the **Federal Register** (16 U.S.C. 1533(b)(3)(A)). When we find that substantial scientific or commercial information in a petition indicates the petitioned action may be warranted (a ''positive 90-day finding''), we are required to promptly commence a review of the status of the species concerned, which includes conducting a comprehensive review of the best available scientific and commercial information. Within 12 months of receiving the petition, we must conclude the review with a finding as to whether, in fact, the petitioned action is warranted. Because the finding at the 12-month stage is based on a significantly more thorough review of the available information, a ''may be warranted'' finding at the 90-day stage does not prejudge the outcome of the status review.

Under the ESA, a listing determination may address a ''species,'' which is defined to also include subspecies and, for any vertebrate species, any distinct population segment (DPS) that interbreeds when mature (16 U.S.C. 1532(16)). A joint NOAA–U.S. Fish and Wildlife Service (USFWS) policy clarifies the agencies' interpretation of the phrase ''distinct population segment'' for the purposes of listing, delisting, and reclassifying a species under the ESA (''DPS Policy''; 61 FR 4722; February 7, 1996). A species, subspecies, or DPS is ''endangered'' if it is in danger of extinction throughout all or a significant portion of its range, and ''threatened'' if it is likely to become endangered within the foreseeable future throughout all or a significant portion of its range (ESA

sections 3(6) and 3(20), respectively; 16 U.S.C. 1532(6) and (20)). Pursuant to the ESA and our implementing regulations, the determination of whether a species is threatened or endangered shall be based on any one or a combination of the following five section 4(a)(1) factors: the present or threatened destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease or predation; inadequacy of existing regulatory mechanisms; and any other natural or manmade factors affecting the species' existence (16 U.S.C. 1533(a)(1), 50 CFR 424.11(c)).

ESA-implementing regulations issued jointly by NMFS and the USFWS (50 CFR 424.14(b)) define ''substantial information'' in the context of reviewing a petition to list, delist, or reclassify a species as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted. When evaluating whether substantial information is contained in a petition, we must consider whether the petition: (1) Clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (2) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (3) provides information regarding the status of the species over all or a significant portion of its range; and (4) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)).

At the 90-day stage, we evaluate the petitioner's request based upon the information in the petition including its references, and the information readily available in our files. We do not conduct additional research, and we do not solicit information from parties outside the agency to help us in evaluating the petition. We will accept the petitioner's sources and characterizations of the information presented, if they appear to be based on accepted scientific principles, unless we have specific information in our files that indicates the petition's information is incorrect, unreliable, obsolete, or otherwise irrelevant to the requested action. Information that is susceptible to more than one interpretation or that is contradicted by other available information will not be dismissed at the 90-day finding stage, so long as it is reliable and a reasonable person would conclude that it supports the petitioner's assertions. Conclusive information indicating the species may meet the ESA's requirements for listing is not required to make a positive 90-day finding. We will not conclude that a lack of specific information alone negates a positive 90-day finding, if a reasonable person would conclude that the unknown information itself suggests an extinction risk of concern for the species at issue.

To make a 90-day finding on a petition to list a species, we evaluate whether the petition presents substantial scientific or commercial information indicating the subject species may be either threatened or endangered, as defined by the ESA. First, we evaluate whether the information presented in the petition, along with the information readily available in our files, indicates that the petitioned entity constitutes a ''species'' eligible for listing under the ESA. Next, we evaluate whether the information indicates that the species at issue faces extinction risk that is cause for concern; this may be indicated in information expressly discussing the species' status and trends, or in information describing impacts and threats to the species. We evaluate any information on specific demographic factors pertinent to evaluating extinction risk for the species at issue (e.g., population abundance and trends, productivity, spatial structure, age structure, sex ratio, diversity, current and historical range, habitat integrity or fragmentation), and the potential contribution of identified demographic risks to extinction risk for the species. We then evaluate the potential links between these demographic risks and the causative impacts and threats identified in section 4(a)(1).

Information presented on impacts or threats should be specific to the species and should reasonably suggest that one or more of these factors may be operative threats that act or have acted on the species to the point that it may warrant protection under the ESA. Broad statements about generalized threats to the species, or identification of factors that could negatively impact a species, do not constitute substantial information that listing may be warranted. We look for information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

Many petitions identify risk classifications made by non-governmental organizations, such as the International Union for Conservation of Nature (IUCN), the American Fisheries Society, or NatureServe, as evidence of extinction risk for a species. Risk classifications by other organizations or made under other Federal or state statutes may be informative, but such classification alone may not provide the rationale for a positive 90-day finding under the ESA. For example, as explained by NatureServe, their assessments of a species' conservation status do ''not constitute a recommendation by NatureServe for listing under the U.S. Endangered Species Act'' because NatureServe assessments ''have different criteria, evidence requirements, purposes and taxonomic coverage than government lists of endangered and threatened species, and therefore these two types of lists should not be expected to coincide'' (*http://www.natureserve.org/prodServices/statusAssessment.jsp*). Thus, when a petition cites such classifications, we will evaluate the source of information that the classification is based upon in light of the standards of the ESA and our policies as described above.

With respect to the six species discussed in this finding, the petitioner relies almost exclusively on the risk classifications of the IUCN as the source of information on the status of each petitioned species. All of the petitioned species are listed as ''endangered'' or ''critically endangered'' on the IUCN Redlist, and the petitioner notes this as an explicit consideration in offering petitions on these species. Species classifications under the IUCN and the ESA are not equivalent, and the data standards, evaluation criteria, and treatment of uncertainty are also not necessarily the same.

Species Descriptions

Hagfishes

Hagfish are marine, jawless, scaleless, worm-like fishes found mainly in temperate seas. They are typically found in association with soft bottom (mud and sand) habitats, but some species also occur in hard bottom or rocky habitats. Designed more for burrowing than swimming, they lack paired fins or appendages, have degenerate eyes, and probably spend much of their time within the bottom substrate (Moyle and Cech, 2000). One notable, external feature is their three pairs of barbels or tentacles around their mouth and nostril that serve a tactile function. Along their sides are 1–15 gill openings and a series of pores that serve as openings for mucus glands. These glands secrete

large amounts of mucus, or slime, that hagfish use to coat their body as a means of deterring predators. Hagfish can also ''slime'' their food items, thereby making them unpalatable to other scavengers. Hagfish feed on soft-bodied invertebrates within or at the surface of the bottom sediments, but are also quick to scavenge dead fish and whales. Females lay a small number (20–30) of large (2 cm–3 cm) leathery eggs that are attached to each other and the bottom (Moyle and Cech, 2000). Little else is known about their reproduction (Moyle and Cech, 2000). Small morphological differences between populations do suggest that they tend to breed locally (Pough *et al.,* 1996). There are over 40 extant species in six genera around the world (Pough *et al.,* 1996).

Sea Snakes

Sea snakes occur throughout the warm regions of the Pacific and Indian Oceans but are absent from the Atlantic. There are more than 60 described species, but the taxonomy of sea snakes remains controversial (Davenport, 2011). The three petitioned sea snake species are all within the genus *Aipysurus* and, according to the petition, occur within narrow ranges off the northern coast of Australia. More than 30 species of sea snakes, roughly half of which are endemic, occur in northern Australia (Marsh *et al.,* 1994). Within the wider Indo-Pacific region, there is considerable overlap in the ranges of sea snake species and a high degree of niche separation based on diet (Davenport, 2011; citing Voris and Voris, 1983).

Visually, sea snakes are easily distinguished from terrestrial snakes by their laterally compressed, paddle-like tail. However, identification of sea snakes to species can be challenging due to variable coloration and pattern (Miller and Abdulquader, 2009). Multiple physical characteristics (e.g., number of mid-body scale rows) and the capture locations are required to make a positive species identification (Miller and Abdulquader, 2009).

Aipysurid sea snakes are entirely aquatic, shallow-water species typically associated with coral reefs. Aipysurids are also viviparous (i.e., give birth to live young), unlike the amphibious sea kraits, which lay their eggs on land. Sea snakes, in general, tend to carry smaller clutches of eggs than terrestrial snakes of the same size, and this is especially true of the aipysurids (Marsh *et al.,* 1994). There is no parental care of young, which must surface to breathe and forage for food just as adults do (Miller and Abdulquadar, 2009). The petitioned sea snakes prey on various fishes, such as wrasses, gobies and eels, subduing their prey with venom before consuming them. Based on sonic tracking, mapping, and mark-recapture studies, a relatively widely distributed congener, *A. laevis,* was shown to have a very small home range—on the order of 0.15 to 0.18 hectares (Marsh *et al.,* 1994); presumably the three petitioned aipysurids have similarly small home ranges. The petition indicates that the lifespan of the three petitioned sea snakes is about 8 to 10 years, and age at first maturity ranges from about 2 to 5 years.

Analysis of the Petition

The petition clearly indicates the administrative measure recommended and gives the scientific and common names of the species involved. Based on the information presented in the petition, along with the information readily available in our files, we find that each of the 6 petitioned species constitutes a valid ''species'' eligible for listing under the ESA as each is considered a valid taxonomic species. The petition also contains a narrative justification for the recommended measures and provides limited information on the species' geographic distribution, habitat, and threats. For the hagfishes, no information is provided regarding the three species' past or present numbers, or population status and trends for all or a significant portion of the species' ranges. For the sea snakes, some past and present relative abundance data and provisional abundance data are provided. Supporting documentation was provided, mainly in the form of IUCN species assessments. We had no information in our files for any of the petitioned hagfish, but did have some limited information on the sea snake genus. A synopsis of our analysis of the information provided in the petition and readily available in our files is provided below. Following the format of the petition, we first discuss the introductory information presented for each group of species and then discuss the species-specific information.

Threats to the Hagfishes

The three hagfish species petitioned for listing (*Eptatretus octatrema, Myxine paucidens,* and *Paramyxine taiwanae*) are currently listed as either ''endangered'' or ''critically endangered'' on the IUCN Red List. The petition asserts that these species are being threatened with extinction by four of the five ESA section 4(a)(1) factors—habitat destruction, overutilization, inadequacy of regulatory mechanisms, and natural factors—which we discuss in turn below.

In terms of habitat destruction, the petition focuses on human population growth and associated consequences (e.g., pollution, tourism, development) as the main drivers of the destruction of hagfish habitat. The petition states that ''Increased economic growth in coastal cities is a major cause of ocean habitat destruction'' and that ''. . . human population growth represents a serious threat to the petitioned species.'' Some of the associated consequences of human population growth are discussed further; however, specific information to link these general threats to hagfish habitats or impacts to hagfish habitat is lacking. For example, the petition discusses the increase in the number and size of ''dead zones'' (i.e., areas of very low levels of dissolved oxygen) worldwide, but no information is provided to indicate whether and to what extent any dead zones overlap with or affect the habitats of the petitioned species.

The petition also discusses the particular threat of trawling and asserts that it threatens the habitat of all three hagfish species. We agree with the statements in the petition that trawling results in disturbance of benthic substrates, can lead to changes in community composition, and can increase some species' vulnerability to predation. However, these are general statements, and no additional information is provided in the petition or references to indicate the mechanism by which hagfish may be impacted by trawling activities. Hagfish apparently occur mainly within the sediments and are opportunistic feeders that may even benefit from commercial fisheries' discards and the resulting increase in food availability (Moyle and Cech, 2000). It is unclear given the information available on the diet, habitat, and behavior of hagfishes, whether hagfish experience negative impacts, positive impacts, or both, as a result of trawling and other commercial fishing activities.

In terms of overutilization, the petition asserts that both bycatch of hagfish and commercial harvest present threats to the three petitioned hagfishes. No data or information, however, are presented on whether or to what extent bycatch of any of the three hagfish species is occurring or has occurred. The fate of by-caught hagfish is also not discussed. The petition presents commercial harvest of hagfish as a future threat that will arise as other fish stocks decline and new species are targeted to meet the rising demand for fish by a growing human population.

However, this is a general statement that could apply to many marine fishes, and there is no additional information with which to substantiate the alleged likelihood of this potential, future threat to any of the petitioned hagfish species.

The petition states that no conservation measures are in place for any of the petitioned hagfishes and that ESA listings are needed to prevent their extinction. Information regarding any related regulatory measures being implemented within the ranges of any of the three hagfishes is not provided. We do not necessarily consider a lack of species-specific protections a threat to the particular species. For example, management measures that regulate other species, activities (e.g., commercial fisheries), or areas may indirectly function to minimize threats to the petitioned species. As stated previously, we look for substantial information indicating that not only is the particular species exposed to a factor, but that the species may be responding in a negative fashion; then we assess the potential significance of that negative response.

The petition specifically points to the lack of a listing under CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) as a threat to the petitioned hagfishes. We agree with the statement in the petition that the absence of a CITES listing for a given species is not evidence that the same species does not warrant the protections of the ESA. However, we find nothing to substantiate the statement in the petition that ''. . . the absence of CITES listing is problematic'' for the three hagfish species. CITES is a tool to manage and regulate international trade in situations where trade has been identified as a threat to the particular species' survival in the wild. No information on international trade of any of the petitioned hagfishes is presented in the petition or available to us, and we do not have any information regarding direct harvest of these hagfish species.

Lastly, the petition asserts that the three hagfish species are threatened as a result of their rarity, in particular because it reduces their chances of finding mates. This statement is not substantiated with any additional information regarding hagfish mating behavior, reproduction, or natural densities. Very little is known about hagfish mating (Pough *et al.,* 1996). Hagfish are relatively mobile, however, and may be able to travel to locate mates within a certain range. The petitioned hagfishes also possess both male and female gonads and may function as hermaphrodites (Mincarone, 2011a, 2011b; Mincarone and Mok, 2011); however, whether and the extent to which the petitioned species reproduce through self-fertilization is not known.

The condition of being rare is an important factor to consider when evaluating a species' risk of extinction; however, it does not by itself indicate the likelihood of extinction of that species, nor does the condition of being rare constitute substantial information that listing under the ESA may be warranted. For example, some species naturally occur in small numbers but are not considered threatened or endangered. To determine whether listing of a rare species may be warranted, there must also be substantial information indicating the rare species is both exposed to and responding in a negative fashion to a threat such that the species may be threatened with extinction.

Overall, we find that the general threats discussed for the hagfishes are not clearly or causally linked to the petitioned species or their ranges or habitat (e.g., discussion of trawling impacts to sea floor habitat in Australia). While some of the information in this introductory section suggests concern for the status of many marine species generally, its broadness, generality, and/or speculative nature, and the failure of the petitioner to make reasonable connections between the threats and the status of the individual petitioned species means that we cannot find that this information reasonably suggests that one or more of these threat factors may be operative threats that act or have acted on any of the petitioned species to the point that they may warrant protection under the ESA. There is little information in this introductory section indicating that particular petitioned species may be responding in a negative fashion to any of the discussed threats. Therefore, we find that the information in this section does not constitute substantial information that listing may be warranted for any of the petitioned species.

Eptatretus octatrema

This hagfish is known from two type specimens—one collected in 1899 and the other in 1900 (Mincarone, 2011a). Both specimens were collected off Cape Saint Blaize, South Africa. Despite ''extensive surveys'' within the range of this species, no other specimens have been recorded (Mincarone, 2011a). No information is provided in the petition or available to us regarding the past or present numbers or status of this species. Given that no confirmed specimens have been documented in over 100 years despite what appears to be heavy sampling efforts, it is likely this species is no longer extant in the wild. The IUCN assessment notes that further research is needed ''to determine if this species still maintains a viable population'' (Mincarone, 2011a). The purpose of the ESA is to conserve species that are in danger of or threatened with extinction. Section 3(6) of the ESA defines an endangered species as ''any species which *is* in danger of extinction throughout all or a significant portion of its range'' (emphasis added). Species that are already extinct are not protected by the ESA. Given this information and the discussion above regarding general threats to hagfish, we conclude that the petition does not present substantial information indicating that *E. octatrema* may warrant listing as threatened or endangered under the ESA.

Myxine paucidens

This species is known from only five museum specimens collected from Sagami Bay and just south of Tokyo Bay, Japan. No specimens have been collected since 1972 despite ''extensive scientific surveying in the area,'' and the species ''may possibly be already extinct'' (Mincarone, 2011b). The petition provides no information on past or present numbers or population trends, nor is any information available in our files. The most recent IUCN assessment states that ''there are no known direct threats to this species'' but that habitat quality is declining as a result of extensive trawling in the area where the specimens were found. No additional information is provided or available to evaluate the effect trawling has on this hagfish or its habitat. Given this information as well as the previous discussion about general threats to hagfish, we conclude that the petition does not present substantial information indicating that *M. paucidens* may warrant listing as threatened or endangered under the ESA.

Paramyxine taiwanae

Population trends, abundance data and status information are not available for this species. This species is known from approximately 150 specimens collected over an unknown or unspecified time period. The species apparently has a very small range of 3,750 sq km off northeastern Taiwan (see Mincarone and Mok, 2011). The most recent IUCN assessment states that heavy surveying has ''. . . confirmed that it [*P. taiwanae*] is not found in southwestern Taiwan nor along the east coast''; however, in a later section, the

assessment discusses a study of ''. . . specimens from the southwestern Taiwan examined by Kuo *et al.* (1994) . . .'' (Mincarone and Mok, 2011). Thus, the actual extent of occurrence of this species is unclear.

This species occurs at depths of 120–427 m on the continental shelf and upper slope (Mincarone and Mok, 2011). The petition states this species is vulnerable to habitat loss as a result of deep sea trawling and trapping; however, no additional information, references or statements are provided indicating the habitat requirements of this hagfish or how its particular habitat is being damaged or curtailed by trawling and trapping within its range.

The petition also states that this species is vulnerable to bycatch and that, due to its relatively large body size, faces an increased risk that ''it will be intentionally exploited in the future for food and the leather industry.'' The petition states that these ''pressures threaten the species' continued survival.'' However, no information on past or present bycatch rates or fisheries interactions is provided, nor is any available in our files. Also, as mentioned previously, no additional information is available with which to substantiate the potential future threat of direct harvest of this hagfish. The IUCN assessment recommends that more research is needed to understand this species' biology, population size, and the impact of trapping and trawling (Mincarone and Mok, 2011).

Overall, the species-specific information provided in the petition for *P. taiwanae* is general and/or speculative in nature, and we cannot find that this information reasonably suggests that one or more of the threat factors may be operative threats that act or have acted on the petitioned species to the point that it may warrant protection under the ESA. We conclude that the petition and the single, available reference do not present substantial information indicating this species may warrant listing as threatened or endangered.

Threats to the Sea Snakes

The three sea snake species petitioned for listing (*Aipysurus apraefrontalis, A. foliosquama,* and *A. fuscus*) are currently listed as either ''endangered'' or ''critically endangered'' on the IUCN Red List. The petition asserts that these species are being threatened with extinction by three of the five ESA section 4(a)(1) factors—habitat destruction, inadequacy of regulatory mechanisms, and natural factors—which we discuss in turn below.

The petition asserts that ''drastic declines and possible extinction'' of the petitioned sea snakes have occurred as a result of anthropogenic climate change and the consequent destruction of their habitat. The petition states that climate change can increase sea surface temperatures to levels that are fatal to the sea snakes and can cause ''massive damage'' to the coral reefs that these species require as habitat. The petition specifically refers to coral bleaching as the mechanism by which climate change destroys the habitat of the petitioned sea snakes. The petition claims that when severe bleaching events occur, the sea snakes' ''only available habitat is destroyed.'' However, it is unclear, given the available information, whether and to what extent the petitioned sea snakes are actually unable to continue to use the coral structure as habitat should a bleaching event occur.

Increased sea surface temperatures and coral bleaching are plausible causes of sea snake habitat degradation, but the petitioner's conclusion that these factors are causing the decline of the sea snakes is overstated. References provided by the petitioner state that climate change *may* be a threat to *some* sea snake species (Lukoschek and Guinea, 2010; Lukoschek *et al.,* 2010a; Lukoschek *et al.,* 2010b). In addition, the IUCN assessment for *A. apraefrontalis* states: ''There are no specific, clearly identified or quantified past, current or future threats to *A. apreafrontalis* or any other reef-associated sea snake species . . .'' (Lukoschek *et al.,* 2010a).

The petition asserts that the three sea snake species are also declining as a result of inadequate regulatory mechanisms. Information on the existing regulatory protections that directly or may indirectly benefit these species, however, is not provided beyond a discussion of the Ashmore Reef Nature Reserve. This nature reserve, located off the coast of northwestern Australia, was established in 1983 and contains a portion of all three species' known habitat. Given that the threats to the sea snakes are unknown, it is unclear what level of protection the reserve may be providing them. The petition also asserts that the absence of a CITES listing for the petitioned sea snakes is ''problematic'' because they ''may be subject to international trade presently or in the future.'' Information in our files indicates that sea snakes are consumed and/or valued for their leather in some parts of the world, and sea snake products have been traded internationally since the 1930's (Marsh *et al.,* 1994). However, no information is provided to substantiate the statement in the petition that any the three sea snake species may potentially or presently be subject to international trade. In fact, the references provided by the petitioner indicate that none of the petitioned sea snakes are targeted by fisheries and there is no evidence of illegal fishing (Lukoschek and Guinea, 2010; Lukoschek *et al.,* 2010a; Lukoschek *et al.,* 2010b).

The petition discusses how all three of the petitioned sea snakes have very small geographic ranges and limited dispersal ability. A very small range increases the extinction risk of the species because the entire species could be affected by local events. Also, limited dispersal ability can decrease the potential for recolonization following the loss of a subpopulation or area of habitat. Thus, these natural factors can influence the species' risk of extinction. Despite this, we do not consider these natural factors alone to constitute substantial information that listing under the ESA may be warranted. There must be additional information to indicate that the species may be exposed to and respond in a negative fashion to a threat. However, in the case of *A. fuscus,* which we discuss further below, information is presented to suggest that the petitioned species may have been extirpated from some areas, and restricted dispersal among remaining subpopulations may be contributing to the extinction risk of this species.

Overall, we find that the three major threats discussed for sea snakes are not well supported and/or substantiated and do not constitute substantial information that listing of any of the three species may be warranted.

A. apraefrontalis

This sea snake has been recorded from only Ashmore and Hibernia Reefs off northwestern Australia, and so its area of occurrence is estimated to be only about 10 sq km (Lukoschek *et al.,* 2010a). The IUCN assessment for this species, indicates that, despite extensive surveys, no individual of this species has been recorded on either Ashmore or Hibernia reef since 2000 (Lukoschek *et al.,* 2010a; citing Guinea 2006, 2007 and Lukoschek, pers. comm., 2009). The IUCN assessment refers to this species as ''locally extinct'' and notes it has not been seen at any other location (Lukoschek *et al.,* 2010a). As stated previously, species that are not known to exist in the wild are not protected by the ESA. Given this information as well as the deficiencies of the threats information discussed above, we conclude that the petition and the

available references do not present substantial information indicating that *A. apraefrontalis* may warrant listing as threatened or endangered under the ESA.

A. foliosquama

Similar to *A. apraefrontalis,* this species has been found only on Ashmore and Hibernia Reefs off northwestern Australia in an area of about 10 sq km (Lukoschek and Guinea, 2010). Citing Guinea (2006; 2007) and Lukoschek (pers. comm. 2009), the IUCN assessment for this species states that no single individual of this species has been seen over the past 9 years, or approximately 2 generations, despite extensive surveys of both Ashmore and Hibernia Reefs (Lukoschek and Guinea, 2010). The IUCN assessment also refers to the ''local extinction'' of this species and notes that it also has not been sighted at any other location (Lukoschek and Guinea, 2010). Thus, the best available information suggests this species may no longer be extant in the wild. As stated previously, species that are not known to exist in the wild are not protected by the ESA. Considering this information as well as the deficiencies of the threats information discussed above, we conclude that the petition and the available references do not present substantial information indicating that *A. apraefrontalis* may warrant listing as threatened or endangered under the ESA.

A. fuscus

This species occurs on Ashmore, Hibernia, Cartier, Scott and Serangipatan Reefs in the Timor Sea between northwestern Australia and Timor (Lukoschek *et al.,* 2010b). Very little movement of *A. fuscus* is thought to occur among these reefs (Lukoschek *et al.,* 2010b). This species has a relatively shallow depth range of up to 25–30 m deep and a total estimated area of occurrence of only 500 sq km (Lukoschek *et al.,* 2010b). No threats have been clearly identified for this species, but based on surveys on some of the reefs, the species appears to have declined by at least 70% since 1998 (Lukoschek *et al.,* 2010b). Surveys indicate that sightings rates of *A. fuscus* are variable over time, but an overall declining trend in sightings rates has been observed since 1998 at Ashmore reef (Lukoschek *et al.,* 2010b). It is unclear what the trends in sightings rates of *A. fuscus* are at the other reefs. The IUCN assessment mentions ''local extinctions,'' but it is also unclear where these ''local extinctions'' have occurred. However, the available information does suggest that some subpopulations or areas of the range have experienced significant declines or may have been lost. Given the likelihood that dispersal is fairly restricted for this species, the loss of certain reef subpopulations increases the extinction risk for this species. We find the significant decline in abundance and potential loss of subpopulations cause for concern and substantial information that listing of *A. fuscus* under the ESA may be warranted.

Petition Finding

After reviewing the information contained in the petition, as well as information readily available in our files, we conclude the petition does not present substantial scientific or commercial information indicating the petitioned action may be warranted for *Eptatretus octatrema, Myxine paucidens, Paramyxine taiwanae, A. apraefrontalis* and *A. foliosquama.* In contrast, as described above, we find that there is substantial scientific information indicating the petitioned action may be warranted for *A. fuscus,* and we hereby announce the initiation of a status review for this species to determine whether the petition action is warranted.

Information Solicited

To ensure that the status review is based on the best available scientific and commercial data, we are soliciting information relevant to whether the sea snake, *A. fuscus,* may warrant listing as threatened or endangered. Specifically, we are soliciting data and information, including unpublished data and information, in the following areas: (1) Historical and current distribution and abundance of this species throughout its range; (2) historical and current population trends; (3) life history and habitat requirements (4) genetics of subpopulations; (5) past, current and future threats to the species, including any current or planned activities that may adversely impact the species; (6) ongoing or planned efforts to protect and restore the species and its habitat; and (7) management, regulatory, and enforcement information. We request that all information be accompanied by: (a) Supporting documentation such as maps, bibliographic references, or reprints of pertinent publications; and (b) the submitter's name, address, and any association, institution, or business that the person represents.

References Cited

A complete list of references is available upon request to the Office of Protected Resources (see **ADDRESSES**).

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

Dated: October 30, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2013–26493 Filed 11–5–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 78, No. 215

Wednesday, November 6, 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 COMMERCE

Bureau of the Census

Census Advisory Committees

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of Public Meeting.

SUMMARY: The Bureau of the Census (Census Bureau) is giving notice of a meeting, the National Advisory Committee on Racial, Ethnic, and Other Populations (NAC). The committee will address census policies, research and methodology, tests, operations, communications/messaging and other activities to ascertain needs and best practices to improve censuses, surveys, operations and programs. The NAC will meet in a plenary session on December 5–6, 2013. Last-minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: December 5–6, 2013. On December 5, the meeting will begin at approximately 8:30 a.m. and end at approximately 5:00 p.m. On December 6, the meeting will begin at approximately 8:30 a.m. and end at approximately 1:45 p.m.

ADDRESSES: The meeting will be held at the U.S. Census Bureau, 4600 Silver Hill Road, Suitland, Maryland 20746.

FOR FURTHER INFORMATION CONTACT: Jeri Green, *Jeri.Green@census.gov,* Committee Liaison Officer, Department of Commerce, U.S. Census Bureau, Room 8H182, 4600 Silver Hill Road, Washington, DC 20233, telephone 301–763–6590. For TTY callers, please use the Federal Relay Service 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The NAC comprises up to thirty-two members. The Committee provides an organized and continuing channel of communication between race, ethnic, and other populations and the Census Bureau. The Committee will advise the Director of the Census Bureau on the full range of economic, housing, demographic, socioeconomic, linguistic, technological, methodological, geographic, behavioral and operational variables affecting the cost, accuracy and implementation of Census Bureau programs and surveys, including the decennial census.

The Committee also assists the Census Bureau on ways that census data can best be disseminated to diverse race and ethnic populations and other users. The Committee is established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2).

All meetings are open to the public. A brief period will be set aside at the meeting for public comment on December 6. However, individuals with extensive questions or statements must submit them in writing to Ms. Jeri Green at least three days before the meeting. If you plan to attend the meeting, please register by Monday, December 2, 2013. You may access the online registration from with the following link: *http://www.regonline.com/nac_dec2013_meeting.* Seating is available to the public on a first-come, first-served basis.

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Committee Liaison Officer as soon as possible, preferably two weeks prior to the meeting.

Due to increased security and for access to the meeting, please call 301–763–9906 upon arrival at the Census Bureau on the day of the meeting. A photo ID must be presented in order to receive your visitor's badge. Visitors are not allowed beyond the first floor.

Dated: October 31, 2013.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2013–26577 Filed 11–5–13; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC853

Draft 2013 Marine Mammal Stock Assessment Reports

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

ACTION: Notice; request for comments.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act. SARs for marine mammals in the Alaska, Atlantic, and Pacific regions were revised according to new information. NMFS solicits public comments on the draft 2013 SARs.

DATES: Comments must be received by February 4, 2014.

ADDRESSES: The 2013 draft SARs are available in electronic form via the Internet at *http://www.nmfs.noaa.gov/pr/sars/draft.htm.*

Copies of the Alaska Regional SARs may be requested from Dee Allen, Alaska Fisheries Science Center, NMFS, 7600 Sand Point Way, NE BIN 15700, Seattle, WA 98115–0070.

Copies of the Atlantic, Gulf of Mexico, and Caribbean Regional SARs may be requested from Gordon Waring, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037–1508.

You may submit comments, identified by [NOAA–NMFS–2013–0136], by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal *http://www.regulations.gov.*

Mail: Send comments or requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226, Attn: Stock Assessments.

Instructions: All comments received are a part of the public record and will

generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Shannon Bettridge, Office of Protected Resources, 301–427–8402, *Shannon.Bettridge@noaa.gov;* Dee Allen 206–526–4048, *Dee.Allen@noaa.gov,* regarding Alaska regional stock assessments; Gordon Waring, 508–495–2311, *Gordon.Waring@noaa.gov,* regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858–546–7171, *Jim.Carretta@noaa.gov,* regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the Exclusive Economic Zone. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term ''strategic stock'' means a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the potential biological removal level; (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined. NMFS, in conjunction with the Alaska, Atlantic, and Pacific independent Scientific Review Groups (SRGs), reviewed the status of marine mammal stocks as required and revised reports in the Alaska, Atlantic, and Pacific regions to incorporate new information.

NMFS updated its serious injury designation and reporting process, which uses guidance from previous serious injury workshops, expert opinion, and analysis of historic injury cases to develop new criteria for distinguishing serious from non-serious injury. The NMFS Serious Injury Determination Policy was finalized in January 2012 and was first applied to the draft 2013 marine mammal SARs. The SARs report five-year averages for serious injury; thus, application of the new procedure involved retroactively reviewing the past five years of injury determinations for 2007–2011. NMFS defines serious injury as an ''injury that is more likely than not to result in mortality'' (50 CFR 229.2). Injury determinations for stock assessments revised in 2013 or later incorporate the new serious injury guidelines, based on the most recent five-year period for which data are available. NMFS solicits public comments on the draft 2013 SARs.

Alaska Reports

In the Alaska region (waters off Alaska that are under the jurisdiction of the United States), SARs for 25 Alaska stocks (16 ''strategic'', 9 ''non-strategic'') were updated. All stocks were reviewed and the following stocks were revised for 2013: Steller sea lion (western and eastern U.S. stocks), northern fur seal, bearded seal, ringed seal, ribbon seal, Cook Inlet beluga whales, narwhal, killer whale (Alaska resident; northern resident; Gulf of Alaska, Aleutian Islands, and Bering Sea transient; AT1 transient; west coast transient stocks), harbor porpoise (southeast Alaska, Gulf of Alaska, and Bering Sea stocks), sperm whale, beaked whales (Baird's, Cuvier's, and Stejneger's), western and central stocks of humpback whales, fin whale, eastern North Pacific right whale, and bowhead whale. Most revisions included updates of abundance and/or mortality and serious injury estimates. For the fin whale SAR, the previous minimum population estimate was based on summing estimates from two surveys occurring in different years: one survey conducted along the Aleutian Islands, and another survey conducted in the Bering Sea. New information indicates that fin whales surveyed in the Aleutian Islands could migrate into the Bering Sea and be counted during the Bering Sea surveys. There are also indications that fin whale distribution in the Bering Sea is related to oceanographic conditions, making it possible that whales could be double counted when estimates from different years are summed. Therefore, the minimum abundance estimate of the entire stock is unknown and potential biological removal level (PBR) was changed to undetermined.

Two of the Alaska region updates resulted in change of status of a stock: Ringed seal and bearded seal stocks changed from non-strategic to strategic. On December 28, 2012, NMFS listed the Alaska Stocks of bearded seals and ringed seals as ''threatened'' under the Endangered Species Act (77 FR 76740). Because of the threatened status under the ESA, these stocks are considered ''depleted'' under the MMPA and are classified as strategic stocks. Information on the remaining Alaska region stocks can be found in the final 2012 reports (Allen and Angliss, 2013).

Typically, the most recent five years of data are used for estimating average annual serious injury and mortality of stocks. In 2007, the NMFS Alaska Fisheries Science Center (AFSC) developed a new database for the fisheries observer data and analytical methods for estimating bycatch were updated. As a result of these changes, AFSC determined that data from 2007 onward could not be combined with data from analyses of data prior to 2006. As a result, for the 2012 SARs fishery observer serious injury and mortality estimates were based on an analysis of the most recent four-year period from 2007–2010. For the 2013 SARs, mortality and serious injury data are summarized for the five-year period from 2007–2011 for the Alaska groundfish fisheries.

The new injury guidelines for assessing human-caused marine mammal injuries have been implemented in the draft 2013 SARs. Data from 2007–2011 were analyzed (or re-analyzed under the new guidelines), where available, and determinations were made under new guidance defined in the policy and procedural directives. Appendix 8 to the Alaska SARs, which summarizes humpback whale mortalities and serious injuries, is no longer being maintained and has been removed. These data will be available and determination decisions depicted in more detail in the Alaska mortality and serious injury report for 2007–2012, currently in preparation (Allen and Helker in prep).

Atlantic Reports

In the Atlantic region (including the Atlantic coast, Gulf Coast, and U.S. territories in the Caribbean), 45 Atlantic and Gulf of Mexico SARs were updated and one added—the Northern South Carolina Estuarine System stock of bottlenose dolphins, a strategic stock. Most revisions included updates of abundance and/or serious injury and mortality estimates. Strategic stocks included: North Atlantic right whale, humpback whale, fin whale, sei whale, sperm whale, bottlenose dolphin (Western North Atlantic: coastal/northern migratory, coastal/southern migratory, coastal/South Carolina/Georgia, coastal/northern Florida, coastal/central Florida; Northern North Carolina Estuarine System; Southern North Carolina Estuarine System; Charleston Estuarine System; Northern Georgia/Southern South Carolina Estuarine System; Southern Georgia Estuarine System; Jacksonville Estuarine System; Indian River Lagoon Estuarine System; Biscayne Bay) and harbor porpoise (Gulf of Maine/Bay of Fundy). Non-strategic stocks included: Minke whale, dwarf sperm whale, pygmy sperm whale, Cuvier's beaked whale, Blainville's beaked whale, Gervais beaked whale, Sowerby's beaked whale, True's beaked whale, long-finned pilot whale, short-finned pilot whale, Atlantic white-sided dolphin, short-beaked common dolphin, Atlantic spotted dolphin; pantropical spotted dolphin, striped dolphin, rough-toothed dolphin, Clymene dolphin, spinner dolphin, bottlenose dolphin (Western North Atlantic/offshore; Florida Bay; Gulf of Mexico Oceanic), gray seal, harp seal, harbor seal, and Risso's dolphin (Western North Atlantic, Gulf of Mexico Oceanic).

The status of long-finned pilot whales changed from strategic to non-strategic, because serious injury and mortality likely do not exceed PBR. Information on the remaining Atlantic region stocks can be found in the final 2012 reports (Waring *et al.,* 2012).

Pacific Reports

In the Pacific region (waters along the west coast of the United States, within waters surrounding the main and Northwest Hawaiian Islands, and within waters surrounding U.S. territories in the Western Pacific), SARs were revised for 52 stocks under NMFS jurisdiction. Two stocks changed from non-strategic to strategic: Cuvier's beaked whale, CA/OR/WA, and mesoplodont beaked whales, CA/OR/WA.

Strategic stocks included: Monk seal, killer whale (Eastern North Pacific Southern Resident), Mesoplodont beaked whales (CA/OR/WA), Cuvier's beaked whale (CA/OR/WA), humpback whale, blue whale (Central North Pacific, Eastern North Pacific), fin whale (Hawaii, CA/OR/WA), false killer whale (Main Hawaiian Islands, Hawaii Pelagic), sperm whale (Hawaii), and sei whale. Non-strategic stocks included: Harbor seal (OR/WA coast, Northern Washington Inland waters, Southern Puget Sound, and Hood Canal), northern fur seal, harbor porpoise (Morro Bay, Monterey Bay, San Francisco—Russian River, Northern California/Southern Oregon, Northern Oregon/Washington coast), Baird's beaked whale, Pacific white-sided dolphin, common bottlenose dolphin (CA/OR/WA Offshore, Hawaii Pelagic, 'Kaua'I and Ni'ihau, O'ahu, four-islands region, Hawaii Island), gray whale, Risso's dolphin, pantropical spotted dolphin (Hawaii pelagic, O'ahu, four-islands region, Hawaii Island), striped dolphin, Fraser's dolphin, melon-headed whale (Hawaiian Islands, Kohala Resident), pygmy killer whale, false killer whale (Northwestern Hawaiian Islands), killer whale (Hawaii), short-finned pilot whale, Blainville's beaked whale, Longman's beaked whale, Cuvier's beaked whale (Hawaii), pygmy sperm whale, dwarf sperm whale, minke whale, Bryde's whale. Information on the remaining Pacific region stocks can be found in the final 2012 reports (Carretta *et al.,* 2013).

Three new prospective stocks of harbor seals in Washington inland waters are presented (Hood Canal, Southern Puget Sound, and Washington Inland Waters), based on recent genetic and pupping phenology data. The Hawaii stock of melon-headed whales was split into two: The Kohala resident stock and the Hawaiian Islands stock (both non-strategic). The Hawaii stock of pantropical spotted dolphin was split into four (all non-strategic): The Oahu stock, the 4-Islands stock, the Hawaii Island stock, and the Hawaii pelagic stock.

NMFS intended to prepare a separate stock assessment report for the western stock of gray whales in 2013; however, the agency was awaiting completion of the Report of the NMFS Gray Whale Stock Identification Workshop (NMFS 2013) before drafting a SAR for this stock. NMFS anticipates preparing a SAR for the western stock of gray whales in 2014.

The San Miguel Island stock of northern fur seal has been renamed the ''California Northern Fur Seal stock,'' to reflect that in addition to San Miguel Island, this species regularly breeds at the Farallon Islands of California.

Dated: October 31, 2013.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–26598 Filed 11–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC791

Fisheries in the Western Pacific; Special Coral Reef Ecosystem Fishing Permit

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

ACTION: Notice of availability of final environmental assessment and finding of no significant impact for the issuance of a special coral reef ecosystem fishing permit.

SUMMARY: NMFS issued a Special Coral Reef Ecosystem Fishing Permit that authorizes Kampachi Farms, LLC, to culture and harvest a coral reef ecosystem management unit fish species in a floating pen in Federal waters west of the Island of Hawaii. This notice informs the public that NMFS prepared an environmental assessment of the potential impacts of the proposed activity, and finds that there will be no significant impact to the environment from the activity.

DATES: The special coral reef ecosystem fishing permit is effective from October 25, 2013, through October 24, 2014.

ADDRESSES: You may review the final environmental assessment (EA) and finding of no significant impact, identified by NOAA–NMFS–2013–0125, at the Federal e-Rulemaking Portal *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0125*.

FOR FURTHER INFORMATION CONTACT: Phyllis Ha, Sustainable Fisheries, NMFS PIR, tel 808–944–2265.

SUPPLEMENTARY INFORMATION: NMFS issued a Special Coral Reef Ecosystem Fishing Permit to Kampachi Farms, LLC, consistent with Federal regulations for Hawaii fisheries at 50 CFR § 665.224, pertaining to management of coral reef ecosystem fisheries, and in accordance with the Fishery Ecosystem Plan for the Hawaii Archipelago (FEP). The permit authorizes the culture and harvest of the native coral reef ecosystem management unit fish species *Seriola rivoliana,* marketed as Kona Kampachi®, using a

floating cage tethered to a 28-ft vessel connected to a single-point mooring established at around 6,000 feet deep, approximately 5.5 nm west of Keauhou Bay, Hawaii.

NMFS published in the **Federal Register** a notice of availability of a draft EA and request for public comments on August 13, 2013 (78 FR 49258). NMFS received comments from eight individuals, and considered those comments by improving information in the baseline and the clarity of the final EA. None of the comments resulted in substantial changes to the analysis about the significance of impacts of the proposed action on the human environment in the final EA.

Based on the information in the final EA, NMFS determined that the action will not significantly impact the quality of the human environment.

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

Dated: November 1, 2013.

James P. Burgess,

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

[FR Doc. 2013–26599 Filed 11–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC960

Atlantic Highly Migratory Species; Advisory Panel

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

ACTION: Notice; solicitation of nominations.

SUMMARY: NMFS solicits nominations for the Atlantic Highly Migratory Species (HMS) Advisory Panel (AP). NMFS consults with and considers the comments and views of the HMS AP when preparing and implementing Fishery Management Plans (FMPs) or FMP amendments for Atlantic tunas, swordfish, sharks, and billfish. Nominations are being sought to fill approximately one-third (11) of the seats on the HMS AP for a 3-year appointment. Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, and non-governmental organizations are considered for membership in the HMS AP (note that there are no Academic terms expiring, so no nominations for that sector will be considered at this time).

DATES: Nominations must be received on or before December 6, 2013.

ADDRESSES: You may submit nominations and requests for the Advisory Panel Statement of Organization, Practices, and Procedures by any of the following methods:

- *Email: HMSAP.Nominations@noaa.gov.* Include in the subject line the following identifier: ''HMS AP Nominations.''
- *Mail:* Jenni Wallace, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.
- *Fax:* 301–713–1917.

FOR FURTHER INFORMATION CONTACT: Jenni Wallace at (301) 427–8503.

SUPPLEMENTARY INFORMATION:

Introduction

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.,* as amended by the Sustainable Fisheries Act, Public Law 104–297, provided that the Secretary may establish Advisory Panels to assist in the collection and evaluation of information relevant to the development of any Fishery Management Plan (FMP) or FMP amendment for any highly migratory species fishery that is under the Secretary's authority. NMFS has consulted with the HMS AP on: Amendment 1 to the Billfish FMP (April 1999); the HMS FMP (April 1999); Amendment 1 to the HMS FMP (December 2003); the 2006 Consolidated HMS FMP (October 2006); Amendments 1, 2, 3, 4, 5a, 5b, 6, 7, and 8 to the 2006 Consolidated HMS FMP (April and October 2008, February and September 2009, May and September 2010, April and September 2011, March and September 2012, and January and September 2013); among other relevant fishery management issues.

Procedures and Guidelines

A. Nomination Procedures for Appointments to the Advisory Panel

Nomination packages should include:

1. The name of the nominee and a description of his/her interest in HMS or in particular species of sharks, swordfish, tunas, or billfish;
2. Contact information, including mailing address, phone, and email of the nominee;
3. A statement of background and/or qualifications;
4. A written commitment that the nominee shall actively participate in good faith in the meetings and tasks of the HMS AP; and
5. A list of outreach resources that the nominee has at his/her disposal to communicate HMS issues to various interest groups.

Qualifications for HMS AP Membership

Qualification for membership includes one or more of the following: (1) Experience in HMS recreational fisheries; (2) experience in HMS commercial fisheries; (3) experience in fishery-related industries (*e.g.,* marinas, bait and tackle shops); (4) experience in the scientific community working with HMS; and/or (5) representation of a private, non-governmental, regional, national, or international organization representing marine fisheries; or environmental, governmental, or academic interests dealing with HMS.

Tenure for the HMS AP

Member tenure will be for 3 years (36 months), with approximately one-third of the members' terms expiring on December 31 of each year. Nominations are sought for terms beginning January 2014 and expiring December 2016.

B. Participants

Nominations for the HMS AP will be accepted to allow representation from commercial and recreational fishing interests, and the environmental/non-governmental organization community, who are knowledgeable about Atlantic HMS and/or Atlantic HMS fisheries. Current representation on the HMS AP, as shown in Table 1, consists of 12 members representing commercial interests, 12 members representing recreational interests, 4 members representing environmental interests, 4 academic representatives, and the International Commission for the Conservation of Atlantic Tunas (ICCAT) Advisory Committee Chairperson. Each HMS AP member serves a 3-year term with approximately one-third of the total number of seats (33) expiring on December 31 of each year. NMFS seeks to fill 5 commercial, 4 recreational, and 2 environmental/non-governmental organization vacancies by December 31, 2013. NMFS will seek to fill vacancies based primarily on maintaining the current representation from each of the sectors. NMFS also considers species expertise and representation from the fishing regions (Northeast, Mid-Atlantic, South Atlantic, Gulf of Mexico, and Caribbean) to ensure the diversity and balance of the AP. Table 1 includes the current representation on the HMS AP by sector, region and species with terms that are expiring identified in bold. It is not meant to indicate that NMFS will only consider persons who have expertise in the species or fishing

regions that are listed. Rather, NMFS will aim toward having as diverse and balanced an AP as possible.

Table 1. Current Representation on the HMS AP by Sector, Region, and Species. (Terms that are expiring are in bold. NMFS tries to maintain diversity and balance in representation among fishing regions and species.)

Sector	Fishing Region	Species	Date Appointed	Date Term Expires
Academic	All	Swordfish/Tuna	1/1/2012	12/31/2014
Academic	All	Tuna	1/1/2013	12/31/2015
Academic	Southeast/Gulf of Mexico	Shark	1/1/2013	12/31/2015
Academic	Southeast	Swordfish/HMS	1/1/2013	12/31/2015
Commercial	Northeast	HMS	1/1/2012	12/31/2014
Commercial	Northeast	Tuna	1/1/2012	12/31/2014
Commercial	Gulf of Mexico	Tuna/Swordfish	1/1/2012	12/31/2014
Commercial	Northeast	Tuna	1/1/2012	12/31/2014
Commercial	Northeast	Tuna	1/1/2012	12/31/2014
Commercial	Southeast	Shark	1/1/2013	12/31/2015
Commercial	Southeast	Swordfish/Tuna	1/1/2013	12/31/2015
Commercial	**Northeast**	**Tuna**	**1/1/2011**	**12/31/2013**
Commercial	**Mid-Atlantic**	**HMS/Shark**	**1/1/2011**	**12/31/2013**
Commercial	**Southeast**	**Swordfish**	**1/1/2011**	**12/31/2013**
Commercial	**Gulf of Mexico**	**Shark**	**1/1/2011**	**12/31/2013**
Commercial	**Gulf of Mexico**	**Shark**	**1/1/2011**	**12/31/2013**
Environmental	All	Shark	1/1/2012	12/31/2014
Environmental	Gulf of Mexico	HMS	1/1/2012	12/31/2014
Environmental	**All**	**Tuna**	**1/1/2011**	**12/31/2013**
Environmental	**All**	**Tuna**	**1/1/2011**	**12/31/2013**
Recreational	Gulf of Mexico/Southeast	Billfish/Tuna	1/1/2012	12/31/2014
Recreational	Mid-Atlantic	HMS	1/1/2012	12/31/2014
Recreational	Mid-Atlantic	Tuna	1/1/2012	12/31/2014
Recreational	Northeast	Tuna/Shark	1/1/2013	12/31/2015
Recreational	Southeast	Swordfish	1/1/2013	12/31/2015
Recreational	Northeast	Tuna	1/1/2013	12/31/2015
Recreational	Southeast	HMS	1/1/2013	12/31/2015
Recreational	Northeast	HMS	1/1/2013	12/31/2015
Recreational	Southeast	HMS	1/1/2011	12/31/2013
Recreational	**Mid-Atlantic**	**HMS**	**1/1/2011**	**12/31/2013**
Recreational	**Southeast**	**Billfish**	**1/1/2011**	**12/31/2013**
Recreational	**Gulf of Mexico**	**HMS**	**1/1/2011**	**12/31/2013**

The intent is to have a group that, as a whole, reflects an appropriate and equitable balance and mix of interests given the responsibilities of the HMS AP.

Five additional members on the HMS AP include one member representing each of the following Councils: New

England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the Caribbean Fishery Management Council. The HMS AP also includes 22 ex-officio participants: 20 representatives of the coastal states and two representatives of the interstate commissions (the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission).

NMFS will provide the necessary administrative support, including technical assistance, for the HMS AP. However, NMFS will not compensate participants with monetary support of any kind. Depending on availability of funds, members may be reimbursed for travel costs related to the HMS AP meetings.

C. Meeting Schedule

Meetings of the HMS AP will be held as frequently as necessary but are routinely held twice each year—once in the spring, and once in the fall. The meetings may be held in conjunction with public hearings.

Dated: November 1, 2013.

James P. Burgess,

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

[FR Doc. 2013–26600 Filed 11–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC837

Takes of Marine Mammals Incidental to Specified Activities; Seabird and Pinniped Research Activities in Central California, 2013–2014

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: We, NMFS, have received an application from Point Blue Conservation Science (Point Blue, formerly PRBO Conservation Science), requesting an Incidental Harassment Authorization (Authorization) to take marine mammals, by harassment, incidental to conducting proposed seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California from December 2013 through December 2014. Per the Marine Mammal Protection Act, we are requesting comments on our proposal to issue an Authorization to Point Blue to incidentally harass, by Level B harassment only, four species of marine mammals during the year-long research project.

DATES: We must receive comments and information no later than December 5, 2013.

ADDRESSES: Address your comments on the application to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.Cody@noaa.gov.* Please include 0648–XC837 in the subject line. We are not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

All comments received are a part of the public record and we will generally post them to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To obtain an electronic copy of the application, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or access the documents on our Web page at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

We will prepare a separate NEPA analysis to evaluate the environmental effects related to the scope of our federal action, which is the proposed issuance of an Authorization to Point Blue for their proposed seabird and pinniped research activities. This notice presents detailed information on the scope of our federal action under NEPA (i.e., the proposed Authorization including mitigation measures and monitoring) and we will consider comments submitted in response to this notice as we prepare our NEPA analysis.

The public can view documents cited in this notice by appointment, during regular business hours, at the previously mentioned address.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if: (1) We make certain findings; (2) the taking is limited to harassment; and (3) we provide a notice of a proposed authorization to the public for review.

We shall allow authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (i.e., mitigation); and requirements pertaining to the monitoring and reporting of such takings. We have defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take marine mammals by harassment. Section 101(a)(5)(D) of the Act establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorization for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, we must either issue or deny the authorization and must publish a notice in the **Federal Register** within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

We received an application on July 17, 2013, from Point Blue requesting the taking by harassment of small numbers of marine mammals incidental to conducting seabird and pinniped research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore in central California. Point Blue, along with partners Oikonos Ecosystem Knowledge and Point Reyes National Seashore, plan to conduct the proposed activities for one year. These partners are conducting this research under cooperative agreements with the U.S. Fish and Wildlife Service in consultation with the Gulf of the Farallones National Marine Sanctuary. We determined the application complete and adequate on August 27, 2013.

Their proposed research activities would involve monitoring and censusing seabird colonies; observing seabird nesting habitat; restoring nesting burrows; observing breeding elephant seals, and resupplying a field station. The proposed activities would occur in the vicinity of pinniped haul out sites located on Southeast Farallon Island (37°41′54.32″ N; 123°0′8.33″ W), Año Nuevo Island (37°6′29.25″ N; 122°20′12.20″ W), or within Point Reyes National Seashore (37°59′38.61″ N; 122°58′24.90″ W) in central California.

Acoustic and visual stimuli generated by: (1) Noise generated by motorboat approaches and departures; (2) noise generated during restoration activities and loading operations while resupplying the field station; and (3) human presence during seabird and pinniped research activities, have the potential to cause California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga angustirostris*), and Steller sea lions (*Eumetopias jubatus*) hauled out on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore to flush into the surrounding water or to cause a short-term behavioral disturbance for marine mammals in the proposed areas. These types of disturbances are the principal means of marine mammal taking associated with these activities. Point Blue has requested an authorization to take 5,390 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20 Steller sea lions (*Eumetopias jubatus*) by Level B harassment only.

To date, we have issued five 1-year Incidental Harassment Authorizations to Point Blue (formerly known as PRBO Conservation Science) for the conduct of the same activities from 2007 to 2013. The current Authorization expires on December 5, 2013 (77 FR 73989, December 7, 2012). This is the organization's sixth request for an Authorization and they will submit a monitoring report to us no later than 90 days after the expiration of the current Authorization.

Description of the Specified Geographic Region

The proposed action area consists of the following three locations in the northeast Pacific Ocean:

South Farallones Islands

The South Farallon Islands consist of Southeast Farallon Island located at 37°41′54.32″ N; 123°0′8.33″ W and West End Island. These two islands are directly adjacent to each other and separated by only a 30-foot (ft) (9.1 meter (m)) channel. The South Farallon Islands have a land area of approximately 120 acres (0.49 square kilometers (km)) and are part of the Farallon National Wildlife Refuge. The islands are located near the edge of the continental shelf 28 miles (mi) (45.1 km) west of San Francisco, CA, and lie within the waters of the Gulf of the Farallones National Marine Sanctuary.

Año Nuevo Island

Año Nuevo Island located at 37°6′29.25″ N; 122°20′12.20″ W is one-quarter mile (402 m) offshore of Año Nuevo Point in San Mateo County, CA. This small 25-acre (0.1 square km) island is part of the Año Nuevo State Reserve, all of which is owned and operated by California State Parks. The Island lies within the Monterey Bay National Marine Sanctuary and the Año Nuevo State Marine Conservation Area.

Point Reyes National Seashore

Point Reyes National Seashore located is approximately 40 miles (64.3 km) north of San Francisco Bay and also lies within the Gulf of the Farallones National Marine Sanctuary. The proposed research areas (Life Boat Station, Drakes Beach, and Point Bonita) are within the headland coastal areas of the National Park.

Description of the Specified Activity

Seabird Research on Southeast Farallon Island

Point Blue proposes to conduct: (1) Daily observations of seabird colonies at a maximum frequency of three 15-minute visits per day; and (2) conduct daily observations of breeding common murres (*Uria aalge*) at a maximum frequency of one, 5-hour visit per day between September 2013, and September 2014. These activities usually involve one or two observers conducting daily censuses of seabirds or conducting mark/recapture studies of breeding seabirds on Southeast Farallon Island. The researchers plan to access the island's two landing areas, the North Landing and the East Landing, by 14 to 18 ft (4.3 to 5.5 m) open motorboats which are hoisted onto the island using a derrick system and then travel by foot to coastal areas of the island to view breeding seabirds from behind an observation blind.

The potential for incidental take related to the mark/recapture studies is very low as these activities are conducted within the interior of the island away from the intertidal areas where the pinnipeds haul out. Most potential for incidental take would occur when the researchers approach or depart the intertidal area by motorboat or when the researchers walk within 50 ft (15.2 m) of the haulout areas to enter the observation blinds to observe shorebirds.

Field Station Resupply on Southeast Farallon Island

Point Blue proposes to resupply the field station once every two weeks at a maximum frequency of 26 visits. Resupply activities involve personnel approaching either the North Landing or East Landing by motorboat. At East Landing—the primary landing site—all personnel assisting with the landing would stay on the loading platform approximately 30 ft (9.1 m) above the water. At North Landing, loading operations would occur at the water level in the intertidal areas. Most potential for incidental take would occur when the researchers approach the area by motorboat or when the researchers load or unload supplies onshore.

Seabird Research on Año Nuevo Island

Point Blue and its partners propose to monitor seabird burrow nesting habitat quality and to conduct habitat restoration at a maximum frequency of 20 visits per year. This activity involves two to three researchers accessing the north side of the island by a 12 ft (3.7 m) Zodiac boat. Once onshore, the researchers will check subterranean nest boxes and restore any nesting habitat for approximately 15 minutes.

Most potential for incidental take would occur at the landing beach on the north side of the island when the researchers arrive and depart to check the boxes. Non-breeding pinnipeds may occasionally be present, including California sea lions that may be hauled out near a small group of subterranean seabird nest boxes on the island terrace.

In both locations researchers are located more than 50 ft (15.2 m) away from any pinnipeds which may be hauled out.

Seabird Research on Point Reyes National Seashore

The National Park Service in collaboration with Point Blue monitors seabird breeding and roosting colonies; conducts habitat restoration; removes non-native plants; monitors intertidal areas; maintains coastal dune habitat. Seabird monitoring usually involves one or two observers conducting the survey by small boats (12 to 22 ft; 3.6 to 6.7 m) along the Point Reyes National Seashore shoreline. Researchers would visit the site at a maximum frequency of 20 times per year, with an emphasis on increasing monitoring during the nesting season. Researchers would conduct occasional, intermittent visits during the rest of the year.

A majority of the research occurs in areas where marine mammals are not present. However, the potential for incidental harassment will occur at the landing beaches along Point Reyes Headland, boat ramps, or parking lots where northern elephant seals, harbor seals, or California sea lions may be hauled out in the vicinity.

Pinniped Research on West End Island

Pinniped research activities involve surveying breeding northern elephant seals on West End Island between early December and late February. At least three researchers would visit the site at a maximum frequency of five times per year. To conduct the census, the researchers would travel by foot approximately 1,500 ft (457.2 m) above the site to conduct the census. Historically, a few juvenile Steller sea lions may haul out on a spit of rocks called Shell Beach Rocks below the transit path to the northern elephant seal haul out. Thus, the potential for incidental harassment of Steller sea lions may occur when the researchers transit above Shell Beach Rocks.

We expect that acoustic and visual stimuli resulting from the proposed motorboat operations and human presence has the potential to harass marine mammals. We also expect that these disturbances would be temporary and result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of certain species of marine mammals.

Description of the Marine Mammals in the Area of the Proposed Specified Activity

The marine mammals most likely to be harassed incidental to conducting seabird and pinniped research at the proposed research areas on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore are primarily California sea lions, northern elephant seals, Pacific harbor seals, and to a lesser extent the eastern distinct population segment (DPS) of the Steller sea lion, which NMFS has removed from the list of threatened species under the U.S. Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 *et seq.*), effective November, 2013.

We refer the public to Carretta *et al.,* (2013) for general information on these species which we present below this section. The publication is available at: *http://www.nmfs.noaa.gov/pr/sars/pdf/po2012.pdf.*

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California Breeding Stock is approximately 124,000 animals and the maximum population growth rate is 11.7 percent (Carretta *et al.,* 2013).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 1,000 to 2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.,* 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° N. (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

At Point Reyes, the population ranges from 1,500 and 2,000 animals (NPS, 2013a). Adult northern elephant seals visit Point Reyes twice a year (NPS, 2013a). They arrive in early winter from their feeding grounds off Alaska and the largest congregations occur in the winter, when the females arrive to deliver their pups and nurse them, and in spring when immature seals and adult females return to molt. During the time they are onshore they are fasting (NPS, 2013b).

At Southeast Farallon, the population consists of approximately 500 animals (FNMS, 2013). Northern elephant seals began recolonizing the South Farallon Islands in the early 1970s (Stewart *et al.,* 1994) at which time the colony grew rapidly. In 1983 a record 475 pups were born on the South Farallones (Stewart *et al.,* 1994). Since then, the size of the South Farallones colony has declined, stabilizing in the early 2000s and then declining further over the past six years (USFWS, 2013). In 2012, a total of 90 cows were counted on the South Farallones, and 60 pups were weaned (USFWS, 2013). Point Blue's average monthly counts from 2000 to 2009 ranged from 20 individuals in July to nearly 500 individuals in November (USFWS, 2013).

Northern elephant seals are present on the islands and in the waters surrounding the South Farallones year-round for either breeding or molting; however, they are more abundant during breeding and peak molting seasons (Le Boeuf and Laws 1994, Sydeman and Allen, 1997). They live and feed in deep, offshore waters the remainder of the year.

In mid-December, adult males begin arriving on the South Farallones, closely followed by pregnant females on the verge of giving birth. Females give birth to a single pup, generally in late December or January (Le Boeuf and Laws, 1994) and nurse their pups for approximately four weeks (Reiter *et al.,* 1978). Upon pup weaning, females mate with an adult male and then depart the islands. The last adult breeders depart the islands in mid-March. The spring peak of elephant seals on the rookery occurs in April, when females and immature seals (approximately one to four years old) arrive at the colony to molt (a one month process) (USFWS, 2013). The year's new pups remain on the island throughout both of these peaks, generally leaving by the end of April (USFWS, 2013).

The lowest numbers of elephant seals present on the rookery occurs during June, July, and August, when sub-adult and adult males molt. Another peak of young seals return to the rookery for a haul-out period in October, and at that time some individuals undergo partial molt (Le Boeuf and Laws, 1994). At Año Nuevo Island the population ranges from 900 to 1,000 adults.

Observers first sighted elephant seals on Año Nuevo Island in 1955 and today the population ranges from 900 to 1,000 adults (M. Lowry, unpubl. data). Males

began to haul out on the mainland in 1965. California State Park reports that by 1988/1989, approximately 2,000 elephant seals came ashore to Año Nuevo (CSP, 2012).

California Sea Lion

California sea lions are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wollebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner 2003, Wolf *et al.,* 2007, Schramm *et al.,* 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals and the current maximum population growth rate is 12 percent (Carretta *et. al.,* 2012).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et. al.,* 2012). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between four and 10 months of age (NMML, 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

The U.S. stock of California sea lion is the only stock present in the proposed research area and in recent years, California sea lions have begun to breed annually in small numbers at Southeast Farallon and Año Nuevo Islands.

On the Farallon Islands, California sea lions haul out in many intertidal areas year round, fluctuating from several hundred to several thousand animals. California sea lions at Point Reyes National Seashore haul out at only a few locations, but will occur on human structures such as boat ramps. The annual population averages around 300 to 500 during the fall through spring months, although on occasion, several thousand sea lions can arrive depending upon local prey resources (S. Allen, unpublished data). On Año Nuevo Island, California sea lions may haulout at one of eight beach areas on the perimeter of the island (see Figure 2 in the Application). The island's average population ranges from 4,000 to 9,500 animals (M. Lowry, unpublished data).

Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California stock of Pacific harbor seals is approximately 26,667 animals (Carretta *et. al.,* 2012).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental United States, including: The outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et. al.,* 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2005). On the Farallon Islands, approximately 40 to 120 Pacific harbor seals haul out in the intertidal areas (Point Blue unpublished data). Harbor seals at Point Reyes National Seashore haul out at nine locations with an annual population of up to 4,000 animals (M. Lowry, unpublished data). On Año Nuevo Island, harbor seals may haulout at one of eight beach areas on the perimeter of the island (see Figure 2 in Point Blue's Application) and the island's average population ranges from 100 to 150 animals (M. Lowry, unpublished data).

Steller Sea Lion

Steller sea lions consist of two distinct population segments: the western and eastern distinct population segments divided at 144° West longitude (Cape Suckling, Alaska). On October 23, 2013 NMFS found that the eastern distinct population segment of Steller sea lions has recovered. As a result of the finding, NMFS removed them from the list of threatened species under the ESA. The eastern distinct population segment is depleted under the MMPA.

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et. al.,* 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands, respectively. The species is not known to migrate, but individuals disperse widely outside of the breeding season (late May through early July), thus potentially intermixing with animals from other areas.

The western segment of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (e.g., Japan and Russia). The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon.

In 2012, the estimated population of the eastern distinct population segment ranged from a minimum of 52,847 up to 72,223 animals and the maximum population growth rate is 12.1 percent (Allen and Angliss, 2012).

The eastern distinct population segment of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no rookeries located in Washington state. Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (NMFS, 1995; Trujillo *et al.,* 2004; Hoffman *et al.,* 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.,* 2007).

The current population of Steller sea lions in the proposed research area is

estimated to number between 50 and 750 animals. Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Allen and Angliss, 2012).

Point Blue estimates that between 50 and 150 Steller sea lions live on the Farallon Islands. On Southeast Farallon Island, the abundance of females declined an average of 3.6 percent per year from 1974 to 1997 (Sydeman and Allen, 1999).

The National Marine Fisheries Service's Southwest Fisheries Science Center estimates between 400 and 600 live on Año Nuevo Island (Point Blue unpublished data, 2008; Southwest Fisheries Science Center unpublished data, 2008). At Año Nuevo Island off central California, a steady decline in ground counts started around 1970, and there was an 85 percent reduction in the breeding population by 1987 (LeBoeuf *et al.,* 1991)

Pup counts at Año Nuevo Island declined five percent annually through the 1990s (NOAA Stock Assessment, 2003), and have apparently stabilized between 2001 and 2005 (M. Lowry, SWFSC unpublished data). In 2000, the combined pup estimate for both islands was 349. In 2005, the pup estimate was 204 on the Island. Pup counts on the Farallon Islands have generally varied from five to 15 (Hastings and Sydeman, 2002; Point Blue unpublished data). Pups have not been born at Point Reyes Headland since the 1970s and Steller sea lions are seen in very low numbers there currently (S. Allen, unpublished data).

Other Marine Mammals in the Proposed Action Area

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the Endangered Species Act and categorized as depleted under the Marine Mammal Protection Act, usually range in coastal waters within two km of shore. Point Blue has not encountered California sea otters on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore during the course of seabird or pinniped research activities over the past five years. This species is managed by the U.S. Fish and Wildlife Service and is not considered further in this notice.

Potential Effects on Marine Mammals

Acoustic and visual stimuli generated by: (1) Motorboat operations; and (2) the appearance of researchers may have the potential to cause Level B harassment of any pinnipeds hauled out on Southeast Farallon Island, Año Nuevo Island, or Point Reyes National Seashore. The effects of sounds from motorboat operations and the appearance of researchers might include hearing impairment or behavioral disturbance (Southall, *et al.,* 2007).

Hearing Impairment

Marine mammals produce sounds in various important contexts—social interactions, foraging, navigating, and responding to predators. The best available science suggests that pinnipeds have a functional aerial hearing sensitivity between 75 hertz (Hz) and 75 kilohertz (kHz) and can produce a diversity of sounds, though generally from 100 Hz to several tens of kHz (Southall, *et al.,* 2007).

Exposure to high intensity sound for a sufficient duration may result in auditory effects such as a noise-induced threshold shift—an increase in the auditory threshold after exposure to noise (Finneran, Carder, Schlundt, and Ridgway, 2005). Factors that influence the amount of threshold shift include the amplitude, duration, frequency content, temporal pattern, and energy distribution of noise exposure. The magnitude of hearing threshold shift normally decreases over time following cessation of the noise exposure. The amount of threshold shift just after exposure is called the initial threshold shift. If the threshold shift eventually returns to zero (i.e., the threshold returns to the pre-exposure value), it is called temporary threshold shift (Southall *et al.,* 2007).

Pinnipeds have the potential to be disturbed by airborne and underwater noise generated by the small boats equipped with outboard engines (Richardson, Greene, Malme, and Thomson, 1995). However, there is a dearth of information on acoustic effects of motorboats on pinniped hearing and communication and to our knowledge there has been no specific documentation of hearing impairment in free-ranging pinnipeds exposed to small motorboats during realistic field conditions.

Behavioral Disturbance

Disturbances resulting from human activity can impact short- and long-term pinniped haul out behavior (Renouf *et al.,* 1981; Schneider and Payne, 1983; Terhune and Almon, 1983; Allen *et al.,* 1984; Stewart, 1984; Suryan and Harvey, 1999; Mortenson *et al.,* 2000; and Kucey and Trites, 2006). Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Reactions to sound, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Wartzok *et al.,* 2004; Southall *et al.,* 2007; Weilgart, 2007). If a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (e.g., Lusseau and Bejder, 2007; Weilgart, 2007).

Numerous studies have shown that human activity can flush harbor seals off haulout sites (Allen *et al.,* 1984; Calambokidis *et al.,* 1991; Suryan and Harvey, 1999; and Mortenson *et al.,* 2000). The Hawaiian monk seal (*Monachus schauinslandi*) has been shown to avoid beaches that have been disturbed often by humans (Kenyon, 1972). And in one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon, 1962).

In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (i.e., kayaks, canoes, motorboats and sailboats) on harbor seal haulout behavior in Métis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances (n=73) were caused by lower speed, lingering kayaks and canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks-canoes which approach slowly, quietly and low on water making them look like predators. However, the authors note that once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels has only a temporary effect on the haulout behavior of harbor seals in the Métis Bay area.

In 2004, Johnson and Acevedo-Gutierrez (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haulout sites on Yellow Island, Washington state. The authors estimated the minimum distance between the vessels and the haul-out sites; categorized the vessel types; and evaluated seal responses to the disturbances. During the course of the seven-weekend study, the authors recorded 14 human-related disturbances which were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138

and 371 m) respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that on average, the seals quickly recovered from the disturbances and returned to the haulout site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance less than one quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007).

As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 decibels re: 20 μPa) non-pulse sounds often leave haulout areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.,* 2007). Based on the available data, previous monitoring reports from Point Blue, and studies described here, we anticipate that any pinnipeds found in the vicinity of the proposed project could have short-term behavioral reactions to the noise attributed to Point Blue's motorboat operations and human presence related to the seabird and pinniped research. We would expect the pinnipeds to return to a haulout site within 60 minutes of the disturbance (Allen *et al.,* 1985). The effects to pinnipeds appear at the most, to displace the animals temporarily from their haul out sites and we do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of the proposed research. The maximum disturbance to Steller sea lions would result in the animals slowly flushing into the water in response to presence of the researchers.

Finally, no research activities would occur on pinniped rookeries. Breeding animals are concentrated in areas where researchers would not visit. Therefore, we do not expect mother and pup separation or crushing of pups during flushing.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections).

Anticipated Effects on Habitat

We do not anticipate that the proposed operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (i.e., fish and invertebrates). While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

Point Blue has based the mitigation measures which they will implement during the proposed research, on the following: (1) Protocols used during previous Point Blue seabird and pinniped research activities as required by our previous authorizations and Incidental Take Statement for the Biological Opinion for these activities; (2) recommended best practices in Richardson *et al.* (1995); and (3) the Terms and Conditions of NMFS Scientific Research Permit 17152–00.

To reduce the potential for disturbance from acoustic and visual stimuli associated with the activities Point Blue and/or its designees has proposed to implement the following mitigation measures for marine mammals:

(1) Abide by the Terms and Conditions of NMFS Scientific Research Permit 17152–00.

(2) Postpone beach landings on Año Nuevo Island until pinnipeds that may be present on the beach have slowly entered the water.

(3) Select a pathway of approach to research sites that minimizes the number of marine mammals harassed.

(4) Avoid visits to sites used by pinnipeds for pupping.

(5) Monitor for offshore predators and do not approach hauled out pinnipeds if great white sharks (*Carcharodon carcharias*) or killer whales (*Orcinas orca*). If Point Blue and/or its designees see predators in the area, they must not disturb the animals until the area is free of predators.

(6) Keep voices hushed and bodies low to the ground in the visual presence of pinnipeds.

(7) Conduct seabird observations at North Landing on Southeast Farallon Island in an observation blind, shielded from the view of hauled out pinnipeds.

(8) Crawl slowly to access seabird nest boxes on Año Nuevo Island if pinnipeds are within view.

(9) Coordinate research visits to intertidal areas of Southeast Farallon Island (to reduce potential take) and coordinate research goals for Año Nuevo Island to minimize the number of trips to the island.

(10) Coordinate monitoring schedules on Año Nuevo Island, so that areas near any pinnipeds would be accessed only once per visit.

(11) Have the lead biologist serve as an observer to evaluate incidental take.

We have carefully evaluated the applicant's proposed mitigation measures and have considered a range of other measures in the context of ensuring that we have prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on our evaluation of Point Blue's proposed measures, we have preliminarily determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the Marine Mammal Protection Act states that we must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Act's implementing

regulations at 50 CFR 216.104(a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

As part of its 2013 application, Point Blue proposes to sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the incidental harassment authorization.

The Point Blue researchers will monitor the area for pinnipeds during all research activities. Monitoring activities will consist of conducting and recording observations on pinnipeds within the vicinity of the proposed research areas. The monitoring notes would provide dates, location, species, the researcher's activity, behavioral state, numbers of animals that were alert or moved greater than one meter, and numbers of pinnipeds that flushed into the water.

Point Blue has complied with the monitoring requirements under the previous authorizations for the 2007 through 2013 seasons. The results from previous Point Blue's monitoring reports support our findings that the proposed mitigation measures, which we also required under the 2007–2012 Authorizations provide the means of effecting the least practicable adverse impact on the species or stock.

Point Blue will submit a monitoring report on the December 6, 2012 through December 5, 2013 research period by January, 2014. Upon receipt and review, we will post this annual report on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Proposed Reporting

Point Blue will submit a final monitoring report to us no later than 90 days after the expiration of the Incidental Harassment Authorization, if we issue it. The final report will describe the operations conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The final report will provide:

(i) A summary and table of the dates, times, and weather during all seabird and pinniped research activities.

(ii) Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.

(iii) An estimate of the number (by species) of marine mammals that are known to have been exposed to acoustic or visual stimuli associated with the seabird and pinniped research activities.

(iv) A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization (if issued), such as an injury (Level A harassment), serious injury, or mortality (e.g., vessel-strike, stampede, etc.), Point Blue shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*Sarah.Wilkin@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Point Blue shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with Point Blue to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. Point Blue may not resume their activities until notified by us via letter, email, or telephone.

In the event that Point Blue discovers an injured or dead marine mammal, and the lead visual observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), Point Blue will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*Sarah.Wilkin@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We will work with Point Blue to determine whether modifications in the activities are appropriate.

In the event that Point Blue discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), Point Blue will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*Sarah.Wilkin@noaa.gov*), within 24 hours of the discovery. Point Blue staff will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

We propose to authorize take by Level B harassment only for the proposed pinniped and seabird research activities on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore. Acoustic (i.e., increased sound) and visual stimuli generated during these proposed activities may have the potential to cause marine mammals in the harbor area to experience temporary, short-term changes in behavior.

Based on Point Blue's previous research experiences, with the same activities conducted in the proposed research area, and on marine mammal research activities in these areas, we estimate that approximately 5,104 California sea lions, 526 harbor seals, 190 northern elephant seals, and 20 Steller sea lions could be potentially affected by Level B behavioral harassment over the course of the effective period of the proposed Authorization.

We base these estimates by multiplying three components: (1) The maximum number of animals that could be present; (2) the maximum number of disturbances; and (3) the estimated number of days that an animal could be present in the proposed area. We derived these estimates from the results of the 2007–2012 monitoring reports and anecdotal information from Point Blue scientists.

TABLE 1—ESTIMATES OF THE POSSIBLE NUMBERS OF MARINE MAMMALS EXPOSED TO ACOUSTIC AND VISUAL STIMULI DURING POINT BLUE'S PROPOSED SEABIRD AND PINNIPED RESEARCH DURING DECEMBER, 2013–DECEMBER, 2014

Activity	Maximum estimated number present	Maximum estimated number of disturbances	Estimated number of days with animal presence	Requested number of incidental takes
California sea lions: Requested take = 5,104				
	.....	.....	E. Landing—15	E. Landing—1,215.
	.....	.....	N. Landing—22	N. Landing—1,782.
SEFI Daily Observations	27	3	Other Areas—4	Other Areas—324.
SEFI Murre Research	26	1	Other Areas—17	Other Areas—442.
SEFI Field Station Resupply	31	1	E. Landing—13	E. Landing—403.
ANI Seabird Monitoring	68	1	Other Areas—12	Other Areas—816.
ANI Intermittent Activities	110	1	Other Areas—1	Other Areas—110.
PRNS Seabird Monitoring	3	1	Other Areas—4	Other Areas—12.
Harbor seals: Requested Take = 526				
	.....	.....	E. Landing—4	E. Landing—60.
	.....	.....	N. Landing—7	N. Landing—105.
SEFI Daily Observations	5	3	Other Areas—18	Other Areas—270.
SEFI Murre Research	2	1	N. Landing—9	N. Landing—18.
	.....	.....	E. Landing—2	E. Landing—24.
SEFI Field Station Resupply	12	1	N. Landing—2	N. Landing—24.
ANI Seabird Monitoring	2	1	Other Areas—5	Other Areas—10.
PRNS Seabird Monitoring	15	1	Other Areas—1	Other Areas—15.
Northern elephant seals: Requested Take = 190				
	.....	.....	E. Landing—4	E. Landing—24.
SEFI Daily Observations	2	3	N. Landing—7	N. Landing—42.
SEFI Murre Research	4	1	N. Landing—5	N. Landing—20.
SEFI Field Station Resupply	2	1	E. Landing—1	E. Landing—2.
ANI Seabird Monitoring	10	1	Other Areas—10	Other Areas—100.
PRNS Seabird Monitoring	2	1	Other Areas—1	Other Areas—2.
Steller sea lions: Requested Take = 20				
SEFI Daily Observations	2	3	Other Areas—1	Other Areas—6.
SEFI Murre Research	9	1	Other Areas—1	Other Areas—9.
SEFI Field Station Resupply	1	1	E. Landing—1	E. Landing—1.
ANI Seabird Monitoring	1	1	Other Areas—2	Other Areas—2.
ANI Intermittent Activities	1	1	Other Areas—1	Other Areas—1.
PRNS Seabird Monitoring	1	1	Other Areas—1	Other Areas—1.

Other Areas: Elephant Seal Colony (SEFI), Sea Lion Cove (SEFI), Landing Cove (ANI), and Drakes Beach (PRNS).

Estimates of the numbers of marine mammals that might be affected are based on consideration of the maximum number of marine mammals that could be disturbed by approximately 1,908 visits to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the course of the proposed activity.

There is no evidence that Point Blue's planned activities could result in injury, serious injury or mortality within the action area. The required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality. Thus, we do not propose to authorize any injury, serious injury or mortality. We expect all potential takes to fall under the category of Level B harassment only.

Encouraging and Coordinating Research

Point Blue will continue to coordinate monitoring of pinnipeds during the research activities occurring on Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore. Point Blue conducts bone fide research on marine mammals, the results of which may contribute to the basic knowledge of marine mammal biology or ecology, or are likely to identify, evaluate, or resolve conservation problems.

Negligible Impact and Small Numbers Analyses and Determinations

We typically include our negligible impact and small numbers analyses and determinations under the same section heading of our Federal Register notices.

Despite co-locating these terms, we acknowledge that negligible impact and small numbers are distinct standards under the MMPA and treat them as such. The analyses presented below do not conflate the two standards; instead, each standard has been considered independently and we have applied the relevant factors to inform our negligible impact and small numbers determinations.

We have defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, we consider:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment; and

(3) The context in which the takes occur (e.g., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

As mentioned previously, we estimate that four species of marine mammals could be potentially affected by Level B harassment over the course of the proposed Authorization. For each species, these numbers are small numbers (each, less than or equal to two percent) relative to the population size. These incidental harassment numbers represent approximately 1.82 percent of the U.S. stock of California sea lion, 1.74 percent of the California stock of Pacific harbor seal, 0.15 percent of the California breeding stock of northern elephant seal, and 0.04 percent of the eastern distinct population segment of Steller sea lion.

For reasons stated previously in this document and based on the following factors, Point Blue's specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haulout area, injury, serious injury, or mortality because:

(1) The effects of the pinniped and seabird research activities would be limited to short-term startle responses and localized behavioral changes due to the short and sporadic duration of the research activities. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

(2) The availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the research operations. Results from previous monitoring reports also show that the pinnipeds returned to the various sites and did not permanently abandon haul-out sites after Point Blue conducted their pinniped and research activities.

(3) There is no potential for large-scale movements leading to injury, serious injury, or mortality because the researchers must delay ingress into the landing areas until after the pinnipeds present have slowly entered the water.

(4) The limited access of Point Blue's researchers to Southeast Farallon Island, Año Nuevo Island, and Point Reyes National Seashore during the pupping season.

We do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of Point Blue's proposed activities, and we do not propose to authorize injury, serious injury or mortality. These species may exhibit behavioral modifications, including temporarily vacating the area during the proposed seabird and pinniped research activities to avoid the resultant acoustic and visual disturbances. Further, these proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we have preliminarily determined that the total taking from the proposed activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the MMPA also requires us to determine that the taking will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(D) of the MMPA.

Endangered Species Act

On October 23, 2013 NMFS announced the removal of the eastern distinct population segment of Steller sea lions from the list of threatened species under the ESA. With the delisting, federal agencies proposing actions that may affect the eastern Steller sea lions are no longer required to consult with NMFS under section 7 of the ESA. This delisting will be effective by the time that we make our final determinations on the proposed issuance of an Authorization to Point Blue.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an Authorization to Point Blue, we intend to prepare an Environmental Assessment (EA) titled ''Environmental Assessment for the Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Seabird and Pinniped Research in Central California.'' Prior to making a final decision on the issuance of an Authorization, we would decide whether or not to issue a Finding of No Significant Impact (FONSI).

Proposed Authorization

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to Point Blue's proposed seabird and pinniped research activities in the northeast Pacific Ocean, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements. The duration of the Incidental harassment Authorization would not exceed one year from the effective date.

Information Solicited

We request interested persons to submit comments and information concerning this proposed take authorization (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, we will forward copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: November 1, 2013.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–26596 Filed 11–5–13; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

[OE Docket No. PP–362]

Notice of Availability for the Draft Environmental Impact Statement and Announcement of Public Hearings for the Proposed Champlain Hudson Power Express Transmission Line Project; Correction

AGENCY: U.S. Department of Energy.

ACTION: Notice of availability and public hearings; correction.

SUMMARY: The Department of Energy (DOE) published a document in the **Federal Register** of November 1, 2013, announcing the availability for the Draft Environmental Impact Statement and public hearings for the proposed Champlain Hudson Power Express transmission line project. This document corrects an error in that notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Brian Mills at *Brian.Mills@hq.doe.gov.*

Correction

In the **Federal Register** of November 1, 2013 in FR Doc. 2013–26080, 78 FR 65622, please make the following correction:

On page 65622, third column, under the heading **DATES**, the second sentence is corrected to read: ''The public comment period started on November 1, 2013, with the publication in the **Federal Register** by the U.S. Environmental Protection Agency of its Notice of Availability of the Draft EIS, and will continue until December 16, 2013.''

Issued in Washington, DC, on November 1, 2013.

Brian Mills,

NEPA Compliance Officer, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2013–26573 Filed 11–5–13; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Loveland Area Projects, Colorado River Storage Project, Pacific Northwest-Pacific Southwest Intertie Project, Central Arizona Project, and Parker-Davis Project—Rate Order No. WAPA–163

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed Formula Rates for Western Area Power Administration (Western) Transmission Projects to Enter into WestConnect's Point-to-Point Regional Transmission Service Participation Agreement (PA).

SUMMARY: Western is proposing new formula rates to participate in WestConnect's PA. The proposed formula rates under Rate Schedule WC–8 would become effective June 1, 2014, and remain in effect through May 30, 2019. Western, along with other WestConnect participants (Participants), has participated in the WestConnect Pricing Experiment (Experiment) since its inception in June 2009. On June 28, 2013, the Federal Energy Regulatory Commission (FERC) issued an order (143 FERC ¶ 61,291) conditionally accepting the PA and regional tariffs. FERC ordered that the Participants in the filing submit separate compliance filings. Western has determined that no changes are necessary to Western's Open Access Transmission Tariff (Tariff) because Western will continue to offer this transmission service under the existing Tariff Schedule 8. For Western to implement the permanent arrangement, however, Western needs to adopt new formula rates. Publication of this **Federal Register** notice begins the formal process for the proposed formula rates.

DATES: The consultation and comment period will begin today and will end December 6, 2013. Western will accept written comments any time during the consultation and comment period. The proposed action constitutes a minor rate adjustment as defined by 10 CFR part 903. As such, Western has determined it is not necessary to hold a public information or public comment forum.

ADDRESSES: Send written comments to: Ms. Lynn C. Jeka, Colorado River Storage Project Manager, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, fax (801) 524–5017, or email *WestConnect@wapa.gov.* Western will post information about the rate process on its Web site at *http://www.wapa.gov/dsw/pwrmkt/WestConnect/Default.htm.* Western will post official comments received to its Web site after the close of the comment period. Western must receive comments by the end of the consultation and comment period to ensure they are considered in Western's decision process.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hackett, Rates Team Lead, Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, UT 84111–1580, telephone (801) 524–5503, or email *hackett@wapa.gov.*

SUPPLEMENTARY INFORMATION: WestConnect consists of a group of electric utilities currently providing transmission service in the Western Interconnection. Its members are a mixture of investor- and consumer-owned utilities and Western. The WestConnect membership encompasses an interconnected grid stretching from western Nebraska to southern California and from Wyoming to the United States-Mexico border. Western began participating in the Experiment in June 2009, which offered potential customers the option of scheduling a single transaction for hourly, non-firm, point-to-point transmission service over multiple transmission providers' systems at a single rate. The original term of the Experiment was 2 years and expired on June 30, 2011. In 2011, WestConnect filed with FERC to extend the term of the Experiment for 2 additional years, until June 30, 2013.

To participate in the Experiment during its total 4-year term, Western had to convert its ''all-hours,'' non-firm, point-to-point transmission rates into on-peak and off-peak rates, similar to other Participants. Western's FERC-approved Tariff transmission rate designs for all regions yield an ''all-hours'' transmission rate. Western's transmission rates do not make a rate distinction between on-peak and off-peak, but rather spread the annual revenue requirements over all hours of the year. Western established these on-peak and off-peak rates using the authority granted to Western's Administrator in Delegation Order No. 00–037.00A to set rates for short-term sales.

On April 16, 2013, WestConnect submitted to FERC an Amended and Restated PA that, in essence, offers the coordinated hourly, non-firm, point-to-point transmission service at a single rate on a permanent basis, effective July 1, 2013. On June 28, 2013, FERC issued an order conditionally accepting the PA and regional tariffs. In its order, FERC stated it was approving the proposal

based on voluntary participation, and any customer that does not want to take service under the WestConnect Tariff provision may continue to take service under the Participant's standard tariff provisions.

In order for Western to participate in the PA on a permanent basis, Western needs to establish permanent, hourly, non-firm, point-to-point transmission rates for on-peak and off-peak hours and the appropriate rate schedule for the WestConnect transmission product. Western is proposing a single rate schedule, effective June 1, 2014, through May 30, 2019, for all applicable Western Transmission Projects (TP): Colorado River Storage Project (CRSP), Loveland Area Projects (LAP), Pacific Northwest-Pacific Southwest Intertie Project (INT), Central Arizona Project (CAP), and Parker-Davis Project (P–DP). Rate Schedule WC–8 will describe the formula and reference the individual TP's converted rates posted on the appropriate Web sites and Open Access Same Time Information System (OASIS).

Proposed Formula Rate Calculation:

Maximum on-peak, hourly, non-firm, point-to-point transmission rate:

$$\frac{\text{TP's non-firm, point-to-point, "all hours" transmission rate}}{\text{47.49 percent (the percentage of FERC-defined on-peak hours).}}$$

Maximum off-peak, hourly, non-firm, point-to-point transmission rate:

$$\frac{\text{TP's non-firm, point-to-point, "all hours" transmission rate}}{\text{52.51 percent (the percentage of FERC-defined off-peak hours).}}$$

Legal Authority

The proposed action constitutes a minor rate adjustment. Western has determined it is not necessary to hold a public information or a public comment forum for this proposed minor rate adjustment as defined by 10 CFR part 903. After a review of public comments, Western will take further action on the proposed rates consistent with 10 CFR part 903.

Western is proposing converted rates for non-firm transmission service rates for CRSP, LAP, INT, CAP, and P–DP under the Department of Energy Organization Act (42 U.S.C. 7152); the Reclamation Act of 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s); and other acts that specifically apply to the projects involved.

By Delegation Order No. 00–037.00A, effective October 25, 20013, the Secretary of Energy delegated: (1) The authority to develop power and transmission rates to Western's Administrator; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary of Energy; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing Department of Energy (DOE) procedures for public participation in power rate adjustments (10 CFR part 903) were published on September 18, 1985.

Availability of Information

All documents related to this action are available for inspection and copying at the following Western locations: Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona; Rocky Mountain Regional Office, 5555 East Crossroads Boulevard, Loveland, Colorado; and Colorado River Storage Project Management Center, 150 East Social Hall Avenue, Suite 300, Salt Lake City, Utah. These documents are also available on Western's Web site at *http://www.wapa.gov/dsw/pwrmkt/WestConnect/Default.htm.*

Ratemaking Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*), the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508), and DOE NEPA Implementing Procedures and Guidelines (10 CFR part 1021), Western has determined this action is categorically excluded from preparing an environmental assessment or an environmental impact statement.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: October 29, 2013.

Mark A. Gabriel,

Administrator.

[FR Doc. 2013–26572 Filed 11–5–13; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9402–1]

Access to Confidential Business Information by Arcadis U.S., Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Arcadis U.S., Inc. of Highlands Ranch, CO, to access information which has been submitted to EPA under section 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about October 21, 2013.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address: *Sherlock.Scott@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422

South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the agency taking?

Under EPA contract number EP–C–09–027, contractor Arcadis of 630 Plaza Drive, Highlands Ranch, CO are assisting EPA by reviewing and assessing the completeness of information submitted to the Office of Pollution Prevention and Toxics, in response to EPA's letter dated September 9, 2012, requesting information relating to curing.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number EP–C–09–027, Arcadis required access to CBI submitted to EPA under section 8 of TSCA to perform successfully the duties specified under the contract. Arcadis personnel were given access to information submitted to EPA under section 8 of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under section 8 of TSCA that EPA has provided Arcadis access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place at EPA Headquarters and Arcadis' site located in Research Triangle Park, NC, in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until March 31, 2014. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

Arcadis personnel have signed nondisclosure agreements and were briefed on appropriate security procedures before they were permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: October 30, 2013.

Matthew G. Leopard,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–26640 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2003–0004; FRL–9402–3]

Access to Confidential Business Information by Science Applications International Corporation and Its Identified Subcontractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Science Applications International Corporation (SAIC) of McLean, VA, and its subcontractors to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may have been claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about August 1, 2013.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; fax number: (202) 564–8251; email address*: sherlock.scott@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this notice apply to me?

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How can I get copies of this document and other related information?

EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPPT–2003–0004. All documents in the docket are listed in the docket index available at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov,* or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is

(202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Docket visitors are required to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

II. What action is the agency taking?

Under EPA Contract Number GS–35F–4461G, Order Number EP–G13H–00665, contractor SAIC of 1701 SAIC Drive, McLean, VA; Essential Software Inc of 9024 Mistwood Drive, Potomac, MD; and Impact Innovations Systems Inc., of 9720 Capital Court, Manassas, VA., are assisting EPA by developing, enhancing, maintaining, and operating a variety of database applications. They will also assist with interfaces and linkages to other applications.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA Contract Number GS–35F–4461G, Order Number EP–G13H–00665, SAIC and its subcontractors required access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. SAIC and its subcontractors' personnel were given access to information submitted to EPA under all sections of TSCA. Some of the information may have been claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA has provided SAIC and its subcontractors access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract is taking place at EPA Headquarters, in accordance with EPA's *TSCA CBI Protection Manual.*

Access to TSCA data, including CBI, will continue until March 26, 2015. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

SAIC and its subcontractors' personnel have signed nondisclosure agreements and were briefed on appropriate security procedures before they were permitted access to TSCA CBI.

List of Subjects

Environmental protection, Confidential business information.

Dated: October 21, 2013.

Matthew G. Leopard,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–26641 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0406; FRL–9400–2]

Pesticides; Repellency Awareness Graphic; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is seeking comment on a repellency awareness graphic for producers of skin-applied insect repellent products to voluntarily place on repellent product labels. This is part of a voluntary, ongoing effort to enhance public health information on, and to improve the clarity of, pesticide product labeling for consumers. Under this effort, producers of skin-applied insect repellent products can seek to use a standardized repellency awareness graphic that will clearly communicate to consumers the estimated number of hours mosquitoes and/or ticks are repelled by a product when used as directed. With this notice, EPA is also seeking comment on a guidance document that describes the recommended criteria and processes for companies to voluntarily request the use of this graphic.

DATES: Comments must be received on or before March 6, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2013–0406, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Rose Kyprianou, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–5354; fax number: (703) 305–5884; email address: *kyprianou.rose@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What is the agency's authority for taking this action?

Sections 2 through 34 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136–136y).

B. Does this action apply to me?

You may be potentially affected by this action if you manufacture, distribute, sell, or use skin-applied insect repellent products. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Manufacturers of these products, which includes pesticide and other agricultural chemical manufacturers (NAICS code 325320), as well as other manufacturers in similar industries such as cosmetics (NAICS code 325620).
- Manufacturers who may also be distributors of these products, which includes drug and druggists' merchant wholesalers (NAICS code 424210).
- Retailers of skin-applied insect repellent products (some of which may also be manufacturers), which includes nursery, garden center, and farm supply stores (NAICS code 444220), supermarkets (NAICS code 445110), and sporting goods stores (NAICS code 451110).
- Users of skin-applied insect repellent products, including the general public, as well as landscaping services (NAICS code 561730), sports and recreation institutions (NAICS code 611620), child daycare services (NAICS code 624410), and recreational and vacation camps (NAICS code 721214).

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

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or

CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

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

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

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

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

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

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

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

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

II. Overview

EPA is preparing to launch a new voluntary effort to enhance public health information and to improve the clarity of pesticide product labeling for consumers. Producers of skin-applied insect repellent products can seek to use a standardized repellency awareness graphic that will clearly communicate to consumers the estimated number of hours mosquitoes and/or ticks are repelled by the product when used as directed. Participation will be voluntary and has been developed for producers of skin-applied insect repellent products subject to FIFRA registration requirements.

With this announcement, EPA is seeking public comment on the graphic as well as a guidance document that is intended to assist producers in understanding the process for requesting and obtaining approval for the use of the graphic (Ref. 1). Taking into consideration comments provided by the various stakeholders described in the following paragraphs, the guidance identifies the credible information and scientific underpinning that the Agency generally believes is necessary to support the information provided in the repellency awareness graphic. Additionally, the guidance describes for companies and EPA scientists a method for calculating the number of hours for the repellency claim(s) that would be included as part of the repellency awareness graphic. The guidance also describes the process for requesting use of the graphic through applications for new or amended registrations.

EPA believes the approach to determine repellency claim(s) described in the guidance strikes a reasonable balance between rigorous testing design and cost containment. For example, some stakeholder comments suggested a more standardized testing methodology. While this may enhance consistency across tests, it would drive up costs. Since the objective of efficacy testing is to assess and characterize the general performance of each repellent rather than permit rigorous comparisons across products, EPA believes that the approach outlined in the guidance will give reasonably consistent predictions to consumers while ensuring that this program is affordable for companies to implement and flexible enough to allow for future advances in scientific testing methodology.

EPA is making available information on a Web page for consumers (*http://www.epa.gov/pesticides/insect/repellency-awareness.html*) that describes the graphic and how to interpret as well as providing examples of the graphic. In the future, EPA will be launching a new, detailed Web page on insect repellents. The new page will include a list of the products approved by EPA to use the graphic on the product label. Additionally, the new page will provide general information to the public about preventative measures consumers can take to protect themselves and their families from mosquito and tick bites and the potential diseases they may transmit. When launched, the final URL for the program will be *http://www2.epa.gov/insect-repellents.*

III. Background

The repellency awareness graphic was created in response to feedback obtained through focus groups and a national online survey conducted by EPA in 2010 and 2011, respectively (Ref. 2). During the focus groups and survey, consumers indicated that they wanted information about which types of insects are repelled and the number of hours those insects are repelled. Most consumers were aware that mosquitoes and ticks can carry potentially dangerous diseases, and they wanted to know how long they may be protected from those pests. Consumers also responded that they would like this information to be clear, concise, and in large print on product labels.

EPA intends for the repellency awareness graphic to address these consumer needs. The repellency awareness graphic is intended to be displayed prominently on participating products for quick and easy identification by the consumer. Prototypes of this graphic were presented to the consumers participating in the focus groups and national survey, with consumers indicating that they understood the meaning of the information in the graphic, and that they would be likely to look for this graphic when shopping for skin-applied insect repellents (Ref. 2).

To ensure that a variety of issues and opinions were considered during the development of this effort, EPA requested feedback from several key stakeholder groups. Starting in May 2012, EPA presented the concept, draft guidance document, and draft graphic to OPP's federal advisory committee, the Pesticide Program Dialogue Committee (PPDC), which represents various industry groups, non-governmental organizations, public health professionals, state, local, and tribal governments, and federal agencies (Refs. 3–5). Also beginning in May 2012, EPA asked state regulatory officials participating in the State-FIFRA Issues Research Evaluation Group's Pesticide Operations and Management (SFIREG POM) working committee for their reactions to the idea (Refs. 6–8). Additionally, in March 2013, EPA presented and received independent scientific advice from the Scientific Advisory Panel (SAP) on certain aspects of the effort (Ref. 9). EPA's responses to the SAP's comments relating to the repellency awareness graphic are available in the docket for this notice (Ref. 10).

Throughout the development of this effort, EPA has also collaborated with experts at other federal agencies such as the Centers for Disease Control and Prevention (CDC) and the U.S. Department of Agriculture (USDA), among others. The USDA and CDC have supported EPA's efforts to provide clear and readily visible information about repellent products to consumers. The CDC has indicated that the graphic appears to complement their efforts to promote effective personal protection activities for the prevention of vector-

borne diseases such as West Nile virus and Lyme disease (Ref. 11).

IV. Request for Comment

EPA is providing this opportunity for the public to provide comments and input on the new repellency awareness graphic before it is implemented. Specifically, the Agency requests comment on the following:

- Would addition of the repellency awareness graphic help you choose an insect repellent; would it improve the clarity of label information?
- Is the repellency awareness graphic's design, as shown on the program's Web page, easy to understand?
- What information would be helpful to have on our Web site about repellency awareness? Is the current information useful and clear to you?

EPA is also seeking comment on a guidance document that describes the recommended criteria and processes for companies to voluntarily request the use of this graphic. While EPA does not intend to formally respond to all comments that are submitted, they will be taken into consideration as EPA finalizes the repellency awareness graphic and guidance. If substantive comments are received, EPA may, if necessary and appropriate, revise aspects of the graphic or the guidance. In addition, EPA may decide in response to any comments, to provide additional helpful information through the Web site.

V. References

As indicated under **ADDRESSES**, a docket has been established for this notice under docket ID number EPA–HQ–OPP–2013–0406. The following is a listing of the documents that are specifically referenced in this action.

1. U.S. Environmental Protection Agency (EPA). Office of Pesticide Programs (OPP). Repellency Awareness Guidance. For Skin-Applied Insect Repellent Producers. August 2013. Document ID No.: 730–C–13–001. Docket ID No.: EPA–HQ–OPP–2013–0406.
2. EPA. OPP. Insect Repellent Product Labeling Consumer Survey Report. April 2012. Docket ID No.: EPA–HQ–OPP–2013–0406.
3. EPA. OPP. Pesticide Program Dialogue Committee, May 3–4, 2012 Meeting. *http://www.epa.gov/pesticides/ppdc/2012/may/meeting.html.*
4. EPA. OPP. Pesticide Program Dialogue Committee, November 29–30, 2012 Meeting. *http://www.epa.gov/pesticides/ppdc/2012/november/nov-mtg.html.*
5. EPA. OPP. Pesticide Program Dialogue Committee, July 10–11, 2013 Meeting. *http://www.epa.gov/pesticides/ppdc/2013/july/july2013-mtg.html.*
6. State-FIFRA Issues, Research, and Evaluation Group (SFIREG) Pesticides Operations and Management (POM) Working Committee. Final SFIREG POM Meeting Minutes for May 30–31, 2012. *http://www.aapco.org/meetings/minutes/2012/may30/pom_mins_05_2012.pdf.*
7. SFIREG POM Working Committee. Final SFIREG POM Meeting Minutes for September 17–18, 2012. *http://www.aapco.org/meetings/minutes/2012/sep17/pom_mins_09_2012.pdf.*
8. SFIREG POM Working Committee. Final SFIREG POM Meeting Minutes for April 22–23, 2013. *http://www.aapco.org/meetings/minutes/2013/apr22/final_pom_mins_04_2013.pdf.*
9. EPA. Scientific Advisory Panel (SAP). March 19–21, 2013: Scientific Issues Concerning the Draft Product Performance Data Needs Assessment for Products Claiming Efficacy Against Invertebrate Pests. Background documents available at Docket ID No.: EPA–HQ–OPP–2012–0574. Additional information available at *http://www.epa.gov/scipoly/sap/meetings/2013/031913meeting.html.*
10. EPA. OPP. EPA Response to Scientific Advisory Panel Comments Related to the Proposed Repellency Awareness Graphic. September 2013. Docket ID No. EPA–HQ–OPP–2013–0406.
11. Kyprianou, Rose. Memorandum on Federal Interagency Consultations During Development of the Repellency Awareness Graphic. September 2013. Docket ID No.: EPA–HQ–OPP–2013–0406.

List of Subjects

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: October 28, 2013.

James Jones,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2013–26244 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9400–9]

Toxic Substances Control Act Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on 21 chemicals. These data were submitted pursuant to 3 test rules issued by EPA under section 4 of the Toxic Substance Control Act (TSCA). The purpose of this notice is to alert the public about test data received between June 29, 2011, and July 31, 2013.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kathy Calvo, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8089; fax number: (202) 564–4765; email address: *calvo.kathy@epa.gov.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are concerned about data on health and/or environmental effects and other characteristics of the chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

All documents in the dockets are available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. Test Data Submissions

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of test data submitted pursuant to test rules promulgated under TSCA section 4(a) (15 U.S.C. 2603(a)). Each notice must:

1. Identify the chemical substance or mixture for which data have been received.

2. List the uses or intended uses of such chemical substance or mixture and the information required by the applicable standards for the development of test data.

3. Describe the nature of the test data developed.

EPA has received test data for the following three test rules:

• EPA received data on 4 chemicals listed in the TSCA section 4 test rule entitled ''Testing for Certain High Production Volume Chemicals,'' published in the **Federal Register** issue of March 16, 2006 (71 FR 13708) (FRL–7335–2) (docket identification (ID) number EPA–HQ–OPPT–2005–0033).

• EPA received data on 12 chemicals listed in the TSCA section 4 test rule entitled ''Testing for Certain High Production Volume Chemicals; Second Group of Chemicals'' published in the **Federal Register** issue of January 7, 2011 (76 FR 1067) (FRL–8846–9) (docket ID number EPA–HQ–OPPT–2007–0531).

• EPA received data on 5 chemicals listed in the TSCA section 4 test rule entitled ''Testing for Certain High Production Volume Chemicals; Third Group of Chemicals,'' published in the **Federal Register** issue of October 21, 2011 (76 FR 65385) (FRL–8885–5) (docket ID number EPA–HQ–OPPT–2009–0112).

The tables in this unit contain the described information required by TSCA section 4(d). See the applicable CFR citations, listed in the title of each table, for test data requirements. Data received can be found by referencing the docket ID numbers and document numbers listed in the tables. See Unit I.B. of this document for additional information about dockets. EPA reviews of test data are added to the appropriate docket upon completion.

TABLE 1—DATA RECEIVED IN RESPONSE TO TSCA SECTION 4 TEST RULE AT 40 CFR 799.5085, TESTING OF CERTAIN HIGH PRODUCTION VOLUME CHEMICALS, DOCKET IDENTIFICATION NUMBER EPA–HQ–OPPT–2005–0033

Chemical identity	Use(s)	Data received	Document No.
1,3-Propanediol, 2,2-bis [(nitrooxy)methyl]-, dinitrate (ester) (CAS No.78–11–5).	Manufacturing demolition explosive and blasting caps.	Determination of the Biodegradability of Pentaerythritol Tetranitrate (PETN) Using Semi-Continuous Activated Sludge, Study 2.	0411
		Additional Information about Biodegradation, Study 2.	0465
		Additional Information about Reproduction/Developmental Oral Toxicity Screen.	0458
9,10-Anthracenedione (CAS No. 84–65–1).	Intermediate for dyes and organics; organic inhibitor; and bird repellent for seeds.	An Oral Reproduction/Developmental Toxicity Screening Study of Anthraquinone in Rats, Revised Final Report.	0413
Imidodicarbonic diamide (CAS No. 57–13–6).	Analytical reagent, especially for proteins	Melting Point; Boiling Point; *n*-Octanol/Water Partition Coefficient; Water Solubility.	0359
		Biodegradation; Acute Toxicity to Fish; Acute Toxicity to Daphnia; Toxicity to Algae; Acute Toxicity to Mammals; Bacterial Reverse Mutation Assay; Chromosomal Aberrations; Combined Repeated Dose Toxicity with Reproductive/Developmental Screen.	0360
Benzenesulfonic acid, [[4-[[4-(phenylamino) phenyl] [4-(phenylimino)-2,5-cyclohexadien-1-ylidene] methyl] phenyl] amino]-(CAS No. 1324–76–1).	Intermediate for antifouling paint agents; catalyst in organic reactions; used by offset ink makers to produce inks for heat set, cold set, and sheet-fed applications.	Water Solubility	0440
		n-Octanol/Water Partition Coefficient	0441
		Biodegradation	0437, 0438
		96-Hour Acute Toxicity Study in Zebra Fish (Brachydanio rerio).	0436
		Acute Toxicity Study in Daphnia Magna with C.I. Pigment Blue 61 (Static).	0443
		Fresh Water Algal Growth Inhibition Test with C.I. Pigment Blue 61.	0442, 0452
		Acute Toxicity to Mammals (in Rats)	0426
		Salmonella Typhimurium/Escherichia Coli Reverse Mutation Assay (Standard Plate Test and Preincubation Test) with Alkali Blue Dry 6100/Lot 2219308, Lot 2236308, and Lot 2231308.	0416, 0417, 0418
		Chromosomal Aberrations (Reflexblau 3 G TTR Micronucleus Test in Male and Female NJRI Mice after Oral Administration).	0421, 0322
		A Combined 28-Day Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test of C.I. Pigment Blue 61 in Rats by Oral Gavage.	0445

Note: CAS = Chemical Abstracts Service Registry Number.

TABLE 2—DATA RECEIVED IN RESPONSE TO TSCA SECTION 4 TEST RULE AT 40 CFR 799.5087, TESTING OF CERTAIN HIGH PRODUCTION VOLUME CHEMICALS; SECOND GROUP OF CHEMICALS, DOCKET IDENTIFICATION NUMBER EPA–HQ–OPPT–2007–0531

Chemical identity	Use(s)	Data received	Document No.
Acetaldehyde (CAS No. 75–07–0).	Intermediate used in manufacture of many products, including pyridines, acetate esters, pentaerythritol, peracetic acid, 1,3-butylene glycol (1,3-Butanediol), and acetic acid.	A Dosage Range-Finding 10-Day Oral (Drinking Water) Toxicity Study in Rats; Analytical Method Validation, Compatibility, and Stability Study in Deionized Water; Combined 28-Day Repeated Dose Oral (Drinking Water) Toxicity Study with the Reproduction/D Developmental Toxicity Screening Test in Rats.	0714
		Acute Toxicity to Daphnia; Toxicity to Aquatic Plants (Algae).	0673
1,3-Propanediol, 2,2-bis[(nitrooxy) methyl]-, dinitrate (ester) (CAS No. 78–11–5).	Manufacturing demolition explosive and blasting caps.	Acute Toxicity to the Cladoceran (Daphnia magna) Under Static-Renewal Test Conditions; Acute Toxicity to the Fathead Minnow (Pimephales promelas) Under Static-Renewal Test Conditions.	0713
		Determination of Biodegradability Using Semi-Continuous Activated Sludge.	0644
1H,3H-Benzo[1,2-c:4,5-c′]difuran-1,3,5,7-tetrone (CAS No. 89–32–7).	Epoxy curing and cross-linking agent; plasticizers and synthetics intermediate.	Physical/Chemical Properties	0590
		Vapor Pressure; Water Partition Coefficient; Water Solubility.	0691
Phenol, 4,4′-methylenebis[2,6-bis(1,1-dimethylethyl)- (CAS No. 118–82–1).	In metalworking fluids as an antioxidant; as a primary antioxidant/stabilizer in plastics.	Chronic Toxicity to Daphnia; Toxicity to Plants (Algae).	0678
Methanone, diphenyl- (CAS No. 119–61–9).	In hair mousse as a fixative for heavy perfumes; in making antihistamines, hypnotics, insecticides and ultraviolet absorbers; flavoring; polymerization inhibitor for styrene; in industry product finishes.	Biodegradation; Aquatic toxicity to Daphnia; Aquatic Toxicity to Plants (Algae); Daphnids Acute Immobilization and Reproduction; Algal Growth Inhibition.	0654
		Ready Biodegradation; Acute Toxicity to Daphnia; Acute Toxicity to Plants (Algae); Chronic Toxicity to Daphnia; Chronic Toxicity to Plants (Algae).	0602
Ethanedioic acid (CAS No. 144–62–7).	Rust remover; antirust metal cleaners and coatings; flame-proofing and cross-linking agent in cellulose fabrics; reducing agent in mordent wool dying; acid dye stabilizing agent in nylon; scouring agent for cotton printing; dye stripper for wool; degumming silk; separation and recovery of rare earth elements from ore; bleaching leather and masonry; cleaning aluminum and wood decks; synthetic intermediate for pharmaceuticals.	Determination of the Melting Point, Boiling Point, Vapor Pressure, and Water Solubility; Ready Biodegradability in a Closed Bottle; Acute Toxicity on Zebrafish (Brachydanio rerio); Acute Immobilization to Daphnia (Daphnia magna); Growth Inhibition on Algae (Pseudokirchneriella subcapitata); *In Vitro* Mammalian Chromosome Aberration; Validation of Analytical Method.	0712
Methanesulfinic acid, hydroxy-, monosodium salt (CAS No. 149–44–0).	Stripping and discharge agent for textiles; bleaching agent 2–15 for molasses; vat color printing pastes; polymerization of ethylenic compounds; manufacturing of arsphenamines.	Determination of Mutagenic Potential (Bacterial Reverse Mutation).	0592
1,3,5-Triazine-1,3,5(2H,4H,6H)-triethanol (CAS No. 4719–04–4).	Manufacture of bactericides and biocides	Toxicity to the Alga Pseudokirchneriella Subcapitata Over a 72-Hour Exposure Period.	0683
		Algal Inhibition Test	0679
D-gluco-heptonic acid, monosodium salt, (2.xi.)- (CAS No. 31138–65–5).	Chelating agent in cosmetics, dairy cleaners, bottle cleaners, food contact paper and paperboard manufacturing, metal cleaning, kier boiling, caustic boil-off, paint stripping, boiler water additive for food processing, and as ingredient in aluminum etchant sequestrant; latex stabilizer; intravenous pharmaceuticals.	Reverse Mutation Assay (Ames Test) Using Salmonella Typhimurium and Escherichia Coli, Amendment to Final Report.	0718
		Algal Inhibition	0716
		Acute Toxicity to Rainbow Trout	0715
		Acute Oral Toxicity in the Rat—Up-and-Down Procedure.	0710
		Micronucleus Test in the Mouse	0709
		Reverse Mutation Assay (Ames Test) Using Salmonella Typhimurium and Escherichia Coli.	0688
		Assessment of Ready Biodegradability; Manometric Respirometry.	0687
		Daphnia 48-hour Acute Immobilization	0719
		n-Octanol/Water Partition Coefficient; Water Solubility.	0639
		Determination of General Physico-Chemical Properties.	0723

TABLE 2—DATA RECEIVED IN RESPONSE TO TSCA SECTION 4 TEST RULE AT 40 CFR 799.5087, TESTING OF CERTAIN HIGH PRODUCTION VOLUME CHEMICALS; SECOND GROUP OF CHEMICALS, DOCKET IDENTIFICATION NUMBER EPA–HQ–OPPT–2007–0531—Continued

Chemical identity	Use(s)	Data received	Document No.
C.I. Leuco Sulphur Black 1 (CAS No. 66241–11–0).	Fingerprint dye	Freezing Point; Vapor Pressure; *n*-Octanol/Water Partition Coefficient; Water Solubility; Ready Biodegradation; Acute Toxicity to Fish; Acute Toxicity to Daphnia; Algal Toxicity; Acute Oral Toxicity; Bacterial Reverse Mutation (Ames Test); *In Vitro* Mammalian Cell Gene Mutation; Repeated Dose/Reproductive/Developmental Toxicity in Rats; Boiling Point; *In Vitro* Chromosome Aberration Test.	0675
Castor oil, oxidized (CAS No. 68187–84–8).	Plasticizer in lacquers, artificial leathers, hydraulic fluids, and adhesives.	Melting Point; Boiling Point; Ready Biodegradability; Reverse Mutation Using Bacteria (Salmonella Typhimurium and Escherichia Coli); *In Vitro* Mammalian Chromosome Aberration in Chinese Hamster V79 Cells; Combined 28-day Repeated Dose Oral Toxicity Screening Study.	0674
Benzenediamine, ar,ar-diethyl-ar-methyl- (CAS No. 68479–98–1).	No current use identified	Vapor Pressure; *n*-Octanol/Water Partition Coefficient; Water Solubility; Aquatic Toxicity; Acute Toxicity to Fish; Acute Toxicity to Daphnia.	0677
		Melting Point; Genotoxicity (Chromosomal Damage).	0665
		Melting Point; Genotoxicity (Chromosomal Damage).	0660
		Mammalian Toxicity: Reproductive/Developmental Toxicity Screening.	0645
		Subchronic 21-Day Dermal Toxicity	0633
		Aquatic Toxicity; Toxicity to Plants (Algae); *In Vitro* Bacterial Reverse Mutation; Chromosomal Damage; Reproductive/Developmental Toxicity.	0632

Note: CAS = Chemical Abstracts Service Registry Number.

TABLE 3—DATA RECEIVED IN RESPONSE TO TSCA SECTION 4 TEST RULE AT 40 CFR 799.5089, TESTING OF CERTAIN HIGH PRODUCTION VOLUME CHEMICALS; THIRD GROUP OF CHEMICALS, DOCKET IDENTIFICATION NUMBER EPA–HQ–OPPT–2009–0112

Chemical identity	Use(s)	Data received	Document No.
Benzenesulfonyl chloride (CAS No. 98–09–9).	Intermediate for benzene sulfonamides, thiophenol, glybuzole, n-2-chloroethyl amides, and benzonitrile; reagent for Friedel-Crafts sulfonylation; insecticides and miticides.	Reverse Mutation Assay (Ames Test) Using Salmonella Typhimurium and Escherichia Coli.	0128
		Daphnia 48-Hour Acute Immobilization Test; Algal Inhibition Test.	0140
		Chromosome Aberration Test in Human Lymphocytes, *In Vitro*.	0134
Benzene, 1-chloro-4-(trifluoromethyl)- (CAS No. 98–56–6).	Solvent for industrial cleaning, aerosols, adhesives, coatings, inks, and electronic applications; 1, 1, 1-trichloroethane alternative; dye intermediate; dielectric fluid; dinitroaniline herbicide intermediate; ingredient in home maintenance product.	Growth Inhibition Test on Algae; Ready Biodegradability in a Manometric Respirometry Test; Validation of the Analytical Method for the Determination of Benzene, 1-Chloro-4-(Trifluoromethyl)-.	0141
Benzenesulfonic acid, 3-nitro-, sodium salt (1:1) (CAS No. 127–68–4).	Stabilizer for fiber reactive dyeing; assistant in discharge printing; viscosity control agent in cosmetics; oxidizing agent in demetalizers and industrial cleaners; anti-reduction agent.	Vapor Pressure; Reproductive/D Developmental Toxicity Screening Test; Characterization Study; Validation of Analytical Method Concentration in Dose-Formulation; Acute Oral Toxicity; Repeat Dose 14-day Oral Toxicity Study (Dose Range Finding Study).	0144
Propanoic acid, 2-methyl-, 3-(benzoyloxy)-2,2,4-trimethylpentyl ester (CAS No. 22527–63–5).	Plasticizer	Acute Oral Toxicity in the Rat, Up-and-Down Procedure; Reverse Mutation Assay (Ames Test) Using Salmonella Typhimurium and Escherichia Coli.	138

TABLE 3—DATA RECEIVED IN RESPONSE TO TSCA SECTION 4 TEST RULE AT 40 CFR 799.5089, TESTING OF CERTAIN HIGH PRODUCTION VOLUME CHEMICALS; THIRD GROUP OF CHEMICALS, DOCKET IDENTIFICATION NUMBER EPA–HQ–OPPT–2009–0112—Continued

Chemical identity	Use(s)	Data received	Document No.
		Freezing Point; Boiling Point; Vapor Pressure; *n*-Octanol/Water Partition Coefficient; Water Solubility; Ready Biodegradation; Toxicity to Daphnia; Toxicity to Plants (Algae); *In Vitro* Mammalian Chromosomal Aberration.	0145
Benzenesulfonic acid, dimethyl- (CAS No. 25321–41–9).	Esterification and acetylation catalyst; catalyst for coatings and foundry resins; in the preparation of esters; hardening agent in plastics; activator for nicotine insecticides; curing agent for resins, phenolic foundry resins; descaling agent in foundry sand castings; plating aid in electroplating baths; hydrotrope for agricultural formulations; surfactant in cosmetics.	Boiling Point; Vapor Pressure; *n*-Octanol/Water Partition Coefficient.	0110

Note: CAS = Chemical Abstracts Service Registry Number.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Hazardous substances.

Dated: October 30, 2013.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2013–26644 Filed 11–5–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Communications Commission (FCC), as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act (PRA) of 1995. Comments are requested concerning whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before January 6, 2014. 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: 3060–0311.

Title: 47 CFR 76.54, Significantly Viewed Signals; Method to be followed for Special Showings.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 500 respondents, 1,274 responses.

Frequency of Response: On occasion reporting and third party disclosure requirements.

Estimated Time per Response: 1–15 hours (average).

Total Annual Burden: 20,610 hours.

Total Annual Costs: $200,000.

Nature of Response: Required to obtain or retain benefits. The statutory authority for this information collection is contained in Section 4(i) and 340 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.54(b) states significant viewing in a cable television or satellite community for signals not shown as significantly viewed under 47 CFR 76.54(a) or (d) may be demonstrated by an independent professional audience survey of over-the-air television homes that covers at least two weekly periods separated by at least thirty days but no more than one of which shall be a week between the months of April and September. If two surveys are taken, they shall include samples sufficient to assure that the combined surveys result in an average figure at least one standard error above the required viewing level.

47 CFR 76.54(c) is used to notify interested parties, including licensees or permittees of television broadcast stations, about audience surveys that are being conducted by an organization to demonstrate that a particular broadcast station is eligible for significantly viewed status under the Commission's rules. The notifications provide interested parties with an opportunity to review survey methodologies and file objections.

47 CFR 76.54(e) and (f), are used to notify television broadcast stations

about the retransmission of significantly viewed signals by a satellite carrier into these stations' local market.

OMB Control Number: 3060–0016.

Title: Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station, FCC Form 346; 47 CFR 74.787(c) and 74.793(d); LPTV Out-of-Core Digital Displacement Application.

Form Number: FCC Form 346.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities; Not-for-profit institutions; and State, local or tribal government.

Number of Respondents: 3,500 respondents and 3,500 responses.

Estimated Time per Response: 2.5–7 hours.

Frequency of Response: On occasion reporting requirement; third party disclosure requirement.

Total Annual Burden: 33,250 hours.

Total Annual Costs: $19,418,000.

Nature of Response: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection.

Privacy Impact Assessment: No impact(s).

Needs and Uses: FCC Form 346 is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or TV Booster broadcast station.

47 CFR 74.793(d) require that certain digital low power and TV translator stations submit information as to vertical radiation patterns as part of their applications (FCC Forms 346 and 301–CA) for new or modified construction permits.

47 CFR 74.787(c) require that all low power station with facilities on out-of-core channels (channels 52–59) submit a digital displacement (FCC Form 346) application proposing an in-core channel (channels 2–51, excluding channel 37) not later than September 1, 2011.

OMB Control Number: 3060–1104.

Title: Section 73.682(d), DTV Transmission and Program System and Information Protocol (''PSIP'') Standards.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not for-profit institutions.

Number of Respondents and Responses: 1,812 respondents and 1,812 respondents.

Estimated Hours per Response: 0.50 hours.

Frequency of Response: Third party disclosure requirement; weekly reporting requirement.

Total Annual Burden: 47,112 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 309 and 337 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: Confidentiality is not required with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Section 73.682(d) of the Commission's rules incorporates by reference the Advanced Television Systems Committee, Inc. (''ATSC'') Program System and Information Protocol (''PSIP'') standard ''A/65C.'' PSIP data is transmitted along with a TV broadcast station's digital signal and provides viewers (via their DTV receivers) with information about the station and what is being broadcast, such as program information. The Commission has recognized the utility that the ATSC PSIP standard offers for both broadcasters and consumers (or viewers) of digital television (''DTV'').

ATSC PSIP standard A/65C requires broadcasters to provide detailed programming information when transmitting their broadcast signal. This standard enhances consumers' viewing experience by providing detailed information about digital channels and programs, such as how to find a program's closed captions, multiple streams and V-chip information. This standard requires broadcasters to populate the Event Information Tables (''EITs'') (or program guide) with accurate information about each event (or program) and to update the EIT if more accurate information becomes available. The previous ATSC PSIP standard A/65–B did not require broadcasters to provide such detailed programming information but only general information.

OMB Control Number: 3060–0960.

Title: 47 CFR 76.122, Satellite Network Non-duplication Protection Rules; 47 CFR 76.123, Satellite Syndicated Program Exclusivity Rules; 47 CFR 76.124, Requirements for Invocation of Non-duplication and Syndicated Exclusivity Protection; 47 CFR 76.127, Satellite Sports Blackout Rules.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,428 respondents and 12,686 responses.

Estimated Time per Response: 0.5–1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 12,402 hours.

Total Annual Costs: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 4(j), 303(r), 339 and 340 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: 47 CFR 76.122, 76.123, 76.124 and 76.127 are used to protect exclusive contract rights negotiated between broadcasters, distributors, and rights holders for the transmission of network, syndicated, and sports programming in the broadcasters' recognized market areas. Rule sections 76.122 and 76.123 implement statutory requirements to provide rights for in-market stations to assert non-duplication and exclusivity rights.

OMB Control Number: 3060–0653.

Title: Sections 64.703(b) and (c), Consumer Information—Posting by Aggregators.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 56,075 respondents; 5,339,038 responses.

Estimated Time per Response: .017 to 3 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this information collection is found at section 226 [47 U.S.C. 226] Telephone Operator Services codified at 47 CFR 64.703 (b) Consumer Information.

Total Annual Burden: 174,401 hours.

Total Annual Cost: $1,688,168.

Privacy Act Impact Assessment: An assurance of confidentiality is not offered because this information collection does not require the

collection of personally identifiable information (PII) from individuals.

Nature and Extent of Confidentiality: No impact(s).

Needs and Uses: The information collection requirements included under this OMB Control Number 3060–0653, requires aggregators (providers of telephones to the public or to transient users of their premises) under 47 U.S.C. 226(c)(1)(A), 47 CFR 64.703(b) of the Commission's rules, to post in writing, on or near such phones, information about the pre-subscribed operator services, rates, carrier access, and the FCC address to which consumers may direct complaints. Section 64.703(c) of the Commission's rules requires the posted consumer information to be added when an aggregator has changed the pre-subscribed operator service provider (OSP) no later than 30 days following such change. Consumers will use this information to determine whether they wish to use the services of the identified OSP.

OMB Control Number: 3060–1094.

Title: Licensing, Operation, and Transition of the 2500–2690 MHz Band.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local, or tribal government.

Number of Respondents: 42 respondents, 282 responses.

Estimated Time per Response: .5–2 hours.

Frequency of Response: On occasion and one time reporting requirements, third-party disclosure requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority is contained in 47 U.S.C. 151, 154(i), 301, 303(f), 303(g), 303(r), 307, 308, 316.

Total Annual Burden: 147 hours.

Total Annual Cost: $11,550.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. Respondents or applicants may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The information relating to substantial service is used by the Commission staff to satisfy requirements for licensees to demonstrate substantial service. Without this information, the Commission would not be able to carry out its statutory responsibilities. The third party disclosure coordination requirements are necessary to ensure that licensees do not cause interference to each other and that licensees who undertake to transition to the new band plan receive reimbursement for eligible costs.

Federal Communications Commission.

Marlene H. Dortch,

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

[FR Doc. 2013–26595 Filed 11–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collections 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 January 6, 2014. 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: 3060–0175.

Title: Section 73.1250, Broadcasting Emergency Information.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 50 respondents; 50 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 50 hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impact(s).

Needs and Uses: 47 CFR 73.1250(e) states immediately upon cessation of an emergency during which broadcast facilities were used for the transmission of point-to-point messages under paragraph (b) of this section, or when daytime facilities were used during nighttime hours by an AM station in accordance with paragraph (f) of this section, a report in letter form shall be forwarded to the FCC in Washington, DC, setting forth the nature of the emergency, the dates and hours of the broadcasting of emergency information, and a brief description of the material carried during the emergency. A certification of compliance with the non-commercialization provision of paragraph (f) of this section must accompany the report where daytime facilities are used during nighttime hours by an AM station, together with a detailed showing, under the provisions of that paragraph, that no other broadcast service existed or was adequate.

The Commission adopted on September 9, 2004, the *Report and Order (R&O),* In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules

for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03–185, FCC 04–220. The following rule sections which contain information requirements were adopted: 47 CFR 74.703(f) states that a licensee of a digital low power TV (LPTV) or TV translator station operating on a channel from 52–69 is required to eliminate at its expense any condition of interference caused to the operation of or services provided by existing and future commercial or public safety wireless licensees in the 700 MHz bands. The offending digital LPTV or translator station must cease operations immediately upon notification by any primary wireless licensee, once it has been established that the digital low power TV or translator station is causing the interference.

47 CFR 74.703(g) states that an existing or future wireless licensee in the 700 MHz bands may notify (certified mail, return receipt requested), a digital low power TV or TV translator operating on the same channel or first adjacent channel of its intention to initiate or change wireless operations and the likelihood of interference from the low power TV or translator station within its licensed geographic service area. The notice should describe the facilities, associated service area and operations of the wireless licensee with sufficient detail to permit an evaluation of the likelihood of interference. Upon receipt of such notice, the digital LPTV or TV translator licensee must cease operation within 120 days unless: (1) It obtains the agreement of the wireless licensee to continue operations; (2) the commencement or modification of wireless service is delayed beyond that period (in which case the period will be extended); or (3) the Commission stays the effect of the interference notification, upon request.

47 CFR 74.703(h) requires in each instance where suspension of operation is required, the licensee shall submit a full report to the FCC in Washington, DC, after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

OMB Control Number: 3060–0236.

Title: Sections 74.703, Interference.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 50 respondents; 150 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Obligation to Respond: Required to obligation or retain benefits. The statutory authority for this collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 300 hours.

Total Annual Cost: $300,000.

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: The Commission adopted on September 9, 2004, the *Report and Order (R&O),* In the Matter of Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and to Amend Rules for Digital Class A Television Stations, MB Docket No. 03–185, FCC 04–220. The following rule sections which contain information requirements were adopted:

47 CFR 74.703(f) states that a licensee of a digital low power TV (LPTV) or TV translator station operating on a channel from 52–69 is required to eliminate at its expense any condition of interference caused to the operation of or services provided by existing and future commercial or public safety wireless licensees in the 700 MHz bands. The offending digital LPTV or translator station must cease operations immediately upon notification by any primary wireless licensee, once it has been established that the digital low power TV or translator station is causing the interference.

47 CFR 74.703(g) states that an existing or future wireless licensee in the 700 MHz bands may notify (certified mail, return receipt requested), a digital low power TV or TV translator operating on the same channel or first adjacent channel of its intention to initiate or change wireless operations and the likelihood of interference from the low power TV or translator station within its licensed geographic service area. The notice should describe the facilities, associated service area and operations of the wireless licensee with sufficient detail to permit an evaluation of the likelihood of interference. Upon receipt of such notice, the digital LPTV or TV translator licensee must cease operation within 120 days unless: (1) It obtains the agreement of the wireless licensee to continue operations; (2) the commencement or modification of wireless service is delayed beyond that period (in which case the period will be extended); or (3) the Commission stays the effect of the interference notification, upon request.

47 CFR 74.703(h) requires in each instance where suspension of operation is required, the licensee shall submit a full report to the FCC in Washington, DC, after operation is resumed, containing details of the nature of the interference, the source of the interfering signals, and the remedial steps taken to eliminate the interference.

OMB Control Number: 3060–0707.

Title: Over-the-Air Reception Devices (OTARD).

Type of Review: Extension of a currently approved collection.

Respondents: State or Local, or Tribal Government.

Number of Respondents and Responses: 77 respondents; 77 responses.

Estimated Time per Response: 2–6 hours.

Frequency of Response: On occasion reporting; third party disclosure.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Section 207 of the Communications Act of 1934, as amended.

Total Annual Burden: 288 hours.

Total Annual Cost: 17,100.

Privacy Act Impact Assessment: No impact.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: Section 207 of the Telecommunications Act of 1996 (''1996 Act'') directs the Commission to promulgate rules prohibiting restrictions on viewers' ability to receive over-the-air signals by television broadcast, multichannel multipoint distribution, or direct broadcast satellite services.

In a *Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking,* CS Docket No. 96–83, FCC 96–328, released August 6, 1996, the Commission fully implemented Section 207 of the 1996 Act by adopting final rules for a preemption of state, local and non-governmental regulations that impair viewers ability to receive over-the-air signals. In doing so, the FCC acknowledged the necessity of allowing state, local and non-governmental entities to continue to enforce certain regulations and restrictions, such as those serving safety purposes, and therefore exempted them from its

prohibition. Also, state, local and non-governmental entities were permitted to file petitions for waivers.

On September 25, 1998, the Commission released an *Order on Reconsideration,* FCC 98–214, in this proceeding that further modified and clarified Section 207 rules. Among other things, the *Order on Reconsideration* clarified how declaratory rulings and waivers in this matter are to be served on all interested parties. If a local government seeks a declaratory ruling or a waiver, it must take steps to afford reasonable, constructive notice to residents in its jurisdiction (e.g., by placing notices in a local newspaper of general circulation). Certificates of service and proof of constructive notice also must be provided to the Commission with the petition. In this regard, the petitioner should provide the Commission with a copy of the notice and an explanation of where the notice was placed and how many people the notice might reasonably have reached.

Effective January 22, 1999, FCC 98–273, the Commission amended the rules so that it applies to rental property where the renter has an exclusive use area, such as a balcony or patio.

In FCC 00–366, the Commission then further amended the rule so that it applies to customer-end antennas that receive and transmit fixed wireless signals. This amendment became effective on May 25, 2001.

OMB Control Number: 3060–1105.

Title: Digital TV Transition Status Report, FCC Form 387.

Form Number: FCC Form 387.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 20 respondents and 20 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement.

Total Annual Burden: 40 hours.

Total Annual Cost: $22,000.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in Sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 157, 301, 302a, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336, and 337.

Nature and Extent of Confidentiality: Confidentiality is not required for this collection of information.

Privacy Impact Assessment: No impact(s).

Needs and Uses: FCC Form 387 is used by licensees and permittees of full-power television stations to detail their digital television (DTV) transition status and to report the completion of their transition-specifically, that they have begun operating their full facility as authorized by the post-transition DTV Table Appendix B. The DTV transition deadline passed on June 12, 2009, meaning that full-power television stations may now broadcast only in digital. However, there are still some full-power TV stations that, because of a ''tolling'' event, have not commenced digital broadcasting (and so are off-the-air) or that are not operating at their full, authorized digital facility. Therefore, such stations are required to file the FCC Form 387 if and when they commence full, authorized digital operations.

Federal Communications Commission.

Marlene H. Dortch,

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

[FR Doc. 2013–26594 Filed 11–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) 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 (FCC) 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 further ways to 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 Control Number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before January 6, 2014. 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 FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Leslie F. Smith, Federal Communications Commission (FCC), via the Internet at *Leslie.Smith@fcc.gov*. To submit your PRA comments by email, send them to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Leslie F. Smith at (202) 418–0217, or via the Internet at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–XXXX.

Title: US Telecom Forbearance FCC 13–69 Conditions.

Form Number: N/A

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 11 respondents; 11 responses.

Estimated Time per Response: 40–232 hours.

Frequency of Response: One-time and annual reporting requirements.

Obligation to Respond: Voluntary. Statutory Authority: 47 U.S.C 160, 201, 202, 218, 254(k), and 272(e).

Total Annual Burden: 2,096 hours.

Total Annual Costs: $104,800.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: If respondents submit information which respondents believe is confidential, respondents may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR 0.459.

Needs and Uses: In a May 2013 *Memorandum Opinion and Order* (FCC 13–69), the Commission acted on a petition filed by US Telecom and granted forbearance relief to the full extent supported by the record. This collection covers conditional forbearance relief granted by the Commission from cost assignment rules, property record rules, ARMIS report 43–01, and structural separation

requirements for Independent ILECs. The data, information, and documents acquired through this collection will allow the Commission to meet its statutory requirements while allowing carriers to obtain forbearance relief.

Federal Communications Commission.

Marlene H. Dortch,

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

[FR Doc. 2013–26593 Filed 11–5–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2013–N–15]

Privacy Act of 1974; Systems of Records

AGENCY: Federal Housing Finance Agency.

ACTION: Notice of proposed revision of an existing system of records and establishment of a new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended (Privacy Act), the Federal Housing Finance Agency (FHFA) gives notice of and requests comments on the proposed revision of an existing Privacy Act system of records and the establishment of a new system of records. The revised system, ''Photographic Files'' (FHFA–5), contains photographic materials, in print and electronic format, related to FHFA staff and events, and will be newly named ''Photographic, Video, Voice, and Similar Files.'' The proposed new system, ''Online Forms'' (FHFA–22), will contain records related to members of the public.

DATES: The effective date of the notice is December 16, 2013 unless comments necessitate otherwise. FHFA will publish a new notice if, in order to review comments, the effective date is delayed or if changes are made based on comments received. To be assured of consideration, comments must be received on or before December 6, 2013.

ADDRESSES: Submit comments *only once,* identified by ''2013–N–15,'' using any one of the following methods:

- *Email:* Comments to Alfred M. Pollard, General Counsel, may be sent by email to *RegComments@fhfa.gov*. Please include ''2013–N–15,'' in the subject line of the message.
- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Please include ''2013–N–15,'' in the subject line of the message.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/2013–N–15, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. Please note that all mail sent to FHFA via the U.S. Postal Service is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.
- *Hand Delivered/Courier:* The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/2013–N–15, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. Deliver the package to the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. to 5 p.m.

See **SUPPLEMENTARY INFORMATION** for additional information on submission and posting of comments.

FOR FURTHER INFORMATION CONTACT: Stacy J. Easter, Privacy Act Officer, *privacy@fhfa.gov* or (202) 649–3803, or David A. Lee, Senior Agency Official for Privacy, *privacy@fhfa.gov* or (202) 649–3803 (not toll-free numbers), Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW., Washington, DC 20024. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA seeks public comments on the revised and proposed systems of records, and will take all comments into consideration. *See* 5 U.S.C. 552a(e)(4) and (11). In addition to referencing ''Comments/2013–N–15,'' please reference the title and the system of records number your comment addresses.

All comments received will be posted without change on the FHFA Web site at *http://www.fhfa.gov,* and will include any personal information you provide, such as name, address (mailing and email), and telephone numbers. In addition, copies of all comments received will be available for public inspection on business days between the hours of l0 a.m. and 3 p.m., at the Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 649–3804.

II. Introduction

This notice satisfies the Privacy Act requirement that an agency publishes a system of records notice in the **Federal Register** when there is an addition or change to an agency's systems of records. Congress has recognized that application of all requirements of the Privacy Act to certain categories of records may have an undesirable and often unacceptable effect upon agencies in the conduct of necessary public business. Consequently, Congress established general exemptions and specific exemptions that could be used to exempt records from provisions of the Privacy Act. Congress also required that exempting records from provisions of the Privacy Act would require the head of an agency to publish a determination to exempt a record from the Privacy Act as a rule in accordance with the Administrative Procedure Act. The Acting Director of FHFA has determined that records and information in these two systems of records are not exempt from the requirements of the Privacy Act.

As required by the Privacy Act, 5 U.S.C. 552a(r), and pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (61 FR 6427, 6435 February 20, 1996), FHFA has submitted a report describing the systems of records covered by this notice to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget.

III. Proposed Systems of Records

The system of records ''Photographic Files'' (FHFA–5) is being revised to update the system name, address new categories of individuals covered, address new records that will be collected, and make non-substantive edits. The system's new name will be ''Photographic, Video, Voice, and Similar Files.'' The system contains photographs including hardcopy and electronic images, video, audio, names, date of visit, participation in events and programs, and biographies of speakers, trainers, and others. FHFA uses these photographic records for distribution and reproduction in agency documents and communications such as reports, agency plans, training materials, press releases, briefing materials, research documents, newsletters, and presentations.

The proposed new system ''Online Forms'' (FHFA–22) will contain information submitted by individuals or their representatives, to FHFA. FHFA will use this information to communicate with and respond to individuals who submit a form online with FHFA.

The revised and proposed systems of records notices are set out in their entirety and described in detail below.

FHFA–5

SYSTEM NAME:

Photographic, Video, Voice, and Similar Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal Housing Finance Agency (FHFA) employees and contractor personnel; visitors from Federal, state, or local agencies; speakers; trainers; employees of FHFA's regulated entities; congressional staff; the press, trade and academic organizations; and members of the public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain photographs including hardcopy and electronic images, video, audio, names, date of visit, participation in events and programs, and biographies of speakers, trainers, and others.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to 12 U.S.C. 4513.

PURPOSE(S):

FHFA uses these records for reproduction in agency documents and communications such as reports, agency plans, training materials, press releases, briefing materials, research documents, newsletters, announcements, promotional materials presentations, educational programs, FHFA's internal and external Web sites, social media sites, and at FHFA-sponsored events such as meetings, conferences, seminars, tributes, receptions, and ceremonies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained herein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, tribal, foreign or a financial regulatory organization that are charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions and is related to the purpose for which FHFA collected the records.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ (including United States Attorney Offices) or other Federal agencies conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To a Federal agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(13) To Fannie Mae, Freddie Mac, or a Federal Home Loan Bank as it relates to the purpose for which FHFA collected the records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records in this system are stored on hardcopy and electronic media.

RETRIEVABILITY:

By name, photograph, video file, audio file, date of event, name of event, or program.

SAFEGUARDS:

Records are maintained in controlled access areas. Buildings where records are stored have security cameras and 24-hour security guard service. Electronic records are protected by restricted access procedures, including user identifications and passwords. Only FHFA staff whose official duties require access are allowed to view, administer, and control these records.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Records are disposed of according to accepted techniques.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Congressional Affairs and Communications, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer. Inquiries may either be mailed to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or submitted electronically at *http://www.fhfa.gov/Default.aspx?Page=236* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct requests for access to the Privacy Act Officer. Requests may either be mailed to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or submitted electronically at *http://www.fhfa.gov/Default.aspx?Page=236* in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse decision for a record to the Privacy Act Appeals Officer. Appeals may either be mailed to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or submitted electronically at *http://www.fhfa.gov/Default.aspx?Page=236* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by the subject of the record, authorized representatives, supervisors, employers, other employees, other Federal, state, or local agencies, and commercial entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FHFA–22

SYSTEM NAME:

Online Forms.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, and any alternate work site utilized by employees of the Federal Housing Finance Agency (FHFA) or individuals assisting such employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who contact FHFA with questions, comments, to file a complaint or appeal, to request or provide information, to request consumer assistance, to respond to a proposed rule, or who wish to conduct business with FHFA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain the following information about an individual who submits a form on FHFA's Web site: Name, address, telephone number, fax number, email address, property information, borrower information, organization name and type, government agency name and type, job position, and representative of submitter; correspondence and records of communication between FHFA and individuals submitting information, including copies of supporting documents; information regarding a company wishing to do business with FHFA (*i.e.,* company name, address, telephone number, Web site address, description of supplies or services offered, years of experience, DUNS, GSA, NAICS and GWAC number, organization affiliations, special category status, and past performance references), and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to 12 U.S.C. 4513.

PURPOSE(S):

FHFA uses the records in this system to communicate with individuals who submit a form online with FHFA. The forms will allow FHFA to respond to complaints, appeals, inquires and requests for information; to review and post comments on proposed rules/regulations; to review feedback received on FHFA proposed or implemented initiatives; and to compile a list of potential vendors and contractors. The forms will also assist FHFA and those who will respond to the submitter with consumer issues involving Fannie Mae, Freddie Mac, and the Federal Home Loan Banks.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained herein may specifically be disclosed outside FHFA as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(1) When (a) It is suspected or confirmed that the security or confidentiality of information in the system of records has been compromised; (b) FHFA has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by FHFA or another agency or entity) that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in connection with FHFA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(2) Where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local,

tribal, foreign or a financial regulatory organization charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing a statute, or rule, regulation or order issued pursuant thereto.

(3) To any individual during the course of any inquiry or investigation conducted by FHFA, or in connection with civil litigation, if FHFA has reason to believe that the individual to whom the record is disclosed may have further information about the matters related therein, and those matters appeared to be relevant at the time to the subject matter of the inquiry.

(4) To any individual with whom FHFA contracts to reproduce, by typing, photocopy or other means, any record within this system for use by FHFA and its employees in connection with their official duties or to any individual who is utilized by FHFA to perform clerical or stenographic functions relating to the official business of FHFA.

(5) To members of advisory committees that are created by FHFA or by Congress to render advice and recommendations to FHFA or to Congress, to be used solely in connection with their official, designated functions and is related to the purpose for which FHFA collected the records.

(6) To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

(7) To contractor personnel, grantees, volunteers, interns, and others performing or working on a contract, service, grant, cooperative agreement, or project for FHFA.

(8) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena from a court of competent jurisdiction.

(9) To the Office of Management and Budget, Department of Justice (DOJ), Department of Labor, Office of Personnel Management, Equal Employment Opportunity Commission, Office of Special Counsel, Department of Homeland Security, or other Federal agencies to obtain advice regarding statutory, regulatory, policy, and other requirements related to the purpose for which FHFA collected the records.

(10) To DOJ, (including United States Attorney Offices), or other Federal agency conducting litigation or in proceedings before any court, or adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. FHFA;

2. Any employee of FHFA in his/her official capacity;

3. Any employee of FHFA in his/her individual capacity where DOJ or FHFA has agreed to represent the employee; or

4. The United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and FHFA determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which FHFA collected the records.

(11) To the National Archives and Records Administration (NARA) or other Federal agencies pursuant to records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

(12) To a Federal agency, organization, or individual for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

(13) To Fannie Mae, Freddie Mac, or the Federal Home Loan Banks as it relates to the purpose for which FHFA collected the record.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in electronic format and stored in a computerized database.

RETRIEVABILITY:

Records may be retrieved by name, address, or some other unique identifier.

SAFEGUARDS:

Records are safeguarded in a secured environment. Buildings where records are stored have security cameras and 24-hour security guard service. Computerized records are safeguarded through use of access codes and other information technology security measures. Paper records are safeguarded by locked file rooms, locked file cabinets, or locked safes. Access to the records is restricted to those who require the records in the performance of official duties related to the purposes for which the system is maintained.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with the appropriate National Archives and Records Administration General Records Schedules and FHFA Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal system.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Congressional Affairs and Communications, 400 Seventh Street SW., Washington, DC 20024.

NOTIFICATION PROCEDURES:

Direct inquiries as to whether this system contains a record pertaining to an individual to the Privacy Act Officer. Inquiries may either be mailed to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or submitted electronically at *http://www.fhfa.gov/Default.aspx?Page=236* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD ACCESS PROCEDURES:

Direct requests for access to the Privacy Act Officer. Requests may either be mailed to the Privacy Act Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or submitted electronically at *http://www.fhfa.gov/Default.aspx?Page=236* in accordance with the procedures set forth in 12 CFR part 1204.

CONTESTING RECORD PROCEDURES:

Direct requests to contest or appeal an adverse decision for a record to the Privacy Act Appeals Officer. Appeals may either be mailed to the Privacy Act Appeals Officer, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024, or submitted electronically at *http://www.fhfa.gov/Default.aspx?Page=236* in accordance with the procedures set forth in 12 CFR part 1204.

RECORD SOURCE CATEGORIES:

Information is provided by the subject of the record or an authorized representative.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Dated: October 31, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2013–26574 Filed 11–5–13; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov*.

Agreement No.: 010979–058.

Title: Caribbean Shipowners Association.

Parties: CMA CGM, S.A.; Crowley Caribbean Services LLC; Hybur Ltd.; King Ocean Services Limited; Seaboard Marine, Ltd.; Seafreight Line, Ltd.; Tropical Shipping and Construction Company Limited; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor, 1627 I Street NW., Washington, DC 20006.

Synopsis: The amendment would add US Lines Limited as a party to the agreement.

Agreement No.: 011284–072.

Title: Ocean Carrier Equipment Management Association Agreement.

Parties: Alianca Navegacao e Logistica Ltda.; APL Co. Pte. Ltd.; American President Lines, Ltd.; A.P. Moller-Maersk A/S; CMA CGM, S.A.; Atlantic Container Line; China Shipping Container Lines Co., Ltd; China Shipping Container Lines (Hong Kong) Co., Ltd.; Companhia Libra de Navegacao; Compania Libra de Navegacion Uruguay S.A.; Compania Sud Americana de Vapores, S.A.; COSCO Container Lines Company Limited; Evergreen Line Joint Service Agreement; Hamburg-Süd; Hapag-Lloyd AG; Hapag-Lloyd USA LLC; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co. Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mediterranean Shipping Company, S.A.; Mitsui O.S.K. Lines Ltd.; Nippon Yusen Kaisha Line; Norasia Container Lines Limited; Orient Overseas Container Line Limited; Yang Ming Marine Transport Corp.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Jeffrey F. Lawrence, Esq. and Donald J. Kassilke, Esq.; Cozen O'Connor; 1627 I Street NW., Suite 1100; Washington, DC 20006.

Synopsis: The amendment clarifies the agreement authority and makes several non-substantive clerical corrections to existing agreement language.

By Order of the Federal Maritime Commission.

Dated: November 1, 2013.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2013–26585 Filed 11–5–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

The Commission gives notice that the following applicants have filed an application for an Ocean Transportation Intermediary (OTI) license as a Non-Vessel-Operating Common Carrier (NVO) and/or Ocean Freight Forwarder (OFF) pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. 40101). Notice is also given of the filing of applications to amend an existing OTI license or the Qualifying Individual (QI) for a licensee.

Interested persons may contact the Office of Ocean Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573, by telephone at (202) 523–5843 or by email at *OTI@fmc.gov*.

Action One Logistics, Inc. (NVO & OFF), 115 Fulford Avenue, Suite 102, Bel Air, MD 21014. Officers: Belinda E. Richardson, Vice President (QI), David S. Edwards, President, Application Type: QI Change.

Alpha Global Enterprise LLC dba ITS Container Line (NVO), 46 West Lincoln Avenue, Valley Stream, NY 11580. Officers: Philip Lam, Operating Manager (QI), Joseph Lam, Member, Application Type: New NVO License.

Altex US, LLC (NVO & OFF), 1 Saville Avenue, Eddystone, PA 19022. Officers: Natalia Henao, President (QI), Jorge I. Echeverri, Vice President, Application Type: New NVO & OFF License.

Andes Logistics USA LLC (NVO & OFF) 7500 NW 25 Street, #7, Miami, FL 33122. Officers: Jacqueline Galindo, Managing Member (QI), Cristobal Huidobro, Managing Member, Application Type: New NVO & OFF License.

Ark Transportation Ltd. (NVO & OFF), 17830 Englewood Drive, Suite 23, Middleburg Heights, OH 44130. Officer: George Hurst, Chief Executive Member (QI), Application Type: New NVO & OFF License.

Asecomer International Corporation dba Interworld Freight Inc. dba Junior Cargo, Inc. dba Intercontinental Lines Corp. (NVO & OFF), 8225 NW 80th Street, Miami, FL 33166. Officer: John O. Crespo, President (QI), Application Type: Add Trade Name Rolasa USA.

C J International, Inc. (OFF), 519 S. Ellwood Avenue, Baltimore, MD 21224. Officers: Shannon Alexander, Secretary (QI), Curt Perry, Director, Application Type: QI Change.

Cargo Freight Services, Ltd. (NVO), 510 Plaza Drive, Suite 2720, College Park, GA 30349. Officer: Alice Y. Chan, President (QI), Application Type: QI Change.

Concert Group Logistics, Inc. (NVO & OFF), 1430 Branding Avenue, Suite 150, Downers Grove, IL 60515. Officers: Dominick Muzi, President (QI), Gordon Devens, Secretary, Application Type: Add Trade Name XPO Global Logistics.

Embarque Tineo LLC (NVO & OFF), 431 River Street, Paterson, NJ 07524. Officers: Gilberto Tineo, Managing Member (QI), Franklyn Tineo, Member, Application Type: New NVO & OFF License.

Export Logistics & Shipping, Inc. (OFF), 608 Timber Bay Circle East, Oldsmar, FL 34677. Officer: Antonia E. Kliniewski, President (QI), Application Type: New OFF License.

Express Logistics Services, LLC (NVO & OFF), 4600 NW 74th Avenue, Miami, FL 33166. Officers: Klaus E. Minoprio, Manager (QI), Carlos J. Novoa, Managing Member, Application Type: New NVO & OFF.

Fortunella, Inc. dba Fu Yuan Logistics, Inc. (NVO & OFF), 11639 Goldring Road, Arcadia, CA 91006. Officers: Chris Lee, Vice President (QI), Christy Lee, President, Application Type: New NVO & OFF License.

Global Business Link Inc. (NVO), 3327 Hollins Ferry Road, Halethorpe, MD 21227. Officers: Gayton J. Thomas, CEO (QI), Abdullah W. Alsawi, President, Application Type: QI Change.

Global Transhipping Inc (OFF), 2801 NW 74th Avenue, Suite 204, Miami, FL 33122. Officer: Gus Mojica, President (QI), Application Type: New OFF License.

Icon Logistics Services LLC (OFF), 14725B Baltimore Avenue, Suite B, Laurel, MD 20707. Officers: Gbenga Yinusa, President (QI), Musiliu Adelaja, Member, Application Type: QI Change.

JMJ Logistics, Inc. (NVO & OFF), 320 NW 200 Avenue, Pembroke Pines, FL 33029. Officers: Jose C. Estrada, President (QI), Maria Estrada, Vice President, Application Type: QI and Add OFF Service.

Marine Express, Inc. (NVO), 249 Concordia Street, Mayaguez, PR

00680. Officers: Maribel M. Rivera, Vice President (QI), Nestor Gonzalez-Romero, President, Application Type: New NVO License.

Marisol International, LLC (NVO & OFF), 2424 W. Kingsley, Suite C, Springfield, MO 65807. Officers: Carie L. Samuel, Chief Compliance Officer (QI), Micah L. Hoist, President, Application Type: QI change and add Trade Name Marisol Worldwide, LLC.

Maruzen of America, Inc. dba Maruzen Container Lines (U.S.A.) (NVO & OFF), 19640 Rancho Way, Dominguez Hills, CA 90220. Officers: Yuji Inoue, Executive Vice President (QI), Hideaki Suzuki, Chairman, Application Type: QI Change.

Mirach Shipping, Inc. dba Marlin Shipping (NVO & OFF), 1162 Hasting Place, Baldwin, NY 11510. Officer: Kamran Ali, President (QI), Application Type: New NVO & OFF License.

Miragrown Logistics Corporation (NVO), 2370 West Carson Street, Suite 130, Torrance, CA 90501. Officers: Marianne Thai, Secretary (QI), Zhimin Wei, President, Application Type: Add Trade Name Lucky Consol Inc.

Mol Consolidation Service (America) Inc. (NVO & OFF), 2727 Paces Ferry Road, Building 2, Suite 600, Atlanta, GA 30307. Officers: Jeffrey M. Bumgardner, Senior Vice President (QI), Larry Wu, CEO, Application Type: New NVO & OFF License

One Freight Logistics Inc. (NVO & OFF), 3460 Wilshire Blvd., Suite 1114, Los Angeles, CA 90010. Officer: Hee Jung Yoo, President (QI), Application Type: New NVO & OFF License.

Overseas Group USA, LLC dba CSC Consol USA (NVO & OFF), 8201 NW 56th Street, Miami, FL 33166. Officer: Carlos A. Sanchez, Managing Member (QI), Application Type: QI Change.

Planet Distributors Corp. dba Planet Logistics (NVO & OFF), 671 West 18th Street, Hialeah, FL 33010. Officers: Omar Chaya, President, Mariela Masciave, Stockholder, Application Type: New NVO & OFF License.

Schooner Lines Company (NVO), 1821 Beyer Avenue, Floor 2D, Philadelphia, PA 19115. Officers: Mykola Chobotar, Chief Executive Manager (QI), James Madden, Chief Operating Manager, Application Type: QI Change.

Seagull Logistics, Inc. (NVO), 15105–D John J. Delany Drive, Suite 162, Charlotte, NC 28277. Officer: Inderjeet K. Harisinghani, President (QI), Application Type: New NVO License.

SGK ocean lines corporation (NVO & OFF), 7038 Sundance Meadows Lane, Richmond, TX 77407. Officers: Sumera Sanaullah, Vice President (QI), Uche Mozie, President, Application Type: New NVO & OFF License.

Transportation Insight, LLC (OFF), 328 1st Avenue NW, Hickory, NC 28601–6123. Officers: Rick Brumett, Vice President (QI), Paul Thompson, Chairman, Application Type: New OFF License.

Transtek Logistics, LLC dba Freight Logistics International (NVO), 3505 NW 107th Avenue, Suite C, Doral, FL 33178. Officers: Gabriel de Godoy, Manager (QI), Jeff Bader, Manager, Application Type: New NVO License.

Universal Concord Co., Inc. (NVO), 13353 Alondra Blvd., Suite 200C, Santa Fe Springs, CA 90670. Officers: Zhi Yong Xu, President (QI), Qin Fang Xu, Secretary, Application Type: New NVO License.

vmlog international logistics U.S.A. ''L.L.C.'' (NVO & OFF), 7025 Hodgson Memorial Drive, Suite B, Savannah, GA 31406. Officers: Carey Giffis, Vice President (QI), Francisco V. Mello, President, Application Type: New NVO & OFF License.

Volta Group International, LLC dba Volta Express International, LLC (OFF), 322 Chapanoke Road, Suite 107, Raleigh, NC 27603. Officers: Joan Atkins-Ansah, Member (QI), Smith N. Ansah, Member, Application Type: New OFF License.

By the Commission.

Dated: October 31, 2013.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2013–26584 Filed 11–5–13; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), pursuant to 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before January 6, 2014.

ADDRESSES: You may submit comments, identified by FR 2248 by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets NW.) between 9:00 a.m. and 5:00 p.m. on weekdays.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235 725 17th Street NW., Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Ayouch—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following report:

Report title: Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248.

OMB control number: 7100–0005.

Effective Date: January 31, 2014.

Frequency: Monthly, Quarterly, and Semi-annually.

Reporters: Domestic finance companies and mortgage companies.

Estimated annual reporting hours: 750 hours.

Estimated average hours per response: Monthly, 20 minutes; Quarterly, 30 minutes; Semi-annually, 10 minutes.

Number of respondents: 150.

General description of report: This information collection is authorized pursuant the Federal Reserve Act (12 U.S.C. 225(a)). Obligation to respond to this information collection is voluntary. Individual respondent data are confidential under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552).

Abstract: The FR 2248 is collected monthly as of the last calendar day of the month from a stratified sample of finance companies. Each monthly report collects balance sheet data on major categories of consumer and business credit receivables and on major short-term liabilities. For quarter-end months (March, June, September, and December), additional asset and liability items are collected to provide a full balance sheet. A supplemental section collects data on securitized assets. The data are used to construct universe estimates of finance company holdings, which are published in the monthly statistical releases Finance Companies (G.20) and Consumer Credit (G.19), in the quarterly statistical release Flow of Funds Accounts of the United States (Z.1), and in the *Federal Reserve Bulletin* (Tables 1.51, 1.52, and 1.55).

Current Actions: The Federal Reserve proposes to revise the FR 2248 by: (1) Separating Other Consumer Loans into three data items: Government-guaranteed Student Loans, Private Student Loans, and Other Consumer Loans, (2) combining Non-recourse debt associated with financing and Notes, bonds and debentures into Notes, bonds, debentures and other debt, and (3) increasing the panel size from 70 to 150 finance companies. The proposed changes to the FR 2248 would be effective with the January 31, 2014, report date.

Board of Governors of the Federal Reserve System, November 1, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–26589 Filed 11–5–13; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1468]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has approved the private sector adjustment factor (PSAF) for 2014 of $23.4 million and the 2014 fee schedules for Federal Reserve priced services and electronic access. These actions were taken in accordance with the requirements of the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.

DATES: The new fee schedules become effective January 2, 2014.

FOR FURTHER INFORMATION CONTACT: For questions regarding the fee schedules: Susan V. Foley, Associate Director, (202/452–3596); Samantha J. Pelosi, Manager, Retail Payments, (202/530–6292); Linda S. Healey, Senior Financial Services Analyst, (202/452–5274), Division of Reserve Bank Operations and Payment Systems. For questions regarding the PSAF: Gregory L. Evans, Deputy Associate Director, (202/452–3945); Brenda L. Richards, Manager, Financial Accounting, (202/452–2753); or John W. Curle, Senior Financial Analyst, (202/452–3916), Division of Reserve Bank Operations and Payment Systems. For users of Telecommunications Device for the Deaf (TDD) only, please call 202/263–4869. Copies of the 2014 fee schedules for the check service are available from the Board, the Federal Reserve Banks, or the Reserve Banks' financial services Web site at *www.frbservices.org*.

SUPPLEMENTARY INFORMATION:

I. Private Sector Adjustment Factor and Priced Services

A. Overview—Each year, as required by the Monetary Control Act of 1980, the Reserve Banks set fees for priced services provided to depository institutions. These fees are set to recover, over the long run, all direct and indirect costs and imputed costs, including financing costs, taxes, and certain other expenses, as well as the return on equity (profit) that would have been earned if a private business firm provided the services. The imputed costs and imputed profit are collectively referred to as the PSAF. From 2003 through 2012, the Reserve Banks recovered 99.5 percent of their total expenses (including imputed costs) and targeted after-tax profits or return on equity (ROE) for providing priced services.[1 2]

[1] The ten-year recovery rate is based on the pro forma income statement for Federal Reserve priced services published in the Board's *Annual Report.* Effective December 31, 2006, the Reserve Banks implemented Statement of Financial Accounting Standards (SFAS) No. 158: *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans* [Accounting Standards Codification (ASC) 715 *Compensation—Retirement Benefits*], which resulted in recognizing a cumulative reduction in equity related to the priced services' benefit plans. Including this cumulative reduction from 2006 to 2012 in equity results in

Continued

Table 1 summarizes 2012 actual, 2013 estimated, and 2014 budgeted cost-recovery rates for all priced services. Cost recovery is estimated to be 104.9 percent in 2013 and budgeted to be 102.3 percent in 2014.

TABLE 1—AGGREGATE PRICED SERVICES PRO FORMA COST AND REVENUE PERFORMANCE [a]

[$ Millions]

Year	1 [b] Revenue	2 [c] Total expense	3 Net income (roe) [1–2]	4 [d] Targeted roe	54 [e] Recovery rate after targeted roe [1/(2+4)](%)
2012 (actual)	449.8	423.0	26.8	8.9	104.1
2013 (estimate)	439.2	414.6	24.6	4.2	104.9
2014 (budget)	422.0	407.1	14.9	5.5	102.3

[a] Calculations in this table and subsequent pro forma cost and revenue tables may be affected by rounding.

[b] For 2012, revenue includes net income on clearing balances (NICB). Clearing balances were assumed to be invested in short-term Treasury securities and federal funds. NICB equals the imputed income from these investments less earnings credits granted to holders of clearing balances. The cost of earnings credits is based on the discounted three-month Treasury bill rate. For 2013, revenue includes imputed investment income from additional equity imputed to meet minimum capital requirements.

[c] The calculation of total expense includes operating, imputed, and other expenses. Imputed and other expenses include taxes, FDIC insurance, Board of Governors' priced services expenses, the cost of float, and interest on imputed debt, if any. Credits or debits related to the accounting for pension plans under FAS 158 [ASC 715] are also included.

[d] Targeted ROE is the after-tax ROE included in the PSAF. For 2012, the targeted ROE reflects average actual clearing balance levels through July 2012. The clearing balance program was eliminated in 2012; therefore, the clearing balances are not included in the 2013 or 2014 priced services balance sheet.

[e] The recovery rates in this and subsequent tables do not reflect the unamortized gains or losses that must be recognized in accordance with FAS 158 [ASC 715]. Future gains or losses, and their effect on cost recovery, cannot be projected.

Table 2 portrays an overview of cost-recovery performance for the ten-year period from 2003 to 2012, 2012 actual, 2013 budget, 2013 estimate, and 2014 budget by priced service.

TABLE 2—PRICED SERVICES COST RECOVERY

[Percent]

Priced service	2003–2012	2012 Actual	2013 Budget	2013 Estimate	2014 Budget [a]
All services	99.5	104.1	102.7	104.9	102.3
Check	98.8	108.8	107.1	111.9	108.0
FedACH	102.1	101.0	100.0	100.5	99.5
Fedwire Funds and NSS	101.6	98.8	98.3	98.0	98.5
Fedwire Securities	102.2	100.3	101.6	103.0	98.5

[a] The 2014 budget figures reflect preliminary budget information from the Reserve Banks. The Reserve Banks will transmit final budget data to the Board in November 2013, for Board consideration in December 2013. The 2013 budget figures reflect the final budgets as approved by the Board in December 2012.

1. *2013 Estimated Performance*—The Reserve Banks estimate that they will recover 104.9 percent of the costs of providing priced services in 2013, including total expense and targeted ROE, compared with a budgeted recovery rate of 102.7 percent, as shown in table 2. Overall, the Reserve Banks estimate that they will fully recover actual and imputed costs and earn net income of $24.6 million, compared with the target of $4.2 million. Although the check service, the FedACH Service, and the Fedwire Securities Service are expected to achieve full cost recovery in 2013, the Fedwire Funds and National Settlement Services is expected to recover 98.0 percent of its costs. The shortfall is due to both lower revenue, associated with less-than-anticipated volume growth, and greater costs, associated with technological upgrades. Greater-than-expected check volume processed by the Reserve Banks has been the single most significant factor influencing priced services cost recovery.

2. *2014 Private Sector Adjustment Factor*—The 2014 PSAF for Reserve Bank priced services is $23.4 million. This amount represents an increase of $9.3 million from the 2013 PSAF of $14.1 million. This increase is primarily the result of a change in the net assets to be financed on the imputed priced-services balance sheet and an increase in the cost of equity.

3. *2014 Projected Performance*—The Reserve Banks project a priced services cost-recovery rate of 102.3 percent in 2014, with a net income of $14.9 million, compared to a targeted ROE of $5.5 million. The Reserve Banks project that the check service will fully recover its costs in 2014. The Reserve Banks also anticipate that the FedACH Service, the Fedwire Funds and National Settlement Service, and Fedwire Securities Service will not achieve full-cost recovery because of costs associated with multiyear technology initiatives to

cost recovery of 92.1 percent for the ten-year period. This measure of long-run cost recovery is also published in the Board's *Annual Report.*

[2] Over this period, the Reserve Banks have undertaken a range of cost-reduction and revenue-generation initiatives as part of their long-term business strategy. These initiatives have included streamlining management structures, reducing staffing levels, increasing productivity, and selectively raising fees. These initiatives largely involved the check service, which contributes significantly to overall cost recovery and drove several years of under recovery in prior periods. For instance, the Reserve Banks reduced the number of offices at which paper checks are processed from forty-five at the beginning of 2003 to one location in 2010. The System's electronic check processing was also consolidated at one Federal Reserve site.

modernize their processing platforms. These investments are expected to gain efficiencies, improve the overall quality of operations, and enhance the Reserve Banks' ability to offer additional services to depository institutions.

The primary risks to the Reserve Banks' ability to achieve their targeted cost recovery rates are unanticipated volume and revenue reductions and the potential for cost overruns with the technology modernization initiatives. In light of these risks, the Reserve Banks will continue to refine their business and operational strategies to manage aggressively operating costs, to leverage efficiencies gained from technology initiatives, and to increase product revenue.

4.*2014 Pricing*—The following summarizes the Reserve Banks' changes in fee schedules for priced services in 2014:

Check

• The Reserve Banks will introduce a new tier to each level of the FedForward Select Mixed Image Cash Letter (ICL) products.[3] The Reserve Banks also will raise the daily fee for Select Mixed Level 1 from $2,000 to $2,200.

• The Reserve Banks announced in October a 12:30 p.m. deadline for FedReturn Mixed ICL deposits, which will provide an opportunity for paying banks to return items to the bank of first deposit one day earlier.[4] The ICL fee will be the same as the ICL fee for the 1:00 a.m. deadline for FedReturn Mixed ICL deposits, while the item fees will be the same as the item fees for the 9:00 p.m. deadline. The Reserve Banks also will reduce the FedReturn Mixed ICL per-item fees for tier 1 and tier 2, and increase the per-item fees for tier 3, tier 4, PDF, and substitute checks.[5]

• The Reserve Banks will discontinue the Choice Receiver program, which provides pricing incentives to those customers that agree to designate the Federal Reserve as their sole electronic presentment point and electronic return point. At the same time, the Reserve Banks will reduce the per-item fees for the FedReceipt Plus Forward and Return products from $0.005 to $0.004.[6]

FedACH

• The Reserve Banks will increase the FedACH monthly settlement fee from $50 to $55 per routing number and increase the account servicing fee from $37 to $45 per routing number. In addition, Reserve Banks will raise the fee for the use of automated notification of change (NOC) functionality from $0.15 to $0.20 per item and introduce a participation fee of $5 per month for each routing number with NOC activity during a month.

• The Reserve Banks also will restructure the batch/item monitoring fee for the Origination Monitoring Service and RDFI Alert Service by implementing two volume-based tiers with per batch fees of $0.007 for up to 500,000 batches each month and $0.0035 for greater than 500,000 batches each month.[7]

• The Reserve Banks will offer a discount of $0.0025 off FedACH receipt fees for receiving depository financial institutions (RDFIs) that originate and receive items on the same routing number (''on-us'' transactions).

Fedwire Funds and National Settlement

• The Reserve Banks will increase the per-item fee on all transfers that exceed $10 million (high-value transfer surcharge) from $0.12 to $0.15 and the per-item fee on all transfers that exceed $100 million from $0.30 to $0.36. The Reserve Banks will also increase the end-of-day origination surcharge from $0.21 to $0.26 and increase the monthly fee for the usage of the FedPayments Manager import/export tool from $30 to $45.[8] In addition, the Reserve Banks will increase the monthly participation fee from $85 to $90.[9]

• The Reserve Banks will increase the Tier 1 per-item pre-incentive fee from $0.65 to $0.69 per transaction, decrease the Tier 2 per-item pre-incentive fee from $0.25 to $0.24, and decrease the Tier 3 per-item pre-incentive fee from $0.145 to $0.14.[10]

• The Reserve Banks will increase the National Settlement Service's settlement file charge from $25 to $30 and the settlement charge per entry from $1.20 to $1.50.

Fedwire Securities

• The Reserve Banks will keep prices unchanged in 2014.

FedLine Access Solutions

• The Reserve Banks will increase the price for FedLine Command Plus by $200 per month and FedLine Direct by $500 per month.

• The Reserve Banks will no longer include user subscriptions for priced services within FedLine packages. Depository institutions that wish to access priced services will be required to purchase user subscriptions in packs of five (5-packs). The FedMail email subscriber 5-packs will be $10 per month, and 5-packs for all other FedLine packages will be $80 per month. FedLine packages will continue to include unlimited subscriptions to nonpriced services.

• The Reserve Banks will raise the monthly fees for the 56K additional dedicated electronic access connection by $500 and the dial-only VPN surcharge by $200. The Reserve Banks will also raise the monthly fee for FedMail fax by $10. Additionally, the Reserve Banks will increase the monthly fees for the Accounting Totals by Service Line (ACTS) reports.

• The Reserve Banks will include one FedLine subscriber 5-pack and one FedMail subscriber 5-pack within the FedComplete 100 Plus and FedComplete 200 Plus bundled products without an increase in published fees. Additionally, the FedComplete 100 product will be eliminated.

5. *2014 Price Index*—Figure 1 compares indexes of fees for the Reserve Banks' priced services with the GDP price index starting in 2005, which is the first full year the Reserve Banks offered Check 21 services. The price

[3] The Reserve Banks offer customers the option of sending FedForward ICLs for items drawn on specific endpoints in a separate cash letter, which combines a high fixed fee with a lower variable fee. All eligible items in the cash letter receive immediate availability while ineligible items receive deferred availability of the next business day. A current list of FedForward endpoint tier listings and Select Mixed endpoints can be found at *http://www.frbservices.org/servicefees/check21_endpoint_listing.html.*

[4] The announcement can be found at *http://www.frbservices.org/files/communications/pdf/check/100313_deposit_deadline.pdf.*

[5] The FedReturn endpoint tiers listing may be found at *http://www.frbservices.org/servicefees/check21_endpoint_listing.html.*

[6] FedReceipt is electronic presentment of forward items to paying banks or delivery of return items to depositary banks.

[7] The FedACH Risk® Origination Monitoring Service helps originating depository financial institutions (ODFIs) mitigate ACH origination risk for forward item batches. The service addresses operational, credit, and third-party risk associated with ACH payments, regardless of the location or number of sending points. The service allows ODFIs to set cumulative credit and/or debit processing limits (caps) for certain forward ACH batches processed by FedACH. The FedACH Risk RDFI Alert Service is available to help RDFIs manage their ACH receipt risk. The RDFI File Alert Service allows an RDFI to set debit and credit thresholds (dollar amount, addenda/item count, or both) for FedACH output files.

[8] This fee is charged to any Fedwire Funds participant that originates a Fedwire Funds transfer message via the FedPayments Manager (FPM) Funds tool and has the import/export processing option setting active at any point during the month.

[9] This fee is only charged when there is Fedwire Funds transfer activity in a given month.

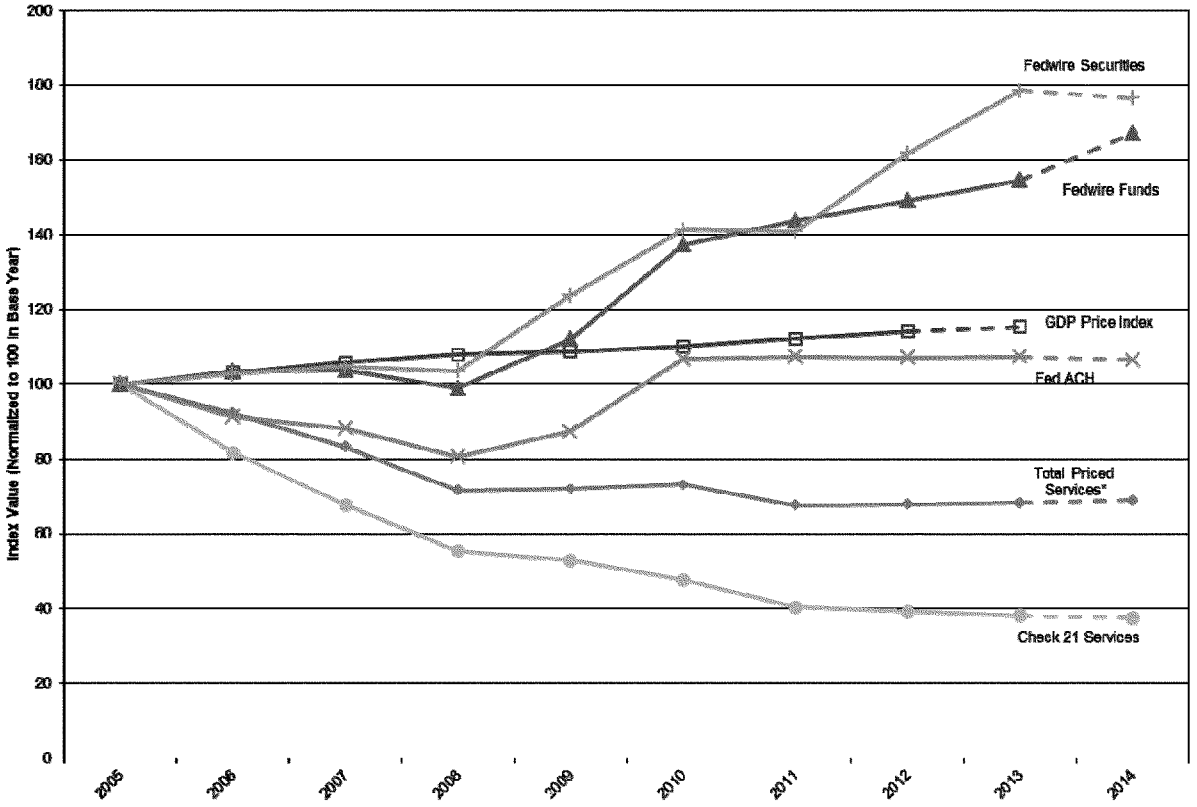
[10] The per-item pre-incentive fee is the fee that the Reserve Banks charge for transfers that do not qualify for incentive discounts. The Tier 1 per-item pre-incentive fee applies to the first 14,000 transfers, the Tier 2 per-item pre-incentive fee applies to the next 76,000 transfers, and the Tier 3 per-item pre-incentive fee applies to any additional transfers. The Reserve Banks apply an 80 percent incentive discount to every transfer over 60 percent of a customer's historic benchmark volume.

index for Reserve Bank priced services is projected to increase approximately 1 percent in 2014 from the 2013 level. The price index for Check 21 services is projected to decrease approximately 2 percent. The price index for the FedACH Service is projected to decrease nearly 1 percent. The price index for the Fedwire Funds and National Settlement Services is projected to increase approximately 8 percent. The price index for the Fedwire Securities Services is projected to decrease approximately 1 percent. For the period 2005 to 2014, the price index for total priced services is expected to decrease 31 percent. In comparison, for the period 2005 to 2012, the GDP price index increased 14 percent.

FIGURE 1

2014 Price Index

PRICE INDEXES FOR FEDERAL RESERVE PRICED SERVICES



* Total priced services excludes legacy paper check services, which now have deminimus volume and are estimated to account for less than 3 percent of aggregate revenue in 2013.

B. Private Sector Adjustment Factor—The method for calculating the financing and equity costs in the PSAF requires determining the appropriate imputed levels of debt and equity and then applying the applicable financing rates. In this process, a pro forma balance sheet using estimated assets and liabilities associated with the Reserve Banks' priced services is developed, and the remaining elements that would exist are imputed, as if these priced services were provided by a private business firm. The same generally accepted accounting principles that apply to commercial-entity financial statements apply to the relevant elements in the priced services pro forma financial statements.

The portion of Federal Reserve assets that will be used to provide priced services during the coming year is determined using information about actual assets and projected disposals and acquisitions. The priced portion of these assets is determined based on the allocation of the related depreciation expense. The priced portion of actual Federal Reserve liabilities consists of postemployment/postretirement benefits, accounts payable, and other liabilities. The priced portion of the actual net pension asset or liabilities is also included on the balance sheet.[11]

The equity financing rate is the targeted ROE rate produced by the capital asset pricing model (CAPM). In the CAPM, the required rate of return on a firm's equity is equal to the return on a risk-free asset plus a market risk premium. To implement the CAPM, the risk-free rate is based on the three-month Treasury bill; the beta is assumed to equal to 1.0, which approximates the risk of the market as a whole; and the

[11] The pension assets are netted with the pension liabilities and reported as a net asset or net liability as required by Accounting Standards Codification (ASC) 715 *Compensation—Retirement Benefits.*

market risk premium is based on the monthly returns in excess of the risk-free rate over the most recent 40 years. The resulting ROE influences the dollar level of the PSAF because this is the return a shareholder would require in order to invest in a private business firm.

For simplicity, given that federal corporate income tax rates are graduated, state income tax rates vary, and various credits and deductions can apply, an actual income tax expense is not calculated for Reserve Bank priced services. Instead, the Board targets a pretax ROE that would provide sufficient income to fulfill the priced services' imputed income tax obligations. To the extent that actual performance results are greater or less than the targeted ROE, income taxes are adjusted using an imputed income tax rate.

Capital structure. The capital structure is imputed based on the imputed funding need (assets less liabilities), subject to minimum equity constraints. Short-term debt is imputed to fund the imputed short-term funding need. The ratio of long-term debt and equity is imputed to meet the priced services long-term funding need based on the capital structure of the U.S. publicly traded firm market. The level of equity must meet the minimum equity constraints, which follow the FDIC requirements for a well-capitalized institution of at least 5 percent of total assets and 10 percent of risk-weighted assets. Any imputed equity that exceeds that needed to meet minimum equity constraints is offset by a reduction in imputed long-term debt. When imputed equity is larger than what can be offset by imputed debt, the excess is imputed as investments in Treasury Securities.

Effective tax rate. As with the imputed capital structure, the effective tax rate is calculated based on data from U.S. publicly traded firms. The tax rate is the mean of the weighted average rates of the U.S. publicly traded firm market over the past 5 years.

Debt and equity financing. The imputed short- and long-term debt financing rates are derived from the nonfinancial commercial paper rates from the Federal Reserve Board's H.15 Selected Interest Rates release and the annual Merrill Lynch Corporate & High Yield Index rate, respectively. The rates for debt and equity financing are applied to the priced services estimated imputed liabilities and imputed equity derived from the target capital structure.

The increase in the 2014 PSAF is due primarily to an increase in the debt and equity costs resulting from imputed debt and equity that was required to offset a reduction in pension and other benefit liabilities that were used to fund priced services assets in 2013.

Projected 2014 Federal Reserve priced-services assets, reflected in table 3, have increased $85.7 million 2013 levels, as a result of the increase in imputed investments from estimated items in process of collection and the shift in the net pension liability to a net pension asset.

Credit float, which represents the difference between items in process of collection and deferred credit items, increased to $600.0 million in 2014 from $550.0 million in 2013.[12] The projected increase for 2014 is primarily due to the increased use of products that generate credit float.

As shown in table 3, the amount of equity imputed for the 2014 PSAF is $82.3 million, an increase of approximately $10.1 million from the equity imputed for 2013. In accordance with FAS 158 [ASC 715], this amount includes an accumulated other comprehensive loss (AOCI) of $497.5 million. The capital-to-total-assets ratio and the capital-to-risk-weighted-assets ratio must be equal to or greater than the regulatory requirements for a well-capitalized depository institution. The ratio of capital to risk-weighted assets exceeds 10 percent, and equity exceeds 5 percent of total assets.[13] In 2013, additional equity of $58.1 million was imputed to meet the minimum capital-to-risk-weighted-asset constraint (the corresponding imputed investment income from this additional equity was $0.1 million). In 2014, equity was imputed to meet the ratio of long-term debt to long-term debt plus equity observed in the market.

In 2014, $22.2 million and $119.3 million of short- and long-term debt, respectively, was imputed to meet the asset funding requirements and to reflect the ratio of long-term debt to equity observed in the market (Table 4). In 2013, $14.4 million in short-term debt was imputed to meet short-term funding requirements.

Table 5 shows the imputed PSAF elements for 2014 and 2013, including the pretax ROE and other required PSAF costs. The 2014 long-term debt costs increased to $7.0 million from zero in 2013 due to imputing $119.3 million in long-term debt. The 2014 ROE of $8.7 million represents an increase of $1.9 million over the 2013 ROE of $6.8 million and is due to a higher equity level and pre-tax ROE. Imputed sales taxes increased to $3.5 million in 2014 from $3.3 million in 2013. The effective income tax rate used in 2014 decreased to 37.2 percent from 38.5 percent in 2013. The priced services portion of the Board's expenses increased $0.1 million to $4.1 million in 2014 from $4.0 million in 2013.

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[12] Credit float occurs when the Reserve Banks present transactions to the paying bank prior to providing credit to the depositing bank.

[13] On September 10, 2013, the FDIC issued an interim rule, effective in 2015, pertaining to the risk weighting of regulatory capital and to the inclusion of AOCI in the calculation of regulatory capital. Under the agencies' general risk-based capital rules, most components of AOCI are not reflected in a banking organization's regulatory capital. The Reserve Banks will continue to include accumulated other comprehensive income or losses (78 FR 55346, September 10, 2013). The Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System published a final rule that replaces their existing risk-based and leverage capital rules and this final rule is consistent with the interim final rule published by the FDIC (78 FR 62017, October 11, 2013).

Table 3

Comparison of Pro Forma Balance Sheets for Budgeted Federal Reserve Priced Services[14]

(millions of dollars – projected average for year)

	2014	2013	Change
Short-term assets			
Receivables	35.8	35.3	0.5
Materials and supplies	0.7	0.9	(0.2)
Prepaid expenses	11.1	5.5	5.6
Items in process of collection[15]	200.0	150.0	50.0
Total short-term assets	247.7	191.7	56.0
Imputed investments	$ 600.0	$ 608.1	$ (8.1)
Long-term assets			
Premises[16]	$ 123.6	$ 135.0	$ (11.4)
Furniture and equipment	37.6	32.8	4.8
Leasehold improvements and long-term prepayments	103.3	75.3	28.0
Net pension asset	39.3	-	39.3
Deferred tax asset	303.1	326.0	(22.9)
Total long-term assets	606.8	569.1	37.8
Total assets	$ 1,454.5	$ 1,368.9	$ 85.7
Short-term liabilities			
Deferred credit items[15]	$ 800.0	$ 700.0	$ 100.0
Short-term debt	22.2	14.4	7.7
Short-term payables	25.5	27.3	(1.8)
Total short-term liabilities	847.7	741.7	106.0
Long-term liabilities			
Long-term debt	$ 119.3	$ -	$ 119.3
Postemployment/postretirement benefits and net pension liabilities[17]	405.2	554.9	(149.8)
Total liabilities	$ 1,372.2	$ 1,296.6	$ 75.6
Equity[18]	$ 82.3	$ 72.3	$ 10.1
Total liabilities and equity	$ 1,454.5	$ 1,368.9	$ 85.7

[14] The 2013 PSAF values in tables 3, 4, and 5 reflect the 2013 PSAF of $14.1 million approved by the Board in October 2012 when determining fees for priced services and 2014 figures reflect the most recent data from the Reserve Banks. Calculations in this table and subsequent pro forma tables may be affected by rounding.

[15] Represents float that is directly estimated at the service level.

[16] Includes the allocation of Board of Governors assets to priced services of $0.6 million for 2014 and 2013.

[17] Includes the allocation of Board of Governors liabilities to priced services of $0.6 million and $0.5 million for 2014 and 2013, respectively.

[18] Includes an accumulated other comprehensive loss of $497.5 million for 2014 and $615.3 million for 2013, which reflects the ongoing amortization of the accumulated loss in accordance with FAS 158 [ASC 715]. Future gains or losses, and their effects on the pro forma balance sheet, cannot be projected. See table 5 for calculation of required imputed equity amount.

Table 4
Imputed Funding for Priced-Services Assets
(millions of dollars)

	2014	2013
A. Short-term asset financing		
Short-term assets to be financed		
Receivables	$ 35.8	$ 35.3
Materials and supplies	0.7	0.9
Prepaid expenses	11.1	5.5
Total short-term assets to be financed	$ 47.7	$ 41.7
Short-term payables	25.5	27.3
Net short-term assets to be financed	$ 22.2	$ 14.4
Imputed short-term debt financing[19]	$ 22.2	$ 14.4
B. Long-term asset financing		
Long-term assets to be financed		
Premises	$ 123.6	$ 135.0
Furniture and equipment	37.6	32.8
Leasehold improvements and long-term prepayments	103.3	75.3
Net pension asset	39.3	-
Deferred tax asset	303.1	326.0
Total long-term assets to be financed	$ 606.8	$ 569.1
Postemployment/postretirement benefits and net pension liabilities	405.2	554.9
Net long-term assets to be financed	$ 201.6	$ 14.2
Imputed long-term debt[19]	$ 119.3	$ -
Imputed equity[19]	82.3	14.2
Total long-term financing	$ 201.6	$ 14.2

[19] See table 5 for calculation.

Table 5
Derivation of the 2014 and 2013 PSAF
(millions of dollars)

	2014			2013		
A. Imputed long-term debt and Equity						
	Debt	Equity		Debt	Equity	
Net long-term assets to finance	$ 201.6	$ 201.6		$ 14.2	$14.2	
Capital structure observed in market	59%	41%		60%	40%	
Pre-adjusted long-term debt and equity	$ 119.3	$ 82.3		$ 8.5	$ 5.7	
Equity adjustments offset by [20]:						
Imputed long-term debt	-	-		(8.5)	8.5	
Imputed investments	-	-		-	58.1	
	$ 119.3	$ 82.3		$ -	$ 72.3	
B. Cost of capital						
Elements of capital costs						
Short-term debt[21]	$ 22.2	x 0.2% =	$ 0.0	$ 14.4	x 0.4% =	$ 0.1
Long-term debt[21]	119.3	x 5.9% =	7.0	-	x 6.4% =	-
Equity[22]	82.3	x 10.6%=	8.7	72.3	x 9.4% =	6.8
			$ 15.8			$ 6.9
C. Other required PSAF costs						
Sales taxes		$ 3.5			$ 3.3	
Board of Governors		4.1			4.0	
			7.6			7.3
D. Total PSAF			$ 23.4			$ 14.1
As a percent of assets			1.6%			1.0%
As a percent of expenses			5.6%			3.3%
E. Tax rates			37.2%			38.5%

[20] If minimum equity constraints are not met after imputing equity based on the capital structure observed in the market, additional equity is imputed to meet these constraints. The long-term funding need was met by imputing long-term debt and equity based on the capital structure observed in the market (see tables 4 and 6). In 2013, the amount of imputed equity was based on the minimum equity requirements for risk-weighted assets, or 10%.
[21] Imputed short-term debt and long-term debt are computed at table 4.
[22] The 2013 ROE is equal to a risk-free rate plus a risk premium (beta * market risk premium). The 2013 after-tax CAPM ROE is calculated as 0.05% + (1.0 * 6.61%) = 6.66%. Using a tax rate of 37.2%, the after-tax ROE is converted into a pretax ROE, which results in a pretax ROE of (6.66% / (1-37.2%)) = 10.6%. Calculations may be affected by rounding.

Table 6
Computation of 2014 Capital Adequacy for Federal Reserve Priced Services
(millions of dollars)

	Assets	Risk Weight	Weighted Assets
Imputed investments:			
3-month Treasury bills[23]	$ -	-	$ -
Federal funds[24]	600.0	0.2	120.0
Total imputed investments	600.0		120.0
Receivables	$ 35.8	0.2	$ 7.2
Materials and supplies	0.7	1.0	0.7
Prepaid expenses	11.1	1.0	11.1
Items in process of collection	200.0	0.2	40.0
Premises	123.6	1.0	123.6
Furniture and equipment	37.6	1.0	37.6
Leasehold improvements and long-term prepayments	103.3	1.0	103.3
Pension asset	39.3	1.0	39.3
Deferred tax asset	303.1	1.0	303.1
Total	$ 1,454.5		$ 785.8
Imputed equity			$ 82.3
Capital to risk-weighted assets	10.5 %		
Capital to total assets	5.7 %		

[23] If minimum equity constraints are not met after imputing equity based on all other financial statement components, additional equity is imputed to meet these constraints. Additional equity imputed to meet minimum equity requirements is invested solely in Treasury securities. The imputed investments are similar to those for which rates are available on the Federal Reserve's H.15 statistical release, which can be located at http://www.federalreserve.gov/releases/h15/data.htm.

[24] The investments are imputed based on the amounts arising from the collection of items prior to providing credit according to established availability schedules.

C. *Check Service*—Table 7 shows the 2012 actual, 2013 estimated, and 2014 budgeted cost-recovery performance for the commercial check service.

Table 7

Check Service Pro Forma Cost and Revenue Performance
($ millions)

YEAR	1 REVENUE	2 TOTAL EXPENSE	3 NET INCOME (ROE) [1-2]	4 TARGETED ROE	5 RECOVERY RATE AFTER TARGETED ROE [1/(2+4)]
2012 (actual)	220.3	198.4	21.9	4.1	108.8%
2013 (estimate)	197.3	174.6	22.7	1.7	111.9%
2014 (budget)	163.4	149.4	14.0	1.9	108.0%

1. *2013 Estimate*—For 2013, the Reserve Banks estimate that the check service will recover 111.9 percent of total expenses and targeted ROE, compared with the budgeted recovery rate of 107.1 percent. The Reserve Banks expect to recover all actual and imputed costs of providing check services and earn a net income of $22.7 million (see table 7). Greater-than-expected check volumes processed by the Reserve Banks and lower-than-expected costs have influenced significantly the check services cost recovery.[25]

The decline in checks collected by the Reserve Banks reflects the decline in the number of checks written generally. Through August, total forward check volume is 7 percent lower and total return check volume is 13 percent lower than for the same period last year. For full-year 2013, the Reserve Banks estimate that their total forward check collection volume will decline nearly 7 percent and their total return check volume will decline 14 percent from 2012 levels.[26] The proportion of checks deposited and presented electronically through the Reserve Banks continues to grow (see table 8). The Reserve Banks expect that year-end 2013 FedForward deposit and FedReceipt presentment penetration rates will exceed 99.9 percent.[27] The Reserve Banks also expect that year-end 2013 FedReturn and FedReceipt Return volume penetration rates will reach 99.0 percent and 97.0 percent, respectively.[28]

Table 8

Check 21 Product Penetration Rates
(percent)[a]

	FORWARD DEPOSIT VOLUME				RETURN VOLUME[b]			
	FEDFORWARD		FEDRECEIPT		FEDRETURN		FEDRECEIPT RETURN	
	Full-year	Year-end	Full-year	Year-end	Full-year	Year-end	Full-year	Year-end
2005	1.9	5.0	<0.1	0.1	4.0	6.9	N/A	N/A
2006	14.4	26.0	1.0	3.5	19.7	30.5	<0.1	<0.1
2007	42.6	57.9	12.5	22.7	37.8	45.4	0.5	1.1
2008	76.8	91.8	41.5	60.7	58.4	72.0	6.4	13.2
2009	96.5	98.6	80.4	91.7	81.2	91.2	34.1	50.8
2010	99.4	99.7	95.7	98.4	94.5	96.8	63.0	71.7
2011	99.9	>99.9	99.3	99.7	97.5	98.0	84.5	90.8
2012	>99.9	>99.9	99.9	>99.9	98.5	98.6	93.2	95.5
2013 (estimate)	>99.9	>99.9	>99.9	>99.9	98.8	99.0	96.3	97.0
2014 (budget)	>99.9	>99.9	>99.9	>99.9	99.2	99.4	97.0	97.0

[a] Deposit and presentment statistics are calculated as a percentage of total forward collection volume. Return statistics are calculated as a percentage of total return volume.
[b] The Reserve Banks began offering PDF delivery of returned checks in 2009. Starting in 2011, volume associated with the delivery of returned checks in PDF files is included in FedReceipt Return volume.

[25] The greater-than-expected check volume is attributed to two new FedForward deposit options that were introduced in late 2011: premium mixed and select mixed. The premium mixed option allows customers to send forward collection items in a mixed cash letter for a higher cash letter fee and lower electronic per-item fee. The select mixed option offers similar incentives; however, the customer sends forward collection items drawn on specific forward collection routing numbers in separate cash letters.

[26] Total Reserve Bank forward check volumes are expected to drop from roughly 6.4 billion in 2012 to 6.0 billion in 2013. Total Reserve Bank return check volumes are expected to drop from roughly 48.8 million in 2012 to 41.9 million in 2013.

[27] FedForward is the electronic forward check collection product. FedReceipt is electronic presentment with accompanying images.

[28] FedReturn is the electronic check return product. FedReceipt Return is the electronic delivery of returned checks with accompanying images.

2. *2014 Pricing*—In 2014, the Reserve Banks project that the check service will recover 108.0 percent of total expenses and targeted ROE. Revenue is projected to be $163.4 million, a decline of 17 percent from 2013. This decline is driven largely by projected reductions in both forward check collection and return check volume. Total expenses for the check service are projected to be $149.4 million, a decline of 14 percent from 2013. The reduction in check costs is driven primarily by the cost savings associated with the implementation of a more efficient check processing platform and the decommissioning of the legacy platform.[29]

The Reserve Banks estimate that total Reserve Bank forward check volumes will decline nearly 9 percent to 5.4 billion and return check volumes will decline approximately 14 percent to 36.2 million in 2014. The decline in Reserve Bank check volume can be attributed to the continued decline in check use nationwide.

The Reserve Banks offer depository institutions the option of sending FedForward Select Mixed Image Cash Letters (ICL), for items drawn on specific routing numbers in a separate cash letter, which combines a high fixed fee with a lower variable fee. The Reserve Banks will introduce a third tier to each level of the FedForward Select Mixed ICL product and will expand the number of eligible routing numbers by 828 for a total of 5,411 routing numbers. At the same time, the Reserve Banks will raise the daily fee for FedForward Select Mixed Level 1 from $2,000 to $2,200 (see Table 9).

Table 9

FedForward Select Mixed Image Cash Letter [a,b]		
	Level 1	Level 2
Daily fixed fee	$2,200	$900
Eligible routing numbers		
Tier 1 per-item fee	$0.0020	$0.0020
Tier 2 per-item fee	$0.0040	$0.0060
Tier 3 per-item fee	$0.0060	$0.0080
Non-eligible routing numbers	$0.1000	$0.1000

[a] The deposit deadlines are 9:00 p.m. ET, Sunday through Friday to 5:00 a.m. ET, Monday through Friday.
[b] A current list of FedForward endpoint tier listings and Select Mixed endpoints can be found at http://www.frbservices.org/servicefees/check21_endpoint_listing.html.

The Reserve Banks announced in October a 12:30 p.m. deadline for FedReturn Mixed ICL deposits, which will provide an opportunity for paying banks to return items to the bank of first deposit one day earlier. The ICL fee will be the same as the ICL fee for the 1:00 a.m. deadline for FedReturn Mixed ICL deposits, and item fees will be the same as the item fees for the 9:00 p.m. deadline. The Reserve Banks also will reduce FedReturn Mixed ICL per-item fees for tier 1 and tier 2, and increase per-item fees for tier 3, tier 4, PDF, and substitute checks (see Table 10).

[29] The Reserve Banks completed a multi-year check platform modernization initiative in October 2012.

Table 10

FedReturn Mixed Image Cash Letter [a,b]			
Deadline	9:00 p.m.	1:00 a.m.	12:30 p.m.
Cash letter fee	$3.50	$4.50	$4.50
Tier 1	$0.15	$0.20	$0.15
Tier 2	$0.20	$0.25	$0.20
Tier 3	$0.60	$0.65	$0.60
Tier 4	$0.80	$0.85	$0.80
PDF [c]	$1.00	$1.00	$1.00
Substitute check [d]	$1.50	$1.50	$1.50

[a] All deadlines are Eastern Time, Monday through Friday.
[b] A current list of FedForward endpoint tier listings and Select Mixed endpoints can be found at http://www.frbservices.org/servicefees/check21_endpoint_listing.html.
[c] For those depository institutions that do not have the ability to accept forward or return items in X9.37 format, the Reserve Banks can send a PDF file of the depository institution's presentments and returns directly to a printer located at the depository institution.
[d] A substitute check is a paper reproduction of an original check that contains an image of the front and back of the original check and is suitable for automated processing in the same manner as the original check.

The Reserve Banks will discontinue the Choice Receiver program, which provides pricing incentives to those customers that agree to designate the Federal Reserve as their sole electronic presentment point and electronic return point. At the same time, the Reserve Banks will reduce the per-item fees for the FedReceipt Plus Forward and Return products from $0.005 to $0.004.

Risks to the Reserve Banks' ability to achieve budgeted 2014 cost recovery for the check service include greater-than-expected check volume losses to correspondent banks, aggregators, and direct exchanges, which would result in lower-than-anticipated revenue, and higher-than-expected support and overhead costs.

D. *FedACH Service*—Table 11 shows the 2012 actual, 2013 estimate, and 2014 budgeted cost-recovery performance for the commercial FedACH service.

Table 11

FedACH Service Pro Forma Cost and Revenue Performance
($ millions)

YEAR	1 REVENUE	2 TOTAL EXPENSE	3 NET INCOME (ROE) [1-2]	4 TARGETED ROE	5 RECOVERY RATE AFTER TARGETED ROE [1/(2+4)]
2012 (actual)	114.9	111.4	3.6	2.4	101.0%
2013 (estimate)	118.1	116.3	1.8	1.2	100.5%
2014 (budget)	123.7	122.7	1.0	1.7	99.5%

1. *2013 Estimate*—The Reserve Banks estimate that the FedACH service will recover 100.5 percent of total expenses and targeted ROE. The Reserve Banks expect to recover all actual and imputed costs of providing FedACH services and earn net income of $1.8 million. Through August, FedACH commercial origination volume was 3.6 percent higher than it was during the same period last year. For the full year, the Reserve Banks estimate that volume growth will continue at the current trend.

2. *2014 Pricing*—The Reserve Banks project that the FedACH service will recover 99.5 percent of total expenses and targeted ROE in 2014. Total revenue is expected to increase $5.6 million from the 2013 estimate, primarily because of the projected 3.0 percent growth in FedACH commercial origination and receipt volume. Total expenses are budgeted to increase $6.4 million from the 2013 estimate because of costs associated with the development of a new FedACH technology platform.

The Reserve Banks will increase the FedACH monthly settlement fee from $50 to $55 per routing number and will increase the account servicing fee from $37 to $45 per routing number. In addition, Reserve Banks will raise the fee for the use of automated notification of change (NOC) functionality from $0.15 to $0.20 per item and will introduce a NOC participation fee of $5 per month. The Reserve Banks also will restructure the batch/item monitoring fee for the Origination Monitoring Service and RDFI Alert Service by implementing two volume-based tiers

with per-batch fees of $0.007 for up to 500,000 batches each month and $0.0035 for greater than 500,000 batches each month. The Reserve Banks will offer a discount of $0.0025 off FedACH receipt fees for RDFIs that originate and receive items on the same routing number (''on-us'' transactions).[30]

The primary risk to the Reserve Banks' ability to achieve budgeted 2014 cost recovery for the FedACH service is cost overruns associated with unanticipated problems with technology upgrades and higher-than-expected support and overhead costs. Other risks include lower-than-expected volume and associated revenue due to unanticipated mergers and acquisitions and loss of market share due to direct exchanges and a shift of volume to the private-sector operator.

E. *Fedwire Funds and National Settlement Services*—Table 12 shows the 2012 actual, 2013 estimate, and 2014 budgeted cost-recovery performance for the Fedwire Funds and National Settlement Services.

Table 12

Fedwire Funds and National Settlement Services Pro Forma Cost and Revenue Performance
($ millions)

YEAR	1 REVENUE	2 TOTAL EXPENSE	3 NET INCOME (ROE) [1-2]	4 TARGETED ROE	5 RECOVERY RATE AFTER TARGETED ROE [1/(2+4)]
2012 (actual)	90.5	89.7	0.8	1.9	98.8%
2013 (estimate)	97.2	98.1	-0.9	1.0	98.0%
2014 (budget)	109.8	109.9	-0.1	1.5	98.5%

1. *2013 Estimate*—The Reserve Banks estimate that the Fedwire Funds and National Settlement Services will recover 98.0 percent of total expenses and targeted ROE, compared with a 2013 budgeted recovery rate of 98.3 percent. For the full year, the Reserve Banks estimate that Fedwire Funds online volume will exceed the budget by 3.0 percent. Although volume is higher than originally projected, revenue is expected to be lower because of a different-than-projected distribution of volume across the fee structure. With regard to the National Settlement Service, the Reserve Banks estimate that the volume of settlement files will exceed projections by 6.3 percent while the volume of settlement entries will be higher by 2.4 percent.

2. *2014 Pricing*—The Reserve Banks will increase prices on average by 13.5 percent in order for the Fedwire Funds and National Settlement Services to recover 98.5 percent of total expenses and targeted ROE. The pricing strategy is sensitive to the competitive vulnerabilities of different customer segments and focuses price increases on value-added aspects of the service. The Reserve Banks project total revenue to increase $12.6 million from the 2013 estimate. This projected revenue increase is primarily the result of price increases for the Fedwire Funds and the National Settlement Services and a 2.0 percent projected growth in Fedwire Funds volume. The Reserve Banks project total expenses to increase $11.8 million from the 2013 estimate. This increase is due primarily to ongoing projects to upgrade the Fedwire application and related information technology infrastructure.

The Reserve Banks will increase the surcharge for transfers exceeding $10 million from $0.12 to $0.15 and the surcharge for transfers exceeding $100 million from $0.30 to $0.36.[31] The Reserve Banks believe that high-value transfer surcharges are an equitable way to shift more of the cost associated with Fedwire resiliency to those high-value payments that drive the need for such resiliency.

The Reserve Banks also will adjust the incentive pricing fees and related benchmark volume for the Fedwire Funds Service. First, the Reserve Banks will increase the Tier 1 per item pre-incentive fee (the fee before volume discounts are applied) from $0.65 to $0.69. Second, the Reserve Banks will decrease the Tier 2 per item pre-incentive fee from $0.25 to $0.24. Third, the Reserve Banks will decrease the Tier 3 per item pre-incentive fee from $0.145 to $0.140. Finally, the Reserve Banks will increase the benchmark at which customers receive volume-based discounts from 50 percent of a customer's historical average of daily transfer activity to 60 percent.

The Reserve Banks will increase the late-day (after 5:00 p.m. ET) origination surcharge from $0.21 to $0.26. In addition, the Reserve Banks will increase the FedPayments Manager import/export monthly fee from $30 to $45. The Reserve Banks believe that these increases are reasonable given the significant value that these services provide to the customer. Lastly, the Reserve Banks will increase the monthly participation fee from $85 to $90. The Reserve Banks estimate that the price increases will result in an approximate 13.5 percent average price increase for Fedwire Funds customers.

With respect to the National Settlement Service, the Reserve Banks will increase the settlement file fee from $25 to $30 and the settlement entry fee from $1.20 to $1.50. The Reserve Banks project volume growth to remain at 2013 levels.

The Reserve Banks' proposed Fedwire Funds and National Settlement Services fees are consistent with their multi-year strategy to minimize pricing volatility while undertaking the ongoing technology upgrades and related information technology infrastructure projects.[32] The primary risk to the Reserve Banks' ability to achieve budgeted 2014 cost recovery for these services is cost overruns associated with managing the complexity of these technology upgrades.

F. *Fedwire Securities Service*—Table 13 shows the 2012 actual, 2013 estimate, and 2014 budgeted cost

[30] An RDFI's use of the FedACH risk management services could be enhanced with the inclusion of on-us items.

[31] In 2013, the Reserve Banks introduced a $0.30 high-value surcharge for both the senders and receivers of transfers exceeding $100 million.

[32] The Reserve Banks expect costs associated with the upgrades to peak in 2013 and 2014.

recovery performance for the Fedwire Securities Service.[33]

Table 13

Fedwire Securities Service Pro Forma Cost and Revenue Performance
($ millions)

YEAR	1 REVENUE	2 TOTAL EXPENSE	3 NET INCOME (ROE) [1-2]	4 TARGETED ROE	5 RECOVERY RATE AFTER TARGETED ROE [1/(2+4)]
2012 (actual)	24.1	23.5	0.6	0.5	100.3%
2013 (estimate)	26.5	25.5	1.0	0.3	103.0%
2014 (budget)	25.1	25.1	0.0	0.3	98.5%

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1. *2013 Estimate*—The Reserve Banks estimate that the Fedwire Securities Service will recover 103.0 percent of total expenses and targeted ROE, compared with a 2013 budgeted recovery rate of 101.6 percent. The higher-than-expected cost recovery is primarily due to higher-than-projected volumes and associated revenue. Specifically, continued low mortgage rates have resulted in higher mortgage-backed securities issuance and thus higher issues maintenance and online transfer activity. In addition, account maintenance activity is higher than expected as customers have been closing empty accounts at a slower rate than originally projected. For the full year, the Reserve Banks expect total revenue to exceed the budget by 8.9 percent or $2.2 million.

2. *2014 Pricing*—The Reserve Banks project that the Fedwire Securities Service will recover 98.5 percent of total expenses and targeted ROE driven by a projected decrease in volume and revenue in 2014. The Reserve Banks project that revenue will decrease by $1.4 million compared with 2013 estimates. Expenses are expected to decrease by $0.4 million, partly reflecting higher Treasury reimbursements.[34] The Reserve Banks expect costs associated with the Fedwire modernization program to increase.

In calculating projected Fedwire Securities revenue for 2014, the Reserve Banks project that online transfer activity will decline by 7.6 percent, the number of accounts maintained will decrease by 6.2 percent, and the number of agency securities maintained will decrease by 1.2 percent. The estimated decrease in securities maintenance and online transfer activity reflects a lower issuance of mortgage-backed securities due to the recent uptick in mortgage rates. The number of accounts is also expected to decrease largely due to the historically high proportion of empty accounts, which customers continue to close.

The Reserve Banks propose no price change for the Fedwire Securities Service for 2014.

G. *FedLine Access*—The Reserve Banks charge fees for the electronic connections that depository institutions use to access priced services and allocate the costs and revenue associated with this electronic access to the various priced services. There are currently five FedLine channels through which customers can access the Reserve Banks' priced services: FedMail®, FedLine Web®, FedLine Advantage®, FedLine Command®, and FedLine Direct®.[35] The Reserve Banks package these channels into nine FedLine packages, described in the two paragraphs that follow, that are supplemented by a number of premium (or à la carte) access and accounting information options. In addition, the Reserve Banks offer FedComplete packages, which are bundled offerings of a FedLine Advantage connection and a fixed number of FedACH, Fedwire Funds, and Check 21-enabled services.

Five attended access packages offer access to critical payment and information services via a web-based interface. The FedMail email package provides access to basic information services via fax or email, while two FedLine Web packages offer FedMail email options plus online attended access to a range of services, including cash services, FedACH information services, and check services. Two FedLine Advantage packages expand upon the FedLine Web packages and offer attended access to critical transactional services: FedACH, Fedwire Funds, and Fedwire Securities.

Four unattended access packages are computer-to-computer, IP-based interfaces designed for medium-to high-volume customers. The FedLine Command package offers an unattended connection to FedACH, as well as most accounting information services. The three remaining packages are FedLine Direct packages, which allow for unattended connections at one of three connection speeds to FedACH, Fedwire Funds, and Fedwire Securities transactional and information services and to most accounting information services.

Many of the FedLine access solutions fee changes in 2014 are designed to encourage customers to migrate to more efficient access solutions. The Reserve Banks will increase the fees on legacy services, such as an additional $10 per month for FedMail Fax, $500 per month for FedLine Direct (56K), $500 for a 56K additional connection, and $200 per month for the Dial-Only VPN surcharge.

In addition, the Reserve Banks will make other changes to FedLine pricing for 2014 to improve alignment of value and revenue. In particular, the Reserve

[33] The Reserve Banks provide transfer services for securities issued by the U.S. Treasury, federal government agencies, government-sponsored enterprises, and certain international institutions. The priced component of this service, reflected in this memorandum, consists of revenues, expenses, and volumes associated with the transfer of all non-Treasury securities. For Treasury securities, the U.S. Treasury assesses fees for the securities transfer component of the service. The Reserve Banks assess a fee for the funds settlement component of a Treasury securities transfer; this component is not treated as a priced service.

[34] Treasury reimbursement is calculated largely by multiplying costs by the ratio of Treasury to agency transfers. In 2014, Treasury projects its transfer volume will remain flat, while the Reserve Banks expect agency transfers to decrease. Therefore, the higher projected ratio of Treasury to agency transfers will result in Treasury reimbursing a higher portion of total costs.

[35] FedMail, FedLine Web, FedLine Advantage, FedLine Command, and FedLine Direct are registered trademarks of the Federal Reserve Banks.

Banks will increase the monthly fees for FedLine Command Plus by $200 and monthly fees for Accounting Totals by Service Line (ACTS) reports.

The Reserve Banks will no longer include user subscriptions for priced services within FedLine packages. Depository institutions that wish to access priced services will be required to purchase user subscriptions in packs of five (5-packs). The FedMail email subscriber 5-pack will be $10 per month, and 5-packs for all other FedLine packages will be $80 per month. FedLine packages will continue to include unlimited subscriptions to nonpriced services.

The Reserve Banks will eliminate the FedComplete 100 product. Depository institutions will have the option to choose either the FedComplete 100 Plus or FedComplete 200 Plus packages, which are $775 and $1,300 per month, respectively. These FedComplete packages will include one FedLine subscriber 5-pack and one FedMail subscriber 5-pack.

II. Analysis of Competitive Effect

All operational and legal changes considered by the Board that have a substantial effect on payments system participants are subject to the competitive impact analysis described in the March 1990 policy, ''The Federal Reserve in the Payments System.'' [36] Under this policy, the Board assesses whether proposed changes would have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services because of differing legal powers or constraints or because of a dominant market position deriving from such legal differences. If any proposed changes create such an effect, the Board must further evaluate the changes to assess whether the benefits associated with the changes—such as contributions to payment system efficiency, payment system integrity, or other Board objectives—can be achieved while minimizing the adverse effect on competition.

The Board projects that the 2014 fees, fee structures, and changes in service will not have a direct and material adverse effect on the ability of other service providers to compete effectively with the Reserve Banks in providing similar services. The fees should permit the Reserve Banks to earn a ROE that is comparable to overall market returns and provide for full cost recovery over the long run.

[36] *Federal Reserve Regulatory Service,* 9–1558.

BILLING CODE 6210–01–P

FEDACH SERVICE 2014 FEE SCHEDULE

EFFECTIVE JANUARY 2, 2014. **BOLD INDICATES CHANGES FROM 2013 PRICES.**

	Fee
FedACH minimum monthly fee[37]	
Originating Depository Financial Institution (ODFI)	$35.00
Receiving Depository Financial Institution (RDFI)	$25.00
Origination (per item or record)[38,39]	
Forward or return items in small files	$0.0030
Forward or return items in large files	$0.0025
Addenda record	$0.0015
FedLine Web origination returns and notification of change (NOC) fee[40]	$0.35
Facsimile exception returns/NOC[41]	$45.00
Automated NOC fee	**$0.20**
Volume-based discounts (based on monthly receipt volume)	
Per item when receipt volume is 10,000,000 to 17,500,000 items per month	$0.0002 discount
Per item when receipt volume is more than 17,500,000 items per month	$0.0003 discount
Receipt (per item or record)[42]	
Forward item	$0.0025
Return items	$0.0075
Addenda record	$0.0015
RDFIs originating and receiving items on the same routing number	**$0.0025 discount**
Volume-based discounts (excluding FedACH SameDay service items)	
RDFIs receiving less than 90 percent of total network volume through FedACH	
Per item when volume is 1,000,001 to 12,500,000 items per month	$0.0007 discount
Per item when volume is more than 12,500,000 items per month	$0.0009 discount
RDFIs receiving at least 90 percent of FedACH-originated volume through FedACH	
Per item when volume is 1,000,001 to 2,500,000 items per month	$0.0007 discount
Per item when volume is 2,500,001 to 12,500,000 items per month	$0.0008 discount
Per item when volume is more than 12,500,000 items per month	$0.0010 discount
RDFIs receiving at least 90 percent of ACH volume originated through FedACH or EPN	
Per item when volume is 1,000,001 to 2,500,000 items per month	$0.0007 discount
Per item when volume is 2,500,001 to 12,500,000 items per month	$0.0009 discount
Per item when volume is more than 12,500,000 items per month	$0.0011 discount
FedACH SameDay Service	
Origination[43,44]	
Forward item in a small file	$0.0030 surcharge
Forward item in a large file	$0.0035 surcharge

[37] An ODFI is subject to a $35 minimum fee on its origination volume; an RDFI that does not originate forward items is subject to a $25 minimum fee on its receipt volume.
[38] Small files contain fewer than 2,500 items and large files contain 2,500 or more items. These origination fees do not apply to items that the Reserve Banks receive from EPN.
[39] Origination discounts apply only to those items received by FedACH receiving points.
[40] The fee includes the item and addenda fees in addition to the conversion fee.
[41] The fee includes the item and addenda fees in addition to the conversion fee. Reserve Banks also assess a $30 fee for every government paper return/NOC they process.
[42] Receipt fees do not apply to items that the Reserve Banks send to EPN.
[43] This per-item surcharge is in addition to the standard origination fees for forward items.
[44] This per-item discount is a reduction to the standard origination fees for return items.

Addenda record	$0.0015 surcharge
Return item in a small file	$0.0030 discount
Return item in a large file	$0.0025 discount
Return addenda record	$0.0015 discount
Receipt[45]	
Forward item	$0.0025 discount
Return item	$0.0075 discount
Addenda record/ return addenda record	$0.0015 discount
Monthly FedACH Risk Management fees [46]	
Risk Origination Monitoring Service/RDFI Alert Service package pricing	
For up to 5 criteria sets	$35.00
For 6 through 11 criteria sets	$70.00
For 12 through 23 criteria sets	$125.00
For 24 through 47 criteria sets	$150.00
For 48 through 95 criteria sets	$250.00
For 96 through 191 criteria sets	$425.00
For 192 through 383 criteria sets	$675.00
For 384 through 584 criteria sets	$850.00
For 585+ criteria sets	$1,100.00
Risk origination monitoring batch	
For 1 through 500,000 batches	**$0.007/batch**
For 500,000+ batches	**$0.0035/batch**

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[45] This per-item discount is a reduction to the standard receipt fees.
[46] Criteria may be set for both the origination monitoring service and the RDFI alert service.

Monthly FedPayments Reporter Service	
FedPayments Reporter Service package pricing includes	
Standard reports[47]	
ACH volume summary by SEC code report - customer[48]	
Daily return ratio report	
Monthly return ratio report	
Receiver setup report	
Report delivery via FedLine file access solution (monthly fee)	
For up to 50 reports	$35.00
For 51 through 150 reports	$55.00
For 151 through 500 reports	$100.00
For 501 through 1,000 reports	$180.00
For 1,001 through 1,500 reports	$260.00
For 1,501 through 2,500 reports	$420.00
For 2,501 through 3,500 reports	$580.00
For 3,501 through 4,500 reports	$740.00
For 4,501 through 5,500 reports	$900.00
For 5,501 through 7,000 reports	$1,100.00
For 7,001 through 8,500 reports	$1,300.00
For 8,501+ reports	$1,500.00
Premier reports[49]	
ACH volume summary by SEC code report - depository financial institution	
Reports 1 through 5	$10.00/report
Reports 6 through 10	$6.00/report
Reports 11+	$1.00/report
On Demand	$1.00/report surcharge
Monthly ACH routing number activity report	
Reports 1 through 5	$10.00/report
Reports 6 through 10	$6.00/report
Reports 11+	$1.00/report
On-us inclusion	
Participation fee	$10.00
Per-item fee	$0.0030
Per-addenda fee	$0.0015
Report delivery via encrypted email	$0.20/email
Other fees	
Monthly fee (per routing number)	
Account servicing fee[50]	**$45.00**

[47] Standard reports include Customer Transaction Activity, Death Notification, International (IAT), Notification of Change, Payment Data Information File, Remittance Advice Detail, Remittance Advice Summary, Return Item, Return Ratio, Social Security Beneficiary, and Originator Setup Reports.

[48] ACH volume summary by SEC code reports generated on demand are subject to a $1.00 per report surcharge.

[49] Premier reports generated on demand are subject to the tiered fees plus a surcharge.

[50] The account servicing fee applies to routing numbers that have received or originated FedACH transactions. Institutions that receive only U.S. government transactions through the Reserve Banks or that elect to use EPN exclusively are not assessed this fee.

FedACH settlement[51]	**$55.00**
Information extract file	$100.00
IAT Output File Sort	$75.00
Notification of change participation fee[52]	**$5.00**
Non-electronic input/output fee[53]	
CD or DVD input/output	$50.00
Paper input/output	$50.00
NACHA network administration fees[54]	
NACHA administration network fee/month (per routing number)	$12.00
NACHA administration network fee/entry	$0.000145
FedGlobal ACH Payments	
Canada service fee	
Item originated to Canada[55]	$0.62
Return received from Canada[56]	$0.99
Trace of item at receiving gateway	$5.50
Trace of item not at receiving gateway	$7.00
Mexico service fee	
Item originated to Mexico[55]	$0.67
Return received from Mexico[56]	$0.91
Item trace	$13.50
A2R item originated to Mexico[55, 57]	$3.45
F3X item originated to Mexico[56, 58]	$0.67
Panama service fee	
Item originated to Panama[55]	$0.72
Return received from Panama[56]	$1.00
Item trace	$7.00
NOC	$0.72
Latin America service fee	
A2R item originated to Latin America[55, 57]	$4.40
Return received from Latin America[56]	$0.72
Item trace	$5.00
Europe service fee	
Item originated to Europe[55]	$1.25
F3X item originated to Europe[56, 58]	$1.25
Return received from Europe[56]	$1.35
Item trace	$7.00

[51] The FedACH settlement fee is applied to any routing number with activity during a month, including institutions that elect to use EPN exclusively but also have items routed to or from customers that access the ACH network through FedACH. This fee does not apply to routing numbers that use the Reserve Banks for only U.S. government transactions.
[52] The notification of change fee is applied to any routing number with activity during a month. This fee does not apply to routing numbers that use the Reserve Banks for only U.S. government transactions.
[53] Limited services are offered in contingency situations.
[54] NACHA network administration fees are established by NACHA in accordance with *NACHA Operating Rules*, Article One (General Rules), Section 1.11 (Network Administration Fees).
[55] This per-item surcharge is in addition to the standard domestic origination and input file processing fees.
[56] This per-item surcharge is in addition to the standard domestic receipt fees.
[57] Account-to-receiver (A2R) allows funds from accounts at a U.S. depository institution to be retrieved by any receiver at either a participating bank location or a trusted, third-party provider.
[58] Payments are both transferred and received in foreign currency. The foreign exchange rate and settlement is managed and processed by participating U.S. depository institutions and the respective foreign gateway operators via their foreign correspondent banks.

FEDWIRE FUNDS AND NATIONAL SETTLEMENT SERVICES 2014 FEE SCHEDULE

EFFECTIVE JANUARY 2, 2014. **BOLD INDICATES CHANGES FROM 2013 FEE SCHEDULE.**

Fedwire Funds Service

	Fee
Monthly participation fee	**$90.00**
Basic volume-based pre-incentive transfer fee (originations and receipts)	
Per transfer for the first 14,000 transfers per month	**$0.69**
Per transfer for additional transfers up to 90,000 per month	**$0.24**
Per transfer for every transfer over 90,000 per month	**$0.14**
Volume-based transfer fee with the incentive discount (originations and receipts)[59]	
Per eligible transfer for the first 14,000 transfers per month	**$0.138**
Per eligible transfer for additional transfers up to 90,000 per month	**$0.048**
Per eligible transfer for every transfer over 90,000 per month	**$0.028**
Surcharge for offline transfers (originations and receipts)	$45.00
Surcharge for high-value payments > $10 million	**$0.15**
Surcharge for high-value payments > $100 million	**$0.36**
Surcharge for payment notification	$0.20
Surcharge for late-day transfer originations[60]	**$0.26**
Monthly FedPayments Manager import/export fee[61]	**$45.00**

National Settlement Service

Basic	
Settlement entry fee	**$1.50**
Settlement file fee	**$30.00**
Surcharge for offline file origination	$45.00
Minimum monthly charge (account maintenance)[62]	$60.00
Special settlement arrangements[63]	
Fee per day	$150.00

[59] The incentive discounts apply to the volume that exceeds 60 percent of a customer's historic benchmark volume. Historic benchmark volume is based on a customer's average daily activity over the previous five calendar years. If a customer has fewer than five full calendar years of previous activity, its historic benchmark volume is based on its daily activity for as many full calendar years of data as are available. If a customer has less than one year of prior activity, then the customer qualifies automatically for incentive discounts for the year. The applicable incentive discounts are as follows:
$0.552 for transfers up to 14,000; $0.192 for transfers 14,001 to 90,000; and $0.112 for transfers over 90,000.
[60] This surcharge applies to originators of transfers that are processed by the Reserve Banks after 5:00 p.m. ET.
[61] This fee is charged to any Fedwire Funds participant that originates a transfer message via the FedPayments Manager (FPM) Funds tool and has the import/export processing option setting active at any point during the month.
[62] This minimum monthly charge is only assessed if total settlement charges during a calendar month are less than $60.
[63] Special settlement arrangements use Fedwire Funds transfers to effect settlement. Participants in arrangements and settlement agents are also charged the applicable Fedwire Funds transfer fee for each transfer into and out of the settlement account.

FEDWIRE SECURITIES SERVICE 2014 FEE SCHEDULE (NON-TREASURY SECURITIES)

EFFECTIVE JANUARY 2, 2014.

	Fee
Basic transfer fee	
Transfer or reversal originated or received	$0.54
Surcharge	
Offline origination & receipt surcharge	$66.00
Monthly maintenance fees	
Account maintenance (per account)	$40.00
Issues maintained (per issue/per account)	$0.54
Claim adjustment fee	$0.75
Joint custody fee	$40.00

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FEDLINE 2014 FEE SCHEDULE

EFFECTIVE JANUARY 2, 2014 **BOLD PRICES INDICATE CHANGES FROM 2013 FEE SCHEDULE**

FedComplete Packages (monthly)[64]

FedComplete 100 Plus $775.00

Includes: 7,500 FedForward transactions
70 FedReturn transactions
14,000 FedReceipt transactions
35 Fedwire funds origination transfers
35 Fedwire funds receipt transfers
Fedwire participation fee
1,000 FedACH origination items
FedACH minimum fee
7,500 FedACH receipt items
FedACH receipt minimum fee
10 FedACH web return/NOC
500 FedACH addenda originated
1,000 FedACH addenda received
FedACH account servicing
FedACH settlement
FedLine Advantage Plus
FedLine subscriber 5-pack
FedMail subscriber 5-pack

FedComplete 200 Plus $1,300.00

Includes: 25,000 FedForward transactions
225 FedReturn transactions
25,000 FedReceipt transactions
100 Fedwire funds origination transfers
100 Fedwire funds receipt transfers
Fedwire participation fee
2,000 FedACH origination items
FedACH minimum fee
25,000 FedACH receipt items
FedACH receipt minimum fee
20 FedACH web return/NOC
750 FedACH addenda originated
1,500 FedACH addenda received
FedACH account servicing
FedACH settlement
FedLine Advantage Plus
FedLine subscriber 5-pack
FedMail subscriber 5-pack

[64] FedComplete packages are all-electronic service options that bundle payment services with an access solution for one monthly fee.

FedComplete Excess Volume Surcharge[65]	
FedForward	$0.01/item
FedReturn	$0.7500/item
Fedwire funds origination	$0.7000/item
FedACH origination	$0.0025/item
FedComplete package credit incentive[66]	($1,500.00)

FedLine Customer Access Solutions (monthly)[67]

FedMail Email with no priced services subscriptions	$40.00
FedLine Web	$110.00

Includes: FedMail e-mail
FedLine Web **with no priced services subscriptions**
FedACH information services (includes RDFI file alert service)
Check 21 services[68]
Check 21 duplicate notification
Check adjustments
Service charge information
Account management information[69]

FedLine Web Plus	$140.00

Includes: FedLine Web traditional package **with no priced services subscriptions**
FedACH risk management services
FedACH FedPayments Reporter Service via secure e-mail
Check payor bank services
Account management information
Cash management service basic – own report only
Various accounting services (ABMS inquiry, IAS/PSR inquiry, IAS detailed inquiries, notifications and advices, end-of-day accounting file (PDF)

FedLine Advantage	$380.00

Includes: FedLine Web traditional package **with no priced services subscriptions**
FedACH transactions
Fedwire funds transactions
Fedwire securities transactions
Fedwire cover payments
Check payor bank services

[65] Per-item surcharges are in addition to the standard fees listed in the applicable priced services fee schedules.
[66] New FedComplete package customers with a new FedLine Advantage connection are eligible for a one-time $1,500 credit applied to their Federal Reserve service charges. Customers receiving credit must continue using the FedComplete package for a minimum of six months or forfeit the $1,500 credit.
[67] VPN hardware for FedLine Advantage and FedLine Command is billed directly by the vendor. A list of fees can be found at http://www.frbservices.org/files/servicefees/pdf/access/2013_vendor_fees.pdf.
[68] Check 21 services can be accessed via three options: FedLine Web, an Internet connection with Axway Secure Transport Client, or a dedicated connection using Connect:Direct.
[69] Daylight Overdraft Report, Ex-Post Activity Snapshot, and Integrated Accounting Statements are available via FedMail.

Account management information
Various accounting services (ABMS inquiry, IAS/PSR inquiry, IAS detailed inquiries, notifications and advices, end-of-day accounting file (PDF)

FedLine Advantage Plus $425.00

Includes: FedLine Advantage traditional package **with no priced services subscriptions**

FedACH risk management services
FedACH FedPayments Reporter Service via secure e-mail
Fedwire Funds FedPayments Manager import/export
FedTransaction Analyzer
Account management information with intra-day search

FedLine Command Plus **$1,000.00**

Includes: FedLine Advantage Plus package **with no priced services subscriptions**

FedLine Command with two certificates
Fedwire statement services
ACTS Report <20 subaccounts
Statement of account spreadsheet file (SASF)
Financial Institution Reconcilement Data File (FIRD)
Billing Data Format File (BDFF)

FedLine Direct **$4,200.00**

Includes:

FedLine Advantage traditional package **with no priced services subscriptions**
56K Dedicated WAN Connection
FedLine Command with two certificates
FedLine Direct with two certificates
Fedwire statement services
Account management information with intra-day search
Intra-day file (I-Day CI File)
Statement of Account Spreadsheet File (SASF)
Financial Institution Reconcilement Data File (FIRD)
Billing Data Format File (BDFF)

FedLine Direct Plus $3,600.00

Includes: FedLine Direct traditional package **with no priced services subscriptions**
56K or 256K Dedicated WAN Connection
FedACH risk management services
FedACH FedPayments Reporter Service via secure e-mail
Fedwire Funds FedPayments Manager import/export
FedTransaction Analyzer

FedLine Direct Premier	$6,500.00
Includes: FedLine Direct Plus package **with no priced services subscriptions**	
T1 Dedicated WAN Connection	
A La Carte Options (monthly)[70]	
Electronic Access	
FedMail subscriber[71]	**$10.00**
FedLine subscriber	$80.00
Additional FedLine Command certificate[72]	$100.00
Additional FedLine Direct certificate[73]	$100.00
Maintenance of additional virtual private network device	$60.00
FedLine Advantage 800# Usage (per hour)	$3.00
Dial-Only VPN surcharge	**$600.00**
Additional dedicated connections[74]	
56K	**$3,100.00**
256K	$2,500.00
T1	$3,200.00
FedLine international setup (one-time fee)	$5,000.00
FedLine Direct contingency solution[75]	$1,000.00
Check 21 large file delivery	various
FedMail Fax	**$60.00**
VPN device modification	$200.00
VPN device modification emergency surcharge	$200.00
VPN device missed activation appointment	$175.00
VPN device expedited hardware surcharge	$100.00
VPN device replacement or move	$300.00
Expedited legacy VPN device order/change	$500.00
Accounting Information Services	
Cash Management System[76]	
Basic – Individual respondent and/or sub-account reports (per report/month)	$25.00
Basic – Respondent/sub-account recap report (per month)	$100.00
Plus – Own report—up to six files with no respondent/sub-account activity (per month)	$60.00
Plus – Own report—up to six files with less than 10 respondent and/or sub-accounts (per month)	$125.00
Plus – Own report—up to six files with 10-50 respondent and/or sub-accounts (per month)	$250.00
Plus – Own report—up to six files with 51-100 respondents and/or sub-accounts (per month)	$500.00
Plus – Own report—up to six files with 101-500 respondents and/or sub-accounts (per month)	$750.00

[70] These add-on services can be purchased only with a FedLine Customer Access Service option.
[71] There are no priced services subscriptions contained in the FedMail or FedLine packages.
[72] Additional FedLine Command Certificates available for FedLine Command and Direct packages only.
[73] Additional FedLine Direct Certificates available for FedLine Direct packages only. 56K option is available for new orders.
[74] Network diversity supplemental charge of $2,000 a month may apply in addition to these fees.
[75] Transparent contingency is available only for FedLine Direct Plus & Premier packages.
[76] Cash Management Service options are limited to Plus and Premier packages.

Plus – Own report—up to six files with >500 respondents and/or sub-accounts	$1,000.00
End-of-day financial institution reconcilement data file (per month)[77]	$150.00
Statement of account spreadsheet file (per month)[78]	$150.00
Intra-day download search file (with AMI) (per month)[79]	$150.00
ACTS Report – < 20 sub-accounts	**$500.00**
ACTS Report – 21-40 sub-accounts	**$1,000.00**
ACTS Report – 41-60 sub-accounts	**$1,500.00**
ACTS Report – >60 sub-accounts	**$2,000.00**

[77] End of Day Reconcilement File option is available to FedLine Web Plus and FedLine Advantage Plus packages.
[78] Statement of Account Spreadsheet File option is available to FedLine Web Plus and FedLine Advantage Plus packages.
[79] ACTS Report options are limited to FedLine Command Plus and FedLine Direct Plus and Premier packages.

By order of the Board of Governors of the Federal Reserve System, October 31, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–26560 Filed 11–5–13; 8:45 am]

BILLING CODE 6210–01–C

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0096; Docket No. 2013–0077; Sequence No. 10]

Federal Acquisition Regulation; Submission for OMB Review; Patents

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning patents.

DATES: Submit comments on or before December 6, 2013.

ADDRESSES: Submit comments identified by Information Collection 9000–0096, Patents, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching for ''9000–0096; Patents''. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 9000–0096, Patents''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 9000–0096, Patents'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), IC 9000–0096, 1800 F Street NW., 2nd Floor, Washington, DC 20405.

Instructions: Please submit comments only and cite Information Collection 9000–0096, Patents, in all correspondence related to this collection. Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Marissa Petrusek, Procurement Analyst, at 202–501–0136. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

The patent coverage in Federal Acquisition Regulation (FAR) subpart 27.2 requires the contractor to report each notice of a claim of patent or copyright infringement that came to the contractor's attention in connection with performing a Government contract (FAR 27.202–1 and 52.227–2).

The contractor is also required to report all royalties anticipated or paid in excess of $250 for the use of patented inventions by furnishing the name and address of licensor, date of license agreement, patent number, brief description of item or component, percentage or dollar rate of royalty per unit, unit price of contract item, and number of units (FAR 27.202–5, 52.227–6, and 52.227–9).

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

A notice was published in the **Federal Register** at 78 FR 30304, on May 22, 2013.

B. Analysis of Public Comments

Two respondents submitted comments on the extension of the previsouly approved information collection. The analysis of the public comment is summarized as follows:

A. Approval To Extend This Information Collection Requirement

Comment: One respondent commented that the extension of the information collection would violate the fundamental purposes of the Paperwork Reduction Act because the analysis significantly underestimates the paperwork burden imposed by this requirement and has therefore not provided sufficient justification for the requested extension. The respondent further stated that the agency and OMB

should assess the need to extend this information collection requirement in the context of assessing the total information collection burden. The respondent further commented that the ''collective burden of compliance'' required of the Government acquisition community annually totals over 30 million hours. According to the respondent, the collective burden greatly exceeds the agency's estimates and outweighs any potential utility of the extension.

Comment: A second respondent noted that this extension should not be granted unless it is a no cost extension to the government. The burden is small and understood prior to contract award.

Response: The criteria for extension of an information collection requirement must be based primarily on the need and use for the required information. It is essential for contractors to report responsibility requirements, regardless of the number of responses. If the agencies have determined that the information is essential to protect the interests of the Government, then the extension should be approved.

B. Accuracy of the Data Estimates

Comment: One respondent commented that the agency did not accurately estimate the public burden, challenging that the agency's methodology for calculating the burden is insufficient and inadequate and does not reflect the total burden. The respondent stated that—

- Thirty respondents responding just once annually is grossly understated. Under FAR 52.227–6, Royalty Information, any response to a solicitation containing costs or charges for royalties totaling more than $250 triggers this information collection.
- The Agencies estimate the hours per response of thirty minutes (.5 hours) is inadequate. Each information collection requirement effectively imposes three separate requirements on the public: (1) The need to monitor whether reporting is required; (2) the need to compile and collect the required information; and (3) the need to disclose that information to the Government.

Response: Based on data extrapolated from the Federal Business Operations Web site, and in consultation with subject matter experts, the Councils have increased the number of respondents and the burden hour estimates from 30 to 104 respondents and from .5 hours to 1 hour, and separated out the data. This re-evaluation resulted in slightly upward adjustment from the data previously published in the **Federal Register** at 78 FR 30304, on May 22, 2013.

C. Collective Burden of Compliance

Comment: One respondent objects to the overall collective burden imposed by the Government on all respondents.

Response: The Councils cannot effectively address the broad allegations with regard to the accuracy and utility of the entire collective burden imposed on all Federal acquisitions. The Councils can only effectively address each individual collection requirement that is under consideration for OMB approval. The Councils constantly review information collection requirements imposed by the FAR regulations for ways to reduce the burdens and still achieve the objectives of the regulations, whether based on policy or statute.

D. Agencies' Estimated Burden Should Be Increased

Comment: One respondent provided that the Agency should reassess the estimated total burden hours and revise the estimate upwards to be more accurate, as was done in FAR Case 2007–006.

Response: The Council takes serious consideration, during the open comment period, to all comments received and will adjust the paperwork burden estimate based on reasonable considerations provided by the respondents. This is evidenced, as the respondent notes, in FAR Case 2007–006 where an adjustment was made from the total preparation hours from 3 to 60. This change was made considering particularly the hours that would be required for review within the company, prior to release to the Government. In this particular instance, the burden was prepared using the burden hours method taking into consideration the time, effort and financial resources put on the entity submitting the information. This includes reviewing instructions; using technology to collect, process, and disclose information; adjusting existing practices to comply with requirements; searching data sources; completing and reviewing the response; and transmitting or disclosing information. The estimated hours must also be viewed as an average between the hours that a simple disclosure by a very small business might require and the much higher numbers that might be required for a very complex disclosure by a major corporation. Also, it must be noted that the burden includes estimated hours only for those actions which a company would not undertake in the normal course of business. In this instances, the total burden hours were revised slightly upwards.

C. Annual Reporting Burden

This information collection reflects a slight adjustment from what was published in the **Federal Register** at 78 FR 30304, on May 22, 2013, for the number of respondents required to comply with FAR 52.227–2, 52.227–6 and 52.227–9. This change is primarily due to a re-evaluation based on consultations with subject matter experts and updated data retrieved from the Federal Business Opportunities Web site.

For FAR 52.227–2, data extrapolated from the Federal Business Opportunties Web site indicates that there were a total of 18 solicitations. The Government estimates that there are an additional 18 solicitations which were not accounted for in Federal Business Opportunties. It is further estimated that each solicitation would result in approximately two contract awards, or 72 (36 * 2) unique vendors. Of the 72 unique vendors, it is estimated that approximately 30 percent or 20 unique vendors would have claims of patent (or copyright) infringement made against them as a result of their contract work requiring government notification. It is estimated that there is an average of one response per contract, resulting in approximately 20 responses per year. Two burden hours are estimated per response to monitor claims of patent or copyright infringement and prepare, review, and submit the required notification. It is estimated that this work would be completed by a mid-level program manager and an attorney.

For FAR 52.227–6, data extrapolated from the Federal Business Opportunties Web site indicates that there were a total of eight solicitations. The Government estimates that there are an additional 12 solicitations which were not accounted for in Federal Business Opportunties, totaling 20. It is further estimated that each solicitation would result in approximately two contract awards, or 40 (20 * 2) unique vendors, required to submit royalty information with their proposal. Of the 40 unique vendors, it is estimated that approximately 10 percent or four unique vendors would be required to submit additional information prior to contract award. It is estimated that there is an average of one response per solicitation, resulting in approximately 44 responses per year. One burden hours is estimated per response to disclose the requested information in the proposal including such items as the amount of royalty paid, the patent numbers and a brief description of the component on which the royalty is paid, and to submit the required notification. It is estimated that

one hour is needed to provide a copy of the current license agreement and redact any proprietary data, and to submit it to the government. It is estimated that this work would be completed by a mid-level program manager.

For FAR 52.227–9, data extrapolated from Federal Business Opportunties Web site indicates that there was a total of one solicitation. The Government estimates that there are an additional nine solicitations which were not accounted for in Federal Business Opportunties, totaling 10. It is further estimated that each solicitation would result in approximately one contract award, or 10 unique vendors. It is also estimated that each contract will have three subcontractors, for a total of 30 unique subcontractor vendors. Of the 40 (10 + 30) unique vendors, it is estimated that approximately 100 percent or 40 unique vendors would be required to submit a statement of royalties paid. It is estimated that there is an average of one response per solicitation, resulting in approximately 40 responses per year. 0.5 burden hours are estimated per response to submit a statement of royalties paid or required to be paid by the contract.

a. FAR 52.227–2:
Number of Respondents: 20.
Responses per Respondent: 1.
Total Responses: 20.
Average Burden Hours per Response: 2.
Total Burden Hours: 40.

b. FAR 52.227–6:
Number of Respondents: 44.
Responses per Respondent: 1.
Total Responses: 44.
Average Burden Hours per Response: 1.
Total Burden Hours: 44.

c. FAR 52.227–9:
Number of Respondents: 40.
Responses per Respondent: 1.
Total Responses: 40.
Average Burden Hours per Response: .5.
Total Burden Hours: 20.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0096, Patents, in all correspondence.

Dated: October 31, 2013.

Karlos Morgan, Sr.,

Acting Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2013–26578 Filed 11–5–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–P–0631]

Determination That MOBAN (Molindone Hydrochloride) Tablets (5 Milligrams, 10 Milligrams, 25 Milligrams, 50 Milligrams, and 100 Milligrams) and Capsules (5 Milligrams, 10 Milligrams, and 25 Milligrams) Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that MOBAN (molindone hydrochloride (HCl)) tablets (5 milligrams (mg), 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) were not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Emily Helms Williams, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6217, Silver Spring, MD 20993–0002, 301–796–3381.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products under an ANDA procedure. ANDA applicants must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (21 CFR 314.161). FDA may not approve an ANDA that does not refer to a listed drug.

MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) are the subject of NDA 017111, held by Endo Pharmaceuticals, and initially approved on January 18, 1974. MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) are indicated for the management of schizophrenia. MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) are currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

CorePharma, LLC, submitted a citizen petition dated May 22, 2013 (Docket No. FDA–2013–P–0631), under 21 CFR 10.30, requesting that the Agency determine whether MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) were withdrawn from sale for reasons of safety or effectiveness. Although the citizen petition did not address MOBAN (molindone HCl) capsules (5 mg, 10 mg, and 25 mg), that dosage form has also been discontinued, and on our own initiative, we have also determined that MOBAN (molindone HCl) capsules (5 mg, 10 mg, and 25 mg) were not withdrawn for safety or effectiveness reasons.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) were not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules

(5 mg, 10 mg, and 25 mg) were withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that these products were withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) and capsules (5 mg, 10 mg, and 25 mg) in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to MOBAN (molindone HCl) tablets (5 mg, 10 mg, 25 mg, 50 mg, and 100 mg) or capsules (5 mg, 10 mg, and 25 mg) may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: October 31, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26550 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Draft Guidance for Industry on Bioequivalence Recommendations for Iron Sucrose; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Bioequivalence Recommendations for Iron Sucrose.'' The recommendations provide specific guidance on the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs) for iron sucrose injection. The draft guidance is a revised version of a previously issued draft guidance on the same subject.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by January 6, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kris Andre, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8866.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. This notice announces the availability of draft BE recommendations for iron sucrose injection (Draft Iron Sucrose Injection BE Recommendations of 2013).

Venofer (iron sucrose injection), new drug application 021135, was initially approved by FDA in November 2000. There are no approved ANDAs for this product.

In March 2012, FDA posted on its Web site a draft guidance for industry on the Agency's recommendations for BE studies to support ANDAs for iron sucrose injection (Draft Iron Sucrose Injection BE Recommendations of 2012). In that draft guidance, FDA recommended an in vivo fasting BE study with pharmacokinetic endpoints and in vitro studies. FDA has reconsidered the recommendations in the Draft Iron Sucrose Injection BE Recommendations of 2012 and has decided to revise it. At this time, FDA is withdrawing the Draft Iron Sucrose Injection BE Recommendations of 2012 and is issuing a revised draft guidance for industry, the Draft Iron Sucrose Injection BE Recommendations of 2013. In this revised draft guidance, FDA recommends that for the in vivo pharmacokinetic study the difference between total iron and transferrin-bound iron be used to demonstrate BE of generic iron sucrose injection products. FDA is no longer recommending baseline-adjusted total iron and baseline-adjusted transferrin-bound iron be used to demonstrate BE of generic iron sucrose injection products. The revised draft guidance also provides updated information about the recommended studies for in vitro characterization and criteria for waiver of in vivo testing.

In March 2005, Luitpold Pharmaceuticals, Inc. (Luitpold), manufacturer of the reference listed drug, Venofer, submitted (through its attorneys) a citizen petition requesting that FDA withhold approval of any ANDA or 505(b)(2) application for a generic iron sucrose injection unless certain conditions were satisfied, including conditions related to demonstrating BE (Docket No. FDA–2005–P–0319, formerly 2005P–0095/CP1). FDA is reviewing the issues raised in the petition and is also reviewing the supplemental information and comments that have been submitted to the docket for that petition. FDA will consider any comments on the Draft Iron Sucrose Injection BE Recommendations of 2013 before responding to Luitpold's citizen petition.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on the design of BE studies to support ANDAs for iron sucrose injection. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the

requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: October 31, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26570 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1319]

Draft Guidance for Industry on Pulmonary Tuberculosis: Developing Drugs for Treatment; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Pulmonary Tuberculosis: Developing Drugs for Treatment.'' The purpose of the draft guidance is to assist sponsors in the development of antimycobacterial drugs for the treatment of pulmonary tuberculosis. This guidance applies to the development of a single investigational drug as well as development of two or more unmarketed investigational drugs for use in combination.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by February 4, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Eileen Navarro, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6126, Silver Spring, MD 20993–0002, 301–796–1300; or Joseph G. Toerner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 6244, Silver Spring, MD 20993–0002, 301–796–1300.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Pulmonary Tuberculosis: Developing Drugs for Treatment.'' The purpose of this draft guidance is to assist sponsors in the development of antimycobacterial drugs for the treatment of pulmonary tuberculosis.

Tuberculosis remains endemic in the United States and is epidemic in many parts of the world. Current treatment for tuberculosis involves administration of multiple-drug regimens for a minimum of 6 months. The development of new drugs for treatment of pulmonary tuberculosis remains an important public health goal. Some of the public health challenges to be addressed in the treatment of tuberculosis include: (1) The administration of new drug regimens for shorter periods of time; (2) new drugs that do not have drug-drug interactions with the drugs used to treat human immunodeficiency virus/acquired immunodeficiency syndrome; and (3) new drugs that are active in the treatment of patients with drug-resistant tuberculosis. This draft guidance addresses these issues in the context of clinical trial designs for new drugs. The draft guidance addresses the complexities of the superiority clinical trial design, where an investigational drug is found to be superior on a clinical endpoint while ensuring that all patients in trials receive appropriately active treatment regimens. The draft guidance includes a discussion of noninferiority clinical trial designs, with justification for a noninferiority margin in the setting of treatment-shortening regimens. The draft guidance also discusses clinical trials designed to include patients with drug-resistant tuberculosis.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the Agency's current thinking on ''Pulmonary Tuberculosis: Developing Drugs for Treatment.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 312 and 21 CFR part 314 have been approved under OMB control numbers 0910–0014 and 0910–0001, respectively.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 30, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26549 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Draft and Revised Draft Guidances for Industry Describing Product-Specific Bioequivalence Recommendations; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of additional draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on these draft and revised draft guidances before it begins work on the final versions of the guidances, submit either electronic or written comments on the draft and revised draft product-specific BE recommendations listed in this notice by January 6, 2014.

ADDRESSES: Submit written requests for single copies of the individual BE guidances to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance recommendations.

Submit electronic comments on the draft product-specific BE recommendations to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kris André, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7520 Standish Pl., Rockville, MD 20855, 240–276–8866.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products,'' which explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.* As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final recommendations or publishes revised draft recommendations for comment. Recommendations were last announced in the **Federal Register** on June 20, 2013 (78 FR 37230). This notice announces draft product-specific recommendations, either new or revised, that are being posted on FDA's Web site concurrently with publication of this notice.

II. Drug Products for Which New Draft Product-Specific BE Recommendations Are Available

FDA is announcing new draft product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

B	Bedaquiline fumarate.
	Bupropion hydrochloride.
C	Clobazam.
E	Etodolac (multiple reference listed drugs and dosage forms).
M	Mesna.
	Methenamine hippurate.
	Methocarbamol.
N	Nicotine (multiple reference listed drugs).
	Nicotine polacrilex (multiple reference listed drugs).
P	Phentermine hydrochloride.
	Prednisone.

III. Drug Products for Which Revised Draft Product-Specific BE Recommendations Are Available

FDA is announcing revised draft product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

A	Acitretin.
	Amphetamine aspartate; Amphetamine sulfate; Dextroamphetamine saccharate; Dextroamphetamine sulfate.
B	Bumetanide.
	Bupropion hydrobromide.
	Bupropion hydrochloride (multiple reference listed drugs and dosage forms).
C	Cefixime.
	Celecoxib.
	Colesevelam hydrochloride.
D	Doxorubicin hydrochloride.
	Drospirenone; Ethinyl estradiol.
L	Lanthanum carbonate.
	Lenalidomide.
O	Oxybutynin chloride.
R	Rivastigmine.
T	Tacrolimus (multiple strengths).
	Testosterone (multiple reference listed drugs and dosage forms).

For a complete history of previously published **Federal Register** notices related to product-specific BE recommendations, please go to *http://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft and revised draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These guidances represent the Agency's current thinking on product-specific design of BE studies to support ANDAs. They do not create or confer any rights for or on any person and do not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

IV. Comments

Interested persons may submit either electronic comments on any of the specific BE recommendations posted on FDA's Web site to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. The guidances, notices, and received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

V. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov.*

Dated: October 31, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26546 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–1021]

Medical Device User Fee and Modernization Act; Notice to Public of Web Site Location of Fiscal Year 2014 Proposed Guidance Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the Web site location where the Agency will post two lists of guidance documents the Center for Devices and Radiological Health (CDRH) is intending to publish in Fiscal Year (FY) 2014. In addition, FDA has established a docket where stakeholders may provide comments and/or propose draft language for those topics, suggest new or different guidance documents, and comment on the priority of topics for guidance.

DATES: Submit either electronic or written comments at any time.

ADDRESSES: Submit electronic comments on the proposed guidance to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Philip Desjardins, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5452, Silver Spring, MD 20993–0002, 301–796–5678.

SUPPLEMENTARY INFORMATION:

I. Background

During negotiations over the Medical Device User Fee Amendments of 2012 (MDUFA III), Title II, Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), FDA agreed, in return for additional funding from industry, to meet a variety of quantitative and qualitative goals intended to help get safe and effective medical devices to market more quickly. These commitments include annually posting a list of prioritized medical device guidance documents that the Agency intends to publish within 12 months of the date this list is published each fiscal year (the ''A-list'') and a list of device guidance documents that the Agency intends to publish, as the Agency's guidance-development resources permit each fiscal year (the ''B-list''). In addition to posting lists of prioritized device guidance documents, FDA has committed to updating its Web site in a timely manner to reflect the Agency's review of previously published guidance documents, including the deletion of guidance documents that no longer represent the Agency's interpretation of, or policy on, a regulatory issue, and notation of guidance documents that are under review by the Agency. Fulfillment of this commitment will be reflected through the issuance of updated guidance on existing topics, removal of guidances that that no longer reflect FDA's current thinking on a particular topic, and annual updates to the A-list and B-list announced in this notice.

This notice announces the Web site location of the two lists of guidance documents which CDRH is intending to publish during FY 2014. We note that the Agency is not required to publish every guidance on either list if the resources needed would be to the detriment of meeting quantitative review timelines and statutory obligations. The Agency is not precluded from issuing guidance documents that are not on either list.

FDA and CDRH priorities are subject to change at any time. Topics on this and past guidance priority lists may be removed or modified based on current priorities. CDRH's experience in guidance development has shown that there are many reasons that CDRH staff may not complete the entire agenda of guidances it undertakes. Staffs are frequently diverted from guidance development to other priority activities. In addition, at any time new issues may arise to be addressed in guidance that could not have been anticipated at the time the annual list is generated. These may involve newly identified public health issues.

FDA anticipates that feedback from stakeholders, including draft language for guidance documents, will allow CDRH to better prioritize and more efficiently draft guidances that will be useful to industry and other stakeholders. FDA intends to update the list each year.

FDA invites interested persons to submit comments on any or all of the guidance documents on the lists. FDA has established a docket where comments on the FY 2014 lists, draft language for guidance documents on those topics, suggestions for new or different guidances, and relative priority of guidance documents may be submitted (see ADDRESSES). FDA believes this docket is an important tool for receiving information from interested parties and for sharing this information with the public. Similar information about planned guidance development is included in the annual Agency-wide notice issued under its good guidance practices (21 CFR 10.115(f)(5)). The CDRH lists, however, will be focused exclusively on device-related guidances and will be made available on FDA's Web site at the beginning of each FY from 2013 to 2017. To access the lists of guidance documents CDRH is intending to publish in FY 2014, visit FDA's Web site *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Overview/MDUFAIII/ucm321367.htm.*

II. Request for Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Dated: October 30, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26547 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–N–2013–1328]

Sickle Cell Disease Public Meeting on Patient-Focused Drug Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting and an opportunity for public comment on Patient-Focused Drug Development for sickle cell disease. Patient-Focused Drug Development is part of FDA's performance commitments in the fifth authorization of the Prescription Drug User Fee Act (PDUFA V). The public meeting is intended to allow FDA to obtain patients' perspectives on the impact of sickle cell disease on daily life and on available therapies for sickle cell disease.

DATES: The public meeting will be held on February 7, 2014; from 10 a.m. to 4 p.m. Registration to attend the meeting must be received by January 27, 2014. See the SUPPLEMENTARY INFORMATION section for information on how to register for the meeting. Submit electronic or written comments by April 8, 2014.

ADDRESSES: The meeting will be held at the FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, in Sections B and C of the Great Room (Rm. 1503), Silver Spring, MD 20993. Entrance for the public meeting participants is through Building 1, where routine security check procedures will be performed. For more information on parking and security procedures, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm*.

Submit electronic comments to *www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FDA will post the agenda approximately 5 days before the meeting at: *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm370867.htm*.

FOR FURTHER INFORMATION CONTACT: Graham Thompson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1199, Silver Spring, MD 20993, 301–796–5003, Fax: 301–847–8443, email: *Graham.Thompson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on Patient-Focused Drug Development

FDA has selected sickle cell disease to be the focus of a meeting under Patient-Focused Drug Development, an initiative that involves obtaining a better understanding of patients' perspectives on the severity of the disease and the available therapies for the condition. Patient-Focused Drug Development is being conducted to fulfill FDA's performance commitments made as part of the authorization of PDUFA V under Title I of the Food and Drug Safety and Innovation Act (Pub. L. 112–144). The full set of performance commitments is available on the FDA Web site at *http://www.fda.gov/downloads/forindustry/userfees/prescriptiondruguserfee/ucm270412.pdf*.

FDA has committed to obtain the patient perspective in 20 disease areas during the course of PDUFA V. For each disease area, the Agency will conduct a public meeting to discuss the disease and its impact on patients' daily lives, the types of treatment benefit that matter most to patients, and patients' perspectives on available therapies for sickle cell disease. These meetings will include participation of FDA review divisions, the relevant patient community, and other interested stakeholders.

On April 11, 2013, FDA published a notice (78 FR 21613) in the **Federal Register** announcing the disease areas for meetings in fiscal years (FYs) 2013 through 2015, the first 3 years of the 5-year PDUFA V timeframe. To develop the list of disease areas, the Agency used several criteria that were outlined in the April 2013 notice. The Agency obtained public comment on these criteria and potential disease areas through a notice for public comment published in the **Federal Register** on September 24, 2012 (77 FR 58849), and through a public meeting held on October 25, 2012. In selecting the disease areas, FDA carefully considered the public comments received and the perspectives of its review divisions. By the end of FY 2015, FDA will initiate another public process for determining the disease areas for FYs 2016 and 2017. More information, including the list of disease areas and a general schedule of meetings, is posted on FDA's Web site at *http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm326192.htm*.

II. Public Meeting Information

A. Purpose and Scope of the Meeting

As part of Patient-Focused Drug Development, FDA will obtain patient and patient stakeholder input on sickle cell disease and on current approaches to treatment. Approximately 100,000 people in the United States, and millions of people worldwide, have sickle cell disease. Sickle cell disease is an inherited red blood cell disorder resulting from a mutation in the beta globin gene. Red blood cells are more prone to an abnormal shape and rigidity, causing multi-organ damage over time. Some of the effects of sickle cell disease are painful crises, increased risk of infections, stroke, pulmonary hypertension, acute chest syndrome, recurrent priapism, gallstones, and kidney dysfunction.

Therapies to prevent the complications of sickle cell disease are limited and can include prescription medications and blood transfusions. Bone marrow transplantation is an option for some patients. Other therapies, such as pain medications, antibiotics, supplemental oxygen, and vitamin supplements, are used to manage specific health effects of the disease. New approaches to treating sickle cell disease or preventing its complications are being explored, including new medications, advances in transplantation, and gene therapies. FDA is interested in obtaining a better understanding of patients' perspectives on sickle cell disease, including the symptoms that matter most to patients, limitations to current treatment approaches, opportunities for new treatment approaches, and specific considerations regarding sickle cell disease in pediatric patients.

The questions that will be asked of patients and patient stakeholders at the meeting are listed in this section, organized by topic. For each topic, a brief patient panel discussion will begin the dialogue, followed by a facilitated discussion inviting comments from other patient and patient stakeholder participants. In addition to input generated through this public meeting, FDA is interested in receiving patient input addressing these questions

through written comments that can be submitted to the public docket (see **ADDRESSES**). When submitting comments to the docket, please provide some context to your comment by indicating whether you are an adolescent or young adult, or older adult. If you are commenting on behalf of a child or other loved one who has sickle cell disease, please indicate that and answer the following questions as much as possible from the patient's perspective.

Topic 1: The Effects of Sickle Cell Disease That Matter Most to You

1. Of all of the ways that sickle cell disease affects your health, which one to three effects have the greatest impact on your life? (Examples may include pain crises, breathing problems, difficulty concentrating, tiredness, infections, and others.)

2. How does sickle cell disease affect your life on an ''average'' day?

a. Are there activities that you cannot do at all or as well as you would like on these ''average'' days? Please describe, using specific examples. (Examples may include sleeping through the night, concentrating at work or at school, participating in physical activities, and others.)

3. How does sickle cell disease affect your life on the ''worst'' days, such as days when you have a pain crisis or have to be hospitalized for some reason?

a. Are there activities that you cannot do at all or as well as you would like on these ''worst'' days? Please describe, using specific examples.

4. What worries you most about how sickle cell disease could affect your health in the future?

5. What specific concerns do you have about sickle cell disease:

a. In infants and young children?

b. In adolescents and young adults?

c. In older adults?

Topic 2: Perspectives on Treatments for Sickle Cell Disease

1. Are you currently using any prescription medicines or medical treatments to prevent or treat any negative effects of your sickle cell disease? Please describe these treatments, which may include blood transfusions, supplemental oxygen and prescription medications such as hydroxyurea, antibiotics, pain medications, and others.

a. How well do these treatments work for you? For example, how well do they reduce your number of pain crises, hospitalizations, or strokes? How well do they help you manage your pain, breathing difficulties, or other health effects?

b. What are the biggest problems with these treatments? (Examples may include side effects of medicine, going to the hospital for treatment, frequent blood tests, etc.) How do these problems affect your daily life?

2. Besides prescription medications, what else do you do to prevent or treat any negative effects of your sickle cell disease? Please describe any medications purchased at a store without a prescription, home remedies, diet changes, massages, or other therapies.

a. What specific parts of your sickle cell disease do these treatments address?

b. How well do these treatments work for you?

c. What are the biggest problems with these treatments?

3. What parts of your sickle cell disease do your current treatments not treat at all or not as well as you would like?

4. Assuming that there is no cure for sickle cell disease, what specific things would you look for in an ideal treatment?

5. If you had the opportunity to consider participating in a clinical trial studying experimental treatments for sickle cell disease, what things would you consider when deciding whether or not to participate? Examples may include how severe your sickle cell disease is, how well current treatments are working for you, your concern about serious risks, and other things.

B. Meeting Attendance and/or Participation

If you wish to attend this meeting, visit *https://patientfocusedsickle cell.eventbrite.com.* Please register by January 27, 2014. Those who are unable to attend the meeting in person can register to participate in a live Webcast of the meeting. You will be asked to indicate in your registration whether you plan to attend in person or via the Webcast. Your registration should also contain your complete contact information, including name, title, affiliation, address, email address, and phone number.

Seating will be limited, so early registration is recommended. Registration is free and will be on a first-come, first-served basis. However, FDA may limit the number of participants from each organization based on space limitations. Registrants will receive confirmation once they have been accepted. Onsite registration on the day of the meeting will be based on space availability. If you need special accommodations because of disability, please contact Graham Thompson (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days before the meeting.

Patients who are interested in presenting comments as part of the initial panel discussions will be asked to indicate in their registration which topic(s) they wish to address. They will also be asked to send a brief summary of responses to the topic questions to *PatientFocused@fda.hhs.gov.* Panelists will be notified of their selection soon after the close of registration on January 27, 2014. FDA will try to accommodate all patients and patient stakeholders who wish to speak, either through the panel discussion or audience participation; however, the duration of comments may be limited by time constraints.

Interested members of the public, including those who attend the meeting in person or through the Webcast, are invited to provide electronic or written responses to the questions pertaining to Topics 1 and 2 to the public docket (see **ADDRESSES**). Comments may be submitted until April 8, 2014.

Dated: October 31, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–26548 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1285]

Smith Miller and Patch Inc. et al.; Proposal to Withdraw Approval of 14 New Drug Applications; Opportunity for a Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity to request a hearing on the Agency's proposal to withdraw approval of 14 new drug applications (NDAs) from multiple sponsors. The basis for the proposal is that the sponsors have repeatedly failed to file required annual reports for these applications.

DATES: Submit written requests for a hearing by December 6, 2013; submit data and information in support of the hearing request by January 6, 2014.

ADDRESSES: Identify your requests for a hearing, supporting data, and other comments with Docket No. FDA–2013–N–1285, and submit this information to the Division of Dockets Management (HFA–305), Food and Drug

Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Florine P. Purdie, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6366, Silver Spring, MD 20993–0002, 301–796–3601.

SUPPLEMENTARY INFORMATION: The holders of approved applications to market new drugs for human use are required to submit annual reports to FDA concerning each of their approved applications in accordance with § 314.81 (21 CFR 314.81). The holders of the approved applications listed in table 1 have failed to submit the required annual reports and have not responded to the Agency's request by certified mail for submission of the reports.

TABLE 1—APPROVED NDAS FOR WHICH REQUIRED REPORTS HAVE NOT BEEN MADE

Application No.	Drug	Applicant
NDA 004979	Multi-Vitamin Tablets	Smith Miller and Patch Inc., P.O. Box 367, San German, PR 00753.
NDA 008176	Methostan (methandriol) Tablets	Do.
NDA 008326	Methischol (inositol/vitamin B12/racemethionine/choline chloride) Injection.	USV Pharmaceutical Corp., 500 Virginia Dr., Fort Washington, PA 19034–2779.
NDA 008362	Corticotropin Injection	Vitarine Pharmaceuticals Inc., 227–15 North Conduit Ave., Springfield Gardens, NY 11413.
NDA 009346	ACTH (corticotropin) Injection	Parke-Davis, 201 Tabor Rd., Morris Plains, NJ 07950.
NDA 009515	Hyrye (riboflavin 5'-phosphate sodium) Injection	S.F. Durst and Co., Inc., 5317–21 North Third St., Philadelphia, PA 19120.
NDA 010415	Flamotide (riboflavin 5'-phosphate sodium) Injection	Philadelphia Ampoule Laboratories, 400 Green St., Philadelphia, PA 19123.
NDA 010565	Duracton (corticotropin) Injection	Nordic Biochemicals Inc., 45 Bay State Rd., Boston, MA 02215.
NDA 010791	Rubivite (cyanocobalamin) Injection	Bel Mar Laboratories, Inc., 6–10 Nassau Ave., Inwood, NY 11696.
NDA 010831	Corticotropin Injection	Organics/LaGrange, Inc., 1935 Techny Rd., Suite 14, Northbrook, IL 60062.
NDA 011015	RU–B–12–1000 (cyanocobalamin) Injection	Dow Pharmaceutical Corp., 9550 North Zionsville Rd., Indianapolis, IN 46268.
NDA 011578	Efacin (niacin) Tablet	Person and Covey, Inc., 616 Allen Ave., Glendale, CA 91201.
NDA 017861	Acthar Gel Synthetic (seractide acetate) Injection	Armour Pharmaceutical Co., P.O. Box 511, Kankakee, IL 60901.
NDA 018087	Thyrel TRH (protirelin) Injection	Ferring Pharmaceuticals, Inc., 400 Rella Blvd., Suite 300, Suffern, NY 10901.

Therefore, notice is given to the holders of the approved applications listed in table 1 and to all other interested persons that the Director of the Center for Drug Evaluation and Research proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(e)) withdrawing approval of the applications and all amendments and supplements thereto on the ground that the applicants have failed to submit reports required under § 314.81.

In accordance with section 505 of the FD&C Act and part 314 (21 CFR part 314), the applicants are hereby provided an opportunity for a hearing to show why the applications listed previously should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug products covered by these applications.

An applicant who decides to seek a hearing must file the following: (1) A written notice of participation and request for a hearing (see **DATES**) and (2) the data, information, and analyses relied on to demonstrate that there is a genuine and substantial issue of fact that requires a hearing (see **DATES**). Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for a hearing, notice of participation and request for a hearing, information and analyses to justify a hearing, other comments, and a grant or denial of a hearing are contained in § 314.200 and in 21 CFR part 12.

The failure of an applicant to file a timely written notice of participation and request for a hearing, as required by § 314.200, constitutes an election by that applicant not to avail itself of the opportunity for a hearing concerning the proposal to withdraw approval of the applications and constitutes a waiver of any contentions concerning the legal status of the drug products. FDA will then withdraw approval of the applications and the drug products may not thereafter lawfully be marketed, and FDA will begin appropriate regulatory action to remove the products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must present specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. Reports submitted to remedy the deficiencies must be complete in all respects in accordance with § 314.81. If the submission is not complete or if a request for a hearing is not made in the required format or with the required reports, the Commissioner of Food and Drugs will enter summary judgment against the person who requests the hearing, making findings and conclusions, and denying a hearing.

All submissions under this notice of opportunity for a hearing must be filed in four copies. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, the submissions may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 505 (21 U.S.C. 355)) and under authority delegated to the Director,

Center for Drug Evaluation and Research, by the Commissioner of Food and Drugs.

Dated: October 30, 2013.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 2013–26491 Filed 11–5–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Customer and Other Partners Satisfaction Surveys

Summary: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for the opportunity for public comment on the proposed data collection projects, the National Institutes of Health Clinical Center (CC) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) The quality, utility, and clarity of the information to be collected; and (4) Whether the proposed collection minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

To Submit Comments and for Further Information: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. David K. Henderson, Deputy Director for Clinical Care, National Institutes of Health Clinical Center, 10 Center Drive, Bldg. 10, Rm. 6–1480, Bethesda, MD 20892 or call non-toll-free number (301) 496–3515 or email your request, including your address to: *dkh@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Proposed Collection: Title: Generic Clearance for Surveys of Customers and Other Partners, 0925–0458, Expiration Date 12/31/2013, Type of Submission: Extension, National Institutes of Health Clinical Center (CC), National Institutes of Health (NIH).

Need and Use of Information Collection: The information collected in these surveys will be used by Clinical Center personnel: (1) To evaluate the perceptions of various Clinical Center customers and other partners of Clinical Center services; (2) to assist with the design of modifications of these services, based on customer input; (3) to develop new services, based on customer need; (4) to evaluate the perceptions of various Clinical Center customers and other partners of implemented service modifications, and (5) for hospital accreditation. These surveys are voluntary and necessary for the proper performance of Clinical Center functions and will almost certainly lead to quality improvement activities that will enhance and/or streamline the Clinical Center's operations. The major mechanisms by which the Clinical Center will request customer input is through surveys and focus groups. The surveys will be tailored specifically to each class of customer and to that class of customer's needs. Surveys will either be collected as written documents, as faxed documents, mailed electronically or collected via the web or by telephone from customers. Information gathered from these surveys of Clinical Center customers and other partners will be presented to, and used directly by, Clinical Center management to enhance the services and operations of our organization.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 4,900.

FY 2014

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual hour burden
Clinical Center Patients	5000	1	30/60	2500
Family Members of Patients	2000	1	30/60	1000
Visitors to the Clinical Center	500	1	10/60	84
NIH Intramural Collaborators	2000	1	10/60	334
Vendors and Collaborating Commercial Enterprises	500	1	20/60	167
Professionals and Organizations Referring Patients	2000	1	20/60	667
Regulators	30	1	20/60	10
Volunteers	275	1	30/60	138

FY 2015

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual hour burden
Clinical Center Patients	5000	1	30/60	2500
Family Members of Patients	2000	1	30/60	1000
Visitors to the Clinical Center	500	1	10/60	84
NIH Intramural Collaborators	2000	1	10/60	334
Vendors and Collaborating Commercial Enterprises	500	1	20/60	167
Professionals and Organizations Referring Patients	2000	1	20/60	667
Regulators	30	1	20/60	10

FY 2015—Continued

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual hour burden
Volunteers	275	1	30/60	138

FY 2016

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual hour burden
Clinical Center Patients	5000	1	30/60	2500
Family Members of Patients	2000	1	30/60	1000
Visitors to the Clinical Center	500	1	10/60	84
NIH Intramural Collaborators	2000	1	10/60	334
Vendors and Collaborating Commercial Enterprises	500	1	20/60	167
Professionals and Organizations Referring Patients	2000	1	20/60	667
Regulators	30	1	20/60	10
Volunteers	275	1	30/60	138

Dated: October 28. 2013.

David K. Henderson,

Deputy Director for Clinical Care, CC, National Institutes of Health.

[FR Doc. 2013–26610 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Science Policy, Office of Biotechnology Activities; Recombinant or Synthetic Nucleic Acid Molecule Research: Action Under the NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)

AGENCY: NIH, Public Health Service, HHS.

ACTION: Notice of Final Action under the *NIH Guidelines.*

SUMMARY: The Office of Biotechnology Activities (OBA) is updating Appendix B (Classification of Human Etiologic Agents on the Basis of Hazard) of the *NIH Guidelines* by specifying the risk group (RG) classification for two organisms: Middle East Respiratory Syndrome coronavirus (MERS-CoV) and *Pseudomonas aeruginosa.*

Background: The *NIH Guidelines* provide guidance to investigators and local Institutional Biosafety Committees (IBCs) for setting containment for research involving recombinant or synthetic nucleic acid molecules. Section II–A, Risk Assessment, instructs investigators and IBCs to make an initial risk assessment based on the RG of the agent that will be manipulated (see Appendix B, Classification of Human Etiologic Agents on the Basis of Hazard). The RG of the agent often correlates with the minimum containment level required for experiments subject to the *NIH Guidelines.* Updating Appendix B by revising the risk groups for certain organisms, or adding new organisms, leads to more uniform containment recommendations that are commensurate with the biosafety risk.

The resulting amendments are ''Minor Actions'' under Section IV–C–1–(b)–2 of the *NIH Guidelines* and, therefore, will be implemented immediately upon publication in the **Federal Register**. However, the OBA welcomes public comment to inform any future changes to Appendix B.

DATES: Comments may be submitted to the OBA in paper or electronic form at the mailing, fax, and email addresses shown below under the heading ''**FOR FURTHER INFORMATION.**'' All comments should be submitted by December 6, 2013. All written comments received in response to this notice will be available for public inspection in the NIH OBA office, 6705 Rockledge Drive, Suite 750, MSC 7985, Bethesda, MD 20892–7985, weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: If you have questions, or require additional information about these changes, please contact the OBA by email at *oba@od.nih.gov* or by telephone at 301–496–9838. Comments may be submitted to the same email address or by fax to 301–496–9839 or by mail to the Office of Biotechnology Activities, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, Maryland 20892–7985. Background information may be obtained by contacting the NIH OBA by email at *oba@od.nih.gov.*

Middle East Respiratory Syndrome coronavirus (MERS-CoV)

MERS-CoV is an emerging infectious disease agent that was originally identified in 2012 in Saudi Arabia. The virus is a member of the order Nidovirales, family Coronaviridae, and causes a severe pulmonary syndrome that is similar to what was seen with Severe Acute Respiratory Syndrome coronavirus (SARS-CoV). MERS-CoV has been identified as the cause of a severe respiratory disease in 144 individuals, of which 62 have died (as of October 25, 2013; source: Centers for Disease Control and Prevention (CDC)—*http://www.cdc.gov/coronavirus/mers/*). The overall mortality rate of MERS-CoV infection to date is about four times higher than what was reported for SARS-CoV; although it is of note, in patients over 65 years of age, that mortality from infection with SARS-CoV was reported to exceed 50 percent (based on World Health Organization (WHO) data accessed September 9, 2013, *http://www.who.int/csr/sars/archive/2003_05_07a/en/print.html*). As was the case for SARS-CoV, there are no proven preventive or therapeutic measures against this new virus. In addition, there are many unanswered questions regarding this virus, including questions about how the virus is transmitted. Although the incidence of viral infections caused by MERS-CoV remains highest in, and largely localized to the Arabian Peninsula (138 of 144 cases), the high mortality rate associated with this agent and its epidemic potential has led to close monitoring by the WHO (*http://www.who.int/csr/disease/coronavirus_infections/faq/en/index.html*).

Under Appendix B of the *NIH Guidelines,* most coronaviruses are classified as RG2 viruses. Given the severity of illness seen to date, MERS-CoV will be added to the list of RG3 agents, as was done for SARS-CoV. However, because little is currently known about the source, reservoir, and epidemiology of this virus, the RG classification will be reassessed if new data emerge relevant to the biosafety risks associated with the agent. In addition, while research with RG3 agents is often carried out at Biosafety level 3 containment—with appropriate enhancements depending upon the nature of the agent, e.g., increased respiratory precautions for agents that are transmissible by the aerosol route—the RG of an agent is not the only factor that determines the containment level. As stated in Section II–A of the *NIH Guidelines* (Risk Assessment) ''once the risk group of an agent is identified, this should be followed by a thorough consideration of how the agent is to be manipulated'' and there may be experiments for which a higher containment level is warranted. Interim Laboratory Biosafety Guidelines for Handling and Processing Specimens Associated with MERS-CoV are available on the CDC Web site at the following URL: *http://www.cdc.gov/coronavirus/mers/guidelines-lab-biosafety.html.*

Pseudomonas aeruginosa

Bacteria belonging to the genus *Pseudomonas* are ubiquitous in the environment. They are generally considered to be opportunistic pathogens, i.e., able to cause disease in individuals who are immunocompromised. According to the CDC, serious pseudomonas infections usually occur in hospitalized patients and those who are immunocompromised and these infections can lead to severe illness and death (*http://www.cdc.gov/hai/organisms/pseudomonas.html*). Healthy people can also become ill from *Pseudomonas aeruginosa,* especially after exposure to inadequately disinfected water. Per the CDC, ''Ear infections, especially in children, and more generalized skin rashes may occur after exposure to inadequately chlorinated hot tubs or swimming pools. Eye infections have occasionally been reported in persons using extended-wear contact lenses'' (*http://www.cdc.gov/hai/organisms/pseudomonas.html*).

Because this bacterium generally causes mild disease in healthy individuals and there are antibiotics to treat such disease, the OBA will add it to Appendix B as an RG2 bacterium. This is consistent with other assessments of the RG for this pathogen by other biosafety guidances, including the Canadian (*http://www.phac-aspc.gc.ca/lab-bio/res/psds-ftss/pseudomonas-spp-eng.php*) and the European Community (*http://www.bacterio.net/hazard.html#group2*) guidances.

Appendix B–II–A. Risk Group 2 (RG2)—Bacterial Agents Including Chlamydia.

The following addition will be made to *Appendix B–II–A. Risk Group 2 (RG2)—Bacterial Agents Including Chlamydia:*

Pseudomonas aeruginosa

The following addition will be made to *Appendix B–III–D Risk Group 3 (RG3)—Viruses and Prions:*

Middle East Respiratory Syndrome coronavirus (MERS-CoV)

Dated: October 30, 2013.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health

[FR Doc. 2013–26612 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Human Genome Research Institute Special Emphasis Panel, October 15, 2013, 01:00 p.m. to October 15, 2013, 02:30 p.m., National Human Genome Research Institute, 5635 Fishers Lane, Suite 3055, Rockville, MD 20852 which was published in the **Federal Register** on September 16, 2013, 78 FR 26905.

The October 15, 2013 meeting has been moved to December 5, 2013. The meeting is closed to the public.

Dated: October 31, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26540 Filed 11–5–13; 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 Enabling Bioanalytical and Imaging Technologies Study Section, October 10, 2013, 07:45 a.m. to October 11, 2013, 06:00 p.m., Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405 which was published in the **Federal Register** on September 12, 2013, 78 FR 177 Pg. 56239.

The meeting will be held at the Renaissance Washington Dupont Circle Hotel, 1143 New Hampshire Ave. NW., Washington, DC 20037. The meeting will start December 17, 2013 at 9:30 a.m. and end December 18, 2013 at 7:00 p.m. The meeting is closed to the public.

Dated: October 31, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26529 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Reproductive Center's.

Date: November 7–8, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Population Sciences Subcommittee.

Date: November 7, 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: Carla T. Walls, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Boulevard, Room 5B01, Bethesda, MD 20892–7510, 301–435–6898, *wallsc@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Pediatrics Subcommittee.

Date: November 12, 2013.

Time: 8:00 a.m. to 5:00 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: Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–496–1487, *anandr@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–Z (55).

Date: November 12, 2013.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Preserving Male Fertility After Cancer Therapy by Kyle E. Orwig.

Date: November 14, 2013.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, 6100 Executive Boulevard, Rockville, MD 20892–9304, (301) 435–6680, *skandasa@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Obstetrics and Maternal-Fetal Biology Subcommittee.

Date: November 20, 2013.

Time: 7:00 a.m. to 6:00 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: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; HIV-Infected Children and Virologic Control.

Date: November 22, 2013.

Time: 8:00 a.m. to 5:00 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: Rita Anand, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–496–1487, *anandr@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; ZHD1 DSR–Z (50).

Date: November 22, 2013.

Time: 12:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Peter Zelazowski, Ph.D., Scientific Review Officer, Division of Scientific Review, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, 301–435–6902, *peter.zelazowski@nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Reproduction, Andrology, and Gynecology Subcommittee.

Date: November 25, 2013.

Time: 3:30 p.m. to 7:00 p.m.

Date: November 26, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Dennis E. Leszczynski, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5b01, Bethesda, MD 20892, 301–435–2717, *leszcyd@mail.nih.gov*.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: November 7, 2013.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Developmental Biology Subcommittee.

Date: November 13, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Date: November 14, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Date: November 18, 2013.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: November 26, 2013.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health And Human Development, NIH, 6100 Executive Blvd., Room 5B01–G, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: October 31, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26525 Filed 11–5–13; 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, Special Emphasis Panel: Behavioral Medicine, Intervention and Outcomes.

Date: November 21, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Agenda: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza SW., Washington, DC 20024–2197.

Contact Person: Lee S Mann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, RFA–DC–13–002: Innovative and Novel Approaches Toward Inner Ear Regenerative Therapies.

Date: December 2, 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, (Virtual Meeting).

Contact Person: Lynn E Luethke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323, *luethkel@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Social Psychology, Personality and Interpersonal Processes Overflow.

Date: December 2, 2013.

Time: 2:00 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, (Telephone Conference Call).

Contact Person: Monica Basco, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3220, MSC 7808, Bethesda, MD 20892, 301–496–7010, *bascoma@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Program Project: Antibody Research Technology Center.

Date: December 3–5, 2013.

Time: 5:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

Contact Person: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, 301–495–1506, *jakesse@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AREA: Population Sciences and Epidemiology.

Date: December 6, 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: Karin F Helmers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3144, MSC 7770, Bethesda, MD 20892, (301) 254–9975, *helmersk@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS).

Dated: October 31, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26530 Filed 11–5–13; 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, 02:00 p.m. to October 18, 2013, 05:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, which was published in the **Federal Register** on September 24, 2013, 78 FR 185 Pgs. 58547–58548.

The meeting will start December 18, 2013 at 2:00 p.m. and end December 18, 2013 at 5:00 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: October 31, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26528 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood 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 Heart, Lung, and Blood Institute Special Emphasis Panel, Cardiovascular Disease Model Resource Related Research Project.

Date: December 4, 2013.

Time: 11:00 a.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Room 7182, 6701 Rockledge Drive Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Susan Wohler Sunnarborg, Ph.D. Scientific Review Officer, Office of Scientific Review/DERA National, Heart, Lung, and Blood Institute, 6701 Rockledge

Drive, Room 7182, Bethesda, MD 20892, *sunnarborgsw@nhlbi.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: October 31, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26526 Filed 11–5–13; 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 Cellular and Molecular Biology of Glia Study Section, October 21, 2013, 08:00 a.m. to October 21, 2013, 06:00 p.m., Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814 which was published in the **Federal Register** on September 26, 2013, 78 FR 187 Pgs. 59361–59362.

The meeting will be held at the Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, Washington, DC 20015. The meeting will start November 14, 2013 at 8:00 a.m. and end November 14, 2013 at 6:30 p.m. The meeting is closed to the public.

Dated: October 31, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26531 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational 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 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 Center for Advancing Translational Sciences Special Emphasis Panel, NIH Support Conferences and Scientific Meetings.

Date: December 5, 2013.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Blvd., Bethesda, MD 20892.

Contact Person: Rahat Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Room 1078, Bethesda, MD 20892, 301–894–7319, *khanr2@csr.nih.gov*.

Dated: October 31, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26541 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel, October 10–11, 2013, 09:00 a.m.–08:00 p.m. National Institutes of Health, Two Democracy Plaza, Suite 200, 6707 Democracy Boulevard, Bethesda, MD 20892, which was published in the **Federal Register** on August 2, 2013, 78 FR 46995.

The meeting notice is amended to change the date from October 10–11, 2013, to November 16, 2013, from 9:00 a.m. to 8:00 p.m. The meeting is closed to the public.

Dated: October 31, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26542 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Alternative Medicine; 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 Center for Complementary and Alternative Medicine Special Emphasis Panel; RFA–AT14–001 and AT14–002: SBIR Methods Development for Natural Products.

Date: December 13, 2013.

Time: 7:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Martina Schmidt, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Complementary, & Alternative Medicine, NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, 301–594–3456, *schmidma@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS).

Dated: October 31, 2013.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26527 Filed 11–5–13; 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 Genetics of Health and Disease Study Section, October 10, 2013, 08:30 a.m. to October 11, 2013, 12:30 p.m., Avenue Hotel Chicago, 160 E. Huron Street, Chicago, IL 60611

which was published in the **Federal Register** on September 12, 2013, 78 FR 56239.

The meeting will start on December 9, 2013 at 8:30 a.m. and end on December 10, 2013 at 1:30 PM. The meeting will be held at the Renaissance Washington, DC Dupont Circle Hotel, 1143 New Hampshire Avenue, Washington, DC 20037. The meeting is closed to the public.

Dated: October 31, 2013.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–26532 Filed 11–5–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4147–DR; Docket ID FEMA–2013–0001]

Santa Clara Pueblo; Amendment No. 1 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 declaration for the Santa Clara Pueblo (FEMA–4147–DR), dated September 27, 2013, and related determinations.

DATES: *Effective Date:* October 29, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Santa Clara Pueblo is hereby amended to include Public Assistance (Categories C–G) and the Hazard Mitigation Grant Program in the following area determined to have been adversely affected by the event declared a major disaster by the President in his declaration of September 27, 2013.

The Santa Clara Pueblo for Public Assistance [Categories C–G] (already designated for debris removal and emergency protective measures [Categories A and B] under the Public Assistance program).

The Santa Clara Pueblo is 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. 2013–26537 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4151–DR; Docket ID FEMA–2013–0001]

Santa Clara Pueblo; Amendment No. 1 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 declaration for the Santa Clara Pueblo (FEMA–4151–DR), dated October 24, 2013, and related determinations.

DATES: *Effective Date:* October 29, 2013.

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the Santa Clara Pueblo is hereby amended to include Public Assistance (Categories C–G) and the Hazard Mitigation Grant Program in the following area determined to have been adversely affected by the event declared a major disaster by the President in his declaration of October 24, 2013.

The Santa Clara Pueblo for Public Assistance [Categories C–G] (already designated for debris removal and emergency protective measures [Categories A and B] under the Public Assistance program).

The Santa Clara Pueblo is 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. 2013–26536 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2538–13; DHS Docket No. USCIS–2013–0006]

RIN 1615–ZB24

Extension of the Designation of Somalia for Temporary Protected Status

Correction

In notice document 2013–25969 beginning on page 65690 in the issue of Friday, November 1, 2013 make the following corrections:

1. On page 65691, in the first column, in the third paragraph, in the fourth and fifth lines ''October 31, 2013 through December 30, 2013'' should read ''November 1, 2013 through December 31, 2013''.

2. On the same page, in the same column, in the fourth paragraph, in the last two lines ''October 31, 2013 through December 30, 2013'' should read ''November 1, 2013 through December 31, 2013''.

[FR Doc. C1–2013–25969 Filed 11–5–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection Bureau

Accreditation and Approval of Saybolt, LP, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Saybolt, LP, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Saybolt, LP, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of July 18, 2013.

DATES: *Effective:* The accreditation and approval of Saybolt, LP, as commercial gauger and laboratory became effective on July 18, 2013. The next triennial inspection date will be scheduled for July 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Saybolt, LP, 2610 S. Federal Highway, Ft. Lauderdale, FL 33316, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26606 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection Bureau

Accreditation and Approval of Amspec Services, LLC, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec Services, LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of February 20, 2013.

DATES: *Effective Dates:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger and laboratory became effective on February 20, 2013. The next triennial inspection date will be scheduled for February 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec Services, LLC, 360 East Elizabeth Ave, Linden, NJ 07036, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26607 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection Bureau

Accreditation and Approval of SGS North America, Inc., as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of SGS North America, Inc., as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that SGS North America, Inc., has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of July 17, 2013.

DATES: *Effective:* The accreditation and approval of SGS North America, Inc., as commercial gauger and laboratory became effective on July 17, 2013. The next triennial inspection date will be scheduled for July 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that SGS North America, Inc., 1100 SE 24th Street, Fort Lauderdale, FL 33316, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform

may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26611 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection Bureau

Accreditation and Approval of AMSPEC Services, LLC, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec Services, LLC, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of May 30, 2013.

DATES: *Effective:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger became effective on May 30, 2013. The next triennial inspection date will be scheduled for May 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, AmSpec Services, LLC, Chemical Division, 11725 Port Road, Seabrook, TX 77586, has been approved to gauge petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26613 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection Bureau

Accreditation and Approval of AMSPEC Services, LLC, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of AmSpec Services, LLC, as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that AmSpec Services, LLC, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of May 9, 2013.

DATES: *Effective:* The accreditation and approval of AmSpec Services, LLC, as commercial gauger and laboratory became effective on May 9, 2013. The next triennial inspection date will be scheduled for May 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that AmSpec Services, LLC, 30 Commercial St., Everett, MA 02149, has been approved to gauge and accredited to test petroleum and petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquires regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov*. Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26602 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection Bureau

Accreditation and Approval of Saybolt, LP, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Saybolt, LP, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Saybolt, LP, has been approved to gauge petroleum and petroleum products for customs purposes for the next three years as of July 11, 2013.

DATES: *Effective:* The accreditation and approval of Saybolt, LP, as commercial gauger became effective on July 11, 2013. The next triennial inspection date will be scheduled for July 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13,

that Saybolt, LP, 2640 Phyllis St., Unit 100, Jacksonville, FL, has been approved to gauge petroleum and petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquires regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26609 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection Bureau

Approval of American Cargo Assurance, as a Commercial Gauger

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of approval of American Cargo Assurance, as a commercial gauger.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that American Cargo Assurance, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes for the next three years as of July 31, 2013.

DATES: *Effective Dates:* The approval of American Cargo Assurance, as commercial gauger became effective on July 31, 2013. The next triennial inspection date will be scheduled for July 2016.

FOR FURTHER INFORMATION CONTACT: Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.13, that American Cargo Assurance, 3417–A Maplewood, Sulphur, LA 70663, has been approved to gauge petroleum, petroleum products, organic chemicals and vegetable oils for customs purposes, in accordance with the provisions of 19 CFR 151.13. Anyone wishing to employ this entity to conduct gauger services should request and receive written assurances from the entity that it is approved by the U.S. Customs and Border Protection to conduct the specific gauger service requested. Alternatively, inquiries regarding the specific gauger service this entity is approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *cbp.labhq@dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. *http://cbp.gov/linkhandler/cgov/trade/basic_trade/labs_scientific_svcs/commercial_gaugers/gaulist.ctt/gaulist.pdf.*

Dated: October 30, 2013.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2013–26601 Filed 11–5–13; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2013–N241; F09M29000–134–FXMB12320900000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Depredation Order for Blackbirds, Grackles, Cowbirds, Magpies, and Crows

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on November 30, 2013. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before December 6, 2013.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email). Please include ''1018–0146'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). 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: 1018–0146.

Title: Depredation Order for Blackbirds, Grackles, Cowbirds, Magpies, and Crows, 50 CFR 21.43.

Service Form Number: 3–202–21–2143.

Type of Request: Revision of a currently approved collection.

Description of Respondents: State and Federal wildlife damage management personnel; farmers; and individuals.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Estimated Number of Respondents: 30.

Estimated Total Annual Responses: 30.

Estimated Completion Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 60.

Abstract: The Migratory Bird Treaty Act (MBTA; 16 U.S.C. 703 et seq.) implements four treaties concerning migratory birds that the United States has signed with Canada, Mexico, Japan, and Russia. Under the treaties, we must preserve most species of birds in the United States, and activities involving migratory birds are prohibited except as authorized by regulation.

This information collection is associated with our regulations that implement the MBTA. In the Code of Federal Regulations (CFR), 50 CFR 21.43 is a depredation order that authorizes take of blackbirds, cowbirds, grackles, crows, and magpies ''when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or

wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.''

All persons or entities acting under this depredation order must provide an annual report containing the following information for each species:

- Number of birds taken.
- Months and years in which the birds were taken.
- State(s) and county(ies) in which the birds were taken.
- General purpose for which the birds were taken (such as for protection of agriculture, human health and safety, property, or natural resources).

We collect this information so that we will be able to determine how many birds of each species are taken each year and whether the control actions are likely to affect the populations of those species.

Comments: On July 1, 2013, we published in the **Federal Register** (78 FR 39309) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on August 30, 2013. We received two comments. One commenter objected to the killing of birds and funding for the Animal and Plant Health Inspection Service, Wildlife Services. The other commenter stated that the State of Wyoming has no records for the species covered by the depredation order. The commenters did not address the information collection requirements, and we did not make any changes to our requirements.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: October 31, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–26518 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–FHC–2013–N243; FXFR131109WFHS0–FF09F10000–134]

Proposed Information Collection; Injurious Wildlife; Importation Certification for Live Fish and Fish Eggs

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) will ask the Office of Management and Budget (OMB) to renew approval for the information collection (IC) described below. As required by the Paperwork Reduction Act of 1995 and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This IC is scheduled to expire on February 28, 2014. We 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: To ensure that we are able to consider your comments on this IC, we must receive them by January 6, 2014.

ADDRESSES: Send your comments on the IC to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); or *hope_grey@fws.gov* (email). Please include ''1018–0078'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this IC, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Lacey Act (18 U.S.C. 42) (Act) prohibits the possession or importation of any animal or plant deemed to be and prescribed by regulation to be injurious to:

- Human beings;
- The interests of agriculture, horticulture, and forestry; or
- Wildlife or the wildlife resources of the United States.

The Department of the Interior is charged with enforcement of this Act. The Act and regulations at 50 CFR part 16 allow for the importation of animals classified as injurious if specific criteria are met. To effectively carry out responsibilities and protect the aquatic resources of the United States, we must gather information on the animals being imported with regard to their source, destination, and health status. It is also imperative that we ensure the qualifications of those individuals who provide the fish health data and sign the health certificate upon which we base our decision to allow importation.

We use three forms to collect this information:

(1) FWS Form 3–2273 (Title 50 Certifying Official Form). New applicants and those seeking recertification as a title 50 certifying official provide information so that we can assess their qualifications.

(2) FWS Form 3–2274 (U.S. Title 50 Certification Form). Certifying officials use this form or their own health certificate to affirm the health status of the fish or their reproductive products to be imported.

(3) FWS Form 3–2275 (Title 50 Importation Request Form). We use the information on this form to ensure the safety of the shipment and to track and control importations.

II. Data

OMB Control Number: 1018–0078.

Title: Injurious Wildlife; Importation Certification for Live Fish and Fish Eggs, 50 CFR 16.13.

Service Form Number(s): 3–2273, 3–2274, and 3–2275.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Aquatic animal health professionals seeking to be certified title 50 inspectors; certified title 50 inspectors who have performed health certifications on live salmonids; and any entity wishing to import live salmonids or their reproductive products into the United States.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
FWS Form 3–2273	16	16	1 hour	16
FWS Form 3–2274	25	50	30 minutes	25
FWS Form 3–2275	25	50	15 minutes	13
Total	66	116		54

III. Comments

We invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this IC. 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: October 31, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–26519 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–LE–2013–N242; FF09L00200–FX–LE12200900000]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Federal Fish and Wildlife Permit Applications and Reports—Law Enforcement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on November 30, 2013. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before December 6, 2013.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email). Please include ''1018–0092'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Hope Grey at *hope_grey@fws.gov* (email) or 703–358–2482 (telephone). 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: 1018–0092.

Title: Federal Fish and Wildlife Permit Applications and Reports–Law Enforcement, 50 CFR 13 and 14.

Service Form Number: 3–200–2 and 3–200–3.

Type of Request: Extension of a currently approved collection.

Description of Respondents: Individuals; businesses; scientific institutions; and State, local, or tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours *
3–200–2—application and recordkeeping	1,350	1,350	1.25 hours	1,687
3–200–2—report	5	5	1 hour	5
3–200–3—application and recordkeeping	7,843	7,843	1.25 hours	9,804
3–200–3–report	5	5	1 hour	5
Totals	9,203	9,203		11,501

* Rounded.

Estimated Annual Nonhour Burden Cost: $918,000 for application fees.

Abstract: The Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.) makes it unlawful to import or export fish, wildlife, or plants without obtaining prior permission as deemed necessary for enforcing the ESA or upholding the Convention on International Trade in Endangered Species (CITES) (see 16 U.S.C. 1538(e)). This information collection includes the following permit/license application forms:

(1) FWS Form 3–200–2 (Designated Port Exception Permit). Under 50 CFR 14.11, it is unlawful to import or export wildlife or wildlife products at ports other than those designated in 50 CFR 14.12 unless you qualify for an exception. These exceptions allow

qualified individuals, businesses, or scientific organizations to import or export wildlife or wildlife products at a nondesignated port:

(a) When the wildlife or wildlife products will be used as scientific specimens.

(b) To minimize deterioration or loss.

(c) To relieve economic hardship.

To request an import or export of wildlife or wildlife products at nondesignated ports, applicants must complete FWS Form 3–200–2. Designated port exception permits are valid for 2 years. We may require a permittee to file a report on activities conducted under authority of the permit.

(2) FWS Form 3–200–3 (Import/Export License). It is unlawful to import or export wildlife or wildlife products for commercial purposes without first obtaining an import/export license (50 CFR 14.91). Applicants must complete FWS Form 3–200–3 to request this license. We use the information that we collect on the application as an enforcement tool and management aid to: (a) Monitor the international wildlife market and (b) detect trends and changes in the commercial trade of wildlife and wildlife products. Import/export licenses are valid for 1 year. We may require a licensee to file a report on activities conducted under authority of the import/export license.

Permittees and licensees must maintain records that accurately describe each importation or exportation of wildlife or wildlife products made under the license, and any additional sale or transfer of the wildlife or wildlife products. In addition, licensees must make these records and the corresponding inventory of wildlife or wildlife products available for our inspection at reasonable times, subject to applicable limitations of law. We believe the burden associated with these recordkeeping requirements is minimal because the records already exist. Importers and exporters must complete FWS Form 3–177 (Declaration for Importation or Exportation of Fish or Wildlife) for all imports or exports of wildlife or wildlife products. This form provides an accurate description of the imports and exports. OMB has approved the information collection for FWS Form 3–177 and assigned OMB Control Number 1018–0012. Normal business practices should produce records (e.g., invoices or bills of sale) needed to document additional sales or transfers of the wildlife or wildlife products.

Comments: On June 17, 2013, we published in the **Federal Register** (78 FR 36236) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on August 16. We received no comments in response to that notice.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: October 31, 2013.

Tina A. Campbell,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

[FR Doc. 2013–26516 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NCR–WHHO–13968; PPNCWHHO00, PPMPSPD1Z.YM0000]

Notice of Public Meeting and Request for Comments

AGENCY: National Park Service, Interior.

ACTION: Notice of request for public meeting and public comments on the planning of the National Christmas Tree Lighting and the subsequent 26-day event.

SUMMARY: The National Park Service is seeking public comments and suggestions on the planning of the 2013 National Christmas Tree Lighting and the subsequent 26-day event. The general plan and theme for the event is the celebration of the holiday season with the display of the traditional American symbols of Christmas.

DATES: The meeting will be held on Wednesday, November 13, 2013. Written comments will be accepted until November 20, 2013.

ADDRESSES: The meeting will be held at 9:00 a.m. to 10:00 a.m. on November 13, 2013, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive SW., Washington, DC (East Potomac Park). Written comments may be sent to the Peter Lonsway, Manager, President's Park, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242. Due to delays in mail delivery, it is recommended that comments be provided by fax at (202) 208–1643 or by email to *Peter_Lonsway@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Peter Lonsway, Manager, President's Park, National Park Service, weekdays between 7:30 a.m., and 4:00 p.m., at (202) 208–1631.

SUPPLEMENTARY INFORMATION: The National Park Service is seeking public comments and suggestions on the planning of the 2013 National Christmas Tree Lighting and the subsequent 26-day event, which opens on December 6, 2013, on the Ellipse (President's Park), south of the White House. The general plan and theme for the event is the celebration of the holiday season, where park visitors will have the opportunity to view the lighting of the National Christmas Tree, attend musical presentations, and visit the yuletide displays of the traditional and familiar American symbols of Christmas, a national holiday. As in the past, these traditional and familiar American symbols will be the National Christmas Tree, the smaller trees representing the various states, the District of Columbia and the territories, various seasonal musical presentations, and a traditional crèche which is not owned by the Federal Government.

The National Park Service will hold a meeting at 9:00 a.m. on November 13, 2013, in Room 234 of the National Capital Region Headquarters Building, at 1100 Ohio Drive SW., Washington, DC (East Potomac Park).

Persons who would like to comment at the meeting should notify the National Park Service by November 13, 2013, by calling Peter Lonsway, Manager, President's Park, National Park Service, weekdays between 7:30 a.m., and 4:00 p.m., at (202) 208–1631.

In addition public comments and suggestions on the planning of the 2013 National Christmas Tree Lighting and the subsequent 26-day event may be submitted in writing. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—

including your personal identifying information—may be made publicly available at any time. While you can ask in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: November 1, 2013.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2013–26597 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–DL–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–CACO–14058; PPNECACOS0, PPMPSD1Z.YM0000]

Notice of December 2, 2013, Meeting for Cape Cod National Seashore Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets forth the date of the 291st Meeting of the Cape Cod National Seashore Advisory Commission.

DATES: The public meeting of the Cape Cod National Seashore Advisory Commission will be held on Monday, December 2, 2013, at 1:00 p.m. (EASTERN).

ADDRESSES: The Commission members will meet in the conference room at park headquarters, 99 Marconi Site Road, Wellfleet, Massachusetts 02667.

The two-hundred and ninety first meeting of the Cape Cod National Seashore Advisory Commission will take place on Monday, December 2, 2013, at 1:00 p.m., in the conference room at park headquarters, 99 Marconi Station, in Wellfleet, Massachusetts, to discuss the following:

1. Adoption of Agenda
2. Approval of Minutes of Previous Meeting (September 9, 2013)
3. Reports of Officers
4. Reports of Subcommittees
   - Update of Pilgrim Nuclear Plant Emergency Planning Subcommittee
5. Superintendent's Report
   - Herring Cove North Public Access Site Plan Environmental Assessment
   - Update on Sequestration/FY 14 Budget
   - Update on Dune Shacks
   - Improved Properties/Town Bylaws
   - Herring River Wetland Restoration
   - Wind Turbines/Cell Towers
   - Storm Damage
   - Shorebird Management Planning
   - Highlands Center Update
   - Alternate Transportation Funding
   - Ocean Stewardship Topics—Shoreline Change
   - Climate Friendly Parks
6. Old Business
7. New Business
   - Certificate of Suspension of Condemnation (CSCs) and Private Commercial Businesses in the Seashore. A vote is required to recommend continuation of CSCs issued on a 5-year basis if the Advisory Commission finds CSC holders continued to operate their businesses as previously approved and continue to meet town zoning bylaws.
8. Date and Agenda for Next Meeting
9. Public Comment
10. Adjournment

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from George E. Price, Jr., Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, Massachusetts 02667, or via telephone at (508) 771–2144.

SUPPLEMENTARY INFORMATION: The Commission was reestablished pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or her designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members. Interested persons may make oral presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent prior to the meeting. 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: October 30, 2013.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2013–26515 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–WV–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Number 1010–0106] [MMAA104000]

Information Collection: Oil Spill Financial Responsibility for Offshore Facilities; Submitted for OMB Review; Comment Request

ACTION: 30-Day notice.

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 information collection request (ICR) concerns the paperwork requirements for 30 CFR 553, Oil Spill Financial Responsibility for Offshore Facilities, as well as the revised forms. This notice provides the public a second opportunity to comment on the paperwork burden of this collection.

DATES: Submit written comments by December 6, 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 1010–0106 in your comment and include your name and return address.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Office of Policy, Regulations, and Analysis at (703) 787–1025 (phone). You may review the ICR and revised forms 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: 1010–0106.

Title: 30 CFR 553, Oil Spill Financial Responsibility for Offshore Facilities.

Forms: BOEM–1016 through 1023 and BOEM–1025.

Abstract: This information collection request addresses the regulations at 30 CFR 553, Oil Spill Financial Responsibility (OSFR) for Offshore Facilities, including any supplementary notices to lessees and operators that provide clarification, description, or explanation of these regulations, and

forms BOEM–1016 through 1023 and BOEM–1025.

The BOEM uses the information collected under 30 CFR 553 to verify compliance with section 1016 of the Oil Pollution Act, as amended (OPA). The information is necessary to confirm that applicants can pay for cleanup and damages resulting from oil spills and other hydrocarbon discharges that originate from Covered Offshore Facilities (COFs).

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR part 2) and under regulations at 30 CFR 550.197, ''Data and information to be made available to the public or for limited inspection.'' No items of a sensitive nature are collected. Responses are mandatory.

Frequency: On occasion or annual.

Description of Respondents: Holders of leases, permits, and rights of use and easement in the Outer Continental Shelf and in State coastal waters who will appoint designated applicants. Other respondents will be the designated applicants' insurance agents and brokers, bonding companies, and guarantors. Some respondents may also be claimants.

Estimated Reporting and Recordkeeping Hour Burden: The estimated annual hour burden for this collection is 22,132 hours. The following table details the individual components and respective hour burden estimates of this ICR.

BURDEN BREAKDOWN

Citation 30 CFR 553	Reporting requirement*	Hour burden	Average number of annual reponses	Annual burden hours
Various sections.	The burdens for all references to submitting evidence of OSFR, as well as required or supporting information, are covered with the forms below.			0
Applicability and Amount of OSFR				
11(a)(1); 40; 41	Form BOEM–1016—Designated Applicant Information Certification.	1	200	200
11(a)(1); 40; 41	Form BOEM–1017—Appointment of Designated Applicant.	9	600	5,400
11(a)(2)	Form BOEM–1025—Independent Designated Applicant Information Certification.	1	200	200
12	Request for determination of OSFR applicability. Provide required and supporting information.	2	5	10
15	Notify BOEM of change in ability to comply	1	1	1
15(f)	Provide claimant written explanation of denial	1	15	15
Subtotal			1,021	5,826
Methods for Demonstrating OSFR				
21; 22; 23; 24; 26; 27; 30; 40; 41; 43	Form BOEM–1018—Self-Insurance Information, including renewals.	1	50	50
	Form BOEM–1023—Financial Guarantee	1.5	25	38
29; 40; 41; 43	Form BOEM–1019—Insurance Certificate	120	120	14,400
31; 40; 41; 43	Form BOEM–1020—Surety Bond	24	4	96
32	Proposal and supporting information for alternative method to evidence OSFR (anticipate no proposals, but regulations provide the opportunity).	120	1	120
Subtotal			200	14,704
Requirements for Submitting OSFR Information				
40; 41; 43	Form BOEM–1021—Covered Offshore Facilities	6	200	1,200
40; 41; 42	Form BOEM–1022—Covered Offshore Facility Changes.	1	400	400
Subtotal			600	1,600
Claims for Oil-Spill Removal Costs and Damages				
Subpart F	Claims: BOEM is not involved in the claims process. Assessment of burden for claims against the Oil Spill Liability Trust Fund (30 CFR parts 135, 136, 137) falls under the responsibility of the U.S. Coast Guard.			0
60(d)	Claimant request for BOEM assistance to determine whether a guarantor may be liable for a claim.	2	1	2
Subtotal			1	2
Total Burden			1,822	22,132

* In the future, BOEM may require specified electronic filing of financial/bonding submissions.

In this renewal, BOEM is splitting the function of some forms and revising others to clarify the responsibilities and financial obligations of responsible parties and applicants, as described in the Outer Continental Shelf Lands Act, and to better align the terminology and liability with the provisions of OPA. These revisions will better protect the Federal Government from potential disputes and litigation by clarifying that the primary relationship is between the responsible party and guarantor and that the designated applicant/operator is intended to function primarily in an administrative capacity.

The revised forms can be viewed online at *http://www.reginfo.gov* or in the August 6, 2013, **Federal Register** notice (78 FR 47724).

Form BOEM–1016, Designated Applicant Information Certification. This form remains essentially the same except for updating the choices of forms and clarifying the administrative role of the designated applicant. No change in the 1-hour burden is expected.

Form BOEM–1017, Appointment of Designated Applicant. This form remains essentially the same except for changing the title, clarifying the administrative role of the designated applicant, and adding a column to record depth ranges, when applicable. No change in the 9-hour burden is expected.

Form BOEM–1018, Self-Insurance Information. The original form posed potential confusion because it served two purposes, both to provide evidence of self-insurance (for responsible parties) and as an indemnity (executed by persons other than the responsible party). Thus, the form has been split into two forms (BOEM–1018 and BOEM–1023). BOEM–1018 focuses on self-insurance only and is reworded to more closely align with the requirements of OPA, adding an agreement to update/renew expiring or terminated instruments and a signature section. No change in the 1-hour burden is expected.

Form BOEM–1019, Insurance Certificate. The language and agreements in this form have been reworded for compliance with OPA, to clarify that the insurer is responsible for OPA liabilities of the responsible parties, and to add an agreement to update/renew expiring or terminated instruments. No change in the 120-hour burden is expected.

Form BOEM–1020, Surety Bond. The language and agreements in this form have been reworded for compliance with OPA, to clarify that the Surety is responsible for OPA liabilities of the responsible parties, and to add an agreement to update/renew expiring or terminated instruments. No change in the 24-hour burden is expected.

Forms BOEM–1021, Covered Offshore Facilities, and BOEM–1022, Covered Offshore Facility Changes. These forms remain essentially the same except for rewording of the subtitles to match the other forms and adding a provision for rights-of-way. There is no change in the 1-hour burden for BOEM–1022; however, based on respondent input we are increasing the burden for BOEM–1021 from 3 to 6 hours.

Form BOEM–1023, Financial Guarantee. This new form replaces the indemnity agreement (previously part of BOEM–1018) with a provision that an affiliated firm, such as a corporate parent, may promise to satisfy any claims against the responsible parties. It also adds an agreement to update/renew expiring or terminated instruments and a signature section. The hour burden is estimated as 1.5 hours.

Form BOEM–1025, Independent Designated Applicant Information Certification. This new form allows a designated applicant, who is not also a responsible party, to continue to agree to be jointly and severally liable under OPA until BOEM promulgates regulations that will repeal this requirement. We estimate the burden hour to be 1 hour.

Estimated Reporting and Recordkeeping Non-Hour Cost Burden: We have identified no reporting and recordkeeping non-hour cost burdens for this collection.

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 May 1, 2013, BOEM published a **Federal Register** notice (78 FR 25472) announcing that we would submit this ICR to OMB for approval. On August 6, 2013, we published a supplementary notice (78 FR 47724) requesting public comment on the revised forms. These notices each provided the required 60-day comment period. We received one comment from the Marine Mammal Commission, which expressed support for BOEM's required information collection as part of a comprehensive Federal/State oil spill response program.

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: October 24, 2013.

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulations, and Analysis.

[FR Doc. 2013–26591 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[S1D1S SS08011000 SX066A000 67F 134S180110; S2D2S SS08011000 SX066A00 33F 13xs501520]

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights, has been forwarded to the Office of Management and Budget (OMB) for review and reauthorization. The information collection package was previously approved and assigned control number 1029–0116. This notice describes the nature of the information collection activity and the expected burdens.

DATES: OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, public comments

should be submitted to OMB by December 6, 2013, in order to be assured of consideration.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer, by telefax at (202) 395–5806, or via email to *OIRA_submission@omb.eop.gov.* Also, please send a copy of your comments to John Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave NW., Room 203—SIB, Washington, DC 20240, or electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection request, contact John Trelease at (202) 208–2783 or electronically to *jtrelease@osmre.gov.* You may also review the information collection requests online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8 (d)]. OSM has submitted a request to OMB to renew its approval for the collection of information for 30 CFR part 774—Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights. OSM is requesting a 3-year term of approval for this information collection.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for Part 774 is 1029–0116 and is referenced in § 774.9.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on this collection of information was published on July 24, 2013 (78 FR 44597). No comments were received. This notice provides the public with an additional 30 days in which to comment on the following information collection:

Title: 30 CFR Part 774—Revisions; Renewals; and Transfer, Assignment, or Sale of Permit Rights.

OMB Control Number: 1029–0116.

Summary: Sections 506 and 511 of Public Law 95–87 provide that persons seeking permit revisions, renewals, transfer, assignment, or sale of their permit rights for coal mining activities submit relevant information to the regulatory authority to allow the regulatory authority to determine whether the applicant meets the requirements for the action anticipated.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Surface coal mining permit applicants and State regulatory authorities.

Total Annual Responses: 3,510 responses from permit applicants and 3,343 responses from State regulatory authorities.

Total Annual Burden Hours: 242,179.

Total Annual Non-wage Costs: $902,920.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the address listed above. Please refer to OMB control number 1029–0116 in all correspondence.

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: October 31, 2013.

Andrew F. DeVito,

Chief, Division of Regulatory Support.

[FR Doc. 2013–26580 Filed 11–5–13; 8:45 am]

BILLING CODE 4310–05–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Antivenom Compositions and Products Containing the Same,* DN 2989; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS,*[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at USITC.[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at EDIS.[3] Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to section 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of BTG International Inc. on October 30, 2013. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain antivenom compositions and products containing the same. The complaint names as respondents Veteria Laboratories of Mexico; BioVeteria Life Sciences, LLC of Prescott, Arizona; Instituto Bioclon S.A. de C.V. of Mexico; The Silanes Group of Mexico; Rare Disease Therapeutics, Inc. of Franklin, Tennessee; and Accredo Health Group, Inc. of Memphis, Tennessee. The complainant requests that the Commission issue a limited exclusion order, and cease and desist orders.

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 2989'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: October 31, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–26481 Filed 11–5–13; 8:45 am]

BILLING CODE 7020–02–P

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–501 and 731–TA–1226 (Preliminary)]

Chlorinated Isocyanurates From China and Japan

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) (the Act), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from China and Japan of chlorinated isocyanurates, provided for in subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.50.4000, 3808.94.5000, and 3808.99.9500 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV) from Japan and subsidized by the Government of China.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under sections 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. 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 the investigations.

Background

On August 29, 2013, a petition was filed with the Commission and Commerce by Clearon Corp., South Charleston, WV, and Occidental Chemical Corporation, Dallas, TX, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of chlorinated isocyanurates from China and LTFV imports of chlorinated isocyanurates from Japan. Accordingly, effective August 29, 2013, the Commission instituted countervailing duty investigation No. 701–TA–501 and antidumping duty investigation No. 731–TA–1226 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of September 10, 2013 (78 FR 55293). The conference was held in Washington, DC, on September 19, 2013, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on October 31, 2013. The views of the Commission are contained in USITC Publication

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Shara L. Aranoff and F. Scott Kieff did not participate.

4431 (November 2013), entitled *Chlorinated Isocyanurates From China and Japan: Investigation Nos. 701–TA–501 and 731–TA–1226 (Preliminary).*

By order of the Commission.
Issued: October 31, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–26480 Filed 11–5–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–13–027]

Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 7, 2013 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: none
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–447 and 731–TA–1116 (Review) (Circular Welded Carbon-Quality Steel Pipe from China). The Commission is currently scheduled to complete and file its determinations on or before November 18, 2013; Commissioners' opinions will be issued on November 18, 2013.
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this meeting was not possible.

Issued: November 1, 2013

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–26696 Filed 11–4–13; 11:15 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1122–NEW]

Agency Information Collection Activities; New Collection: Certification of Compliance With the Confidentiality and Privacy Provisions of the Violence Against Women Act, as Amended

Correction

In notice document 2013–21375 beginning on page 54275 in the issue of Tuesday, September 3, 2013 make the following correction:

On page 54275, in the third column, in the first full paragraph, three lines from the bottom ''September 3, 2013'' should read ''November 4, 2013''.

[FR Doc. C1–2013–21375 Filed 11–5–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Census of Fatal Occupational Injuries

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, ''Census of Fatal Occupational Injuries,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before December 6, 2013.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201307-1220-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The Census of Fatal Occupational Injuries provides policymakers and the public with comprehensive, verifiable, and timely measures of fatal work injuries. Data are compiled from various Federal, State, and local sources and include information on how the incident occurred as well as various characteristics of the employers and the deceased worker. This information is used for surveillance of fatal work injuries and for developing prevention strategies. This ICR has been classified as a revision, because of minor revisions to the collection instrument.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0133. The current approval is scheduled to expire on March 31, 2014; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 12, 2013 (78 FR 49158).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0133. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Census of Fatal Occupational Injuries.

OMB Control Number: 1220–0133.

Affected Public: Individuals or Households; State Local, and Tribal Governments; Federal Government; and Private Sector—businesses or other for-profits, farms, and not-for-profit institutions.

Total Estimated Number of Respondents: 1,878.

Total Estimated Number of Responses: 18,748.

Total Estimated Annual Burden Hours: 3,469.

Total Estimated Annual Other Costs Burden: $0.

Dated: October 31, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–26496 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Exemptions From Certain Prohibited Transaction Restrictions

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). This notice includes the following proposed exemptions: D–11729, Bank of America Corporation; and L–11760, Intel Corporation.

DATES: All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice.

ADDRESSES: Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Attention: Application No., stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via email or FAX. Any such comments or requests should be sent either by email to: *moffitt.betty@dol.gov,* or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue NW., Washington, DC 20210.

Warning: All comments will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

SUPPLEMENTARY INFORMATION:

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011).[1] Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Bank of America Corporation Located in Charlotte, NC

[Application No. D–11729]

Proposed Exemption

The Department is considering granting an exemption under the authority of ERISA section 408(a) and Code section 4975(c)(2) in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (76 FR 66637, 66644, October 27, 2011).

Section I: Covered Transactions

If this proposed exemption is granted, the restrictions of ERISA sections 406(a)(1)(D) and 406(b) and the sanctions resulting from the application of Code section 4975 (including the loss of exemption[2] by reason of Code sections 4975(c)(1)(D), (E) and (F)) shall not apply to the receipt of Relationship Benefits by an individual for whose benefit a Covered Plan is established or maintained, or by his or her Family Members, from BAC pursuant to an arrangement in which the Account Value of, or the Fees incurred for services provided to, the Covered Plan is taken into account for purposes of determining eligibility to receive such Relationship Benefits, provided that each condition of Section II of this proposed exemption is satisfied.

[1] The Department has considered exemption applications received prior to December 27, 2011 under the exemption procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

[2] Pursuant to Code section 408(e)(2)(A)(for an individual retirement account or individual retirement annuity); Code section 530(e) (for a Coverdell education savings account); Code section 220(e)(2) (for an Archer medical savings account); or Code section 223(e)(2) (for a health savings account).

Section II: Conditions

(a) The Covered Plan whose Account Value, or whose Fees paid, are taken into account for purposes of determining eligibility to receive Relationship Benefits under the arrangement must be established and maintained for the exclusive benefit of the participant covered under the Covered Plan, his or her spouse, or their beneficiaries.

(b) The Relationship Benefits offered under the arrangement must be of a type that a Qualified Affiliate could offer consistent with all applicable federal and state banking laws and all applicable federal and state laws regulating Broker-Dealers.

(c) Where Account Values are taken into account for purposes of determining eligibility to receive benefits under the arrangement, the Account Values of Covered Plan accounts shall be treated as favorably, for purposes of satisfying such eligibility requirements, as the Account Values of other types of customer accounts.

(d) Where levels of Fees incurred are taken into account for purposes of determining eligibility to receive benefits under the arrangement, the levels of Fees incurred by Covered Plan accounts shall be treated as favorably, for purposes of satisfying such eligibility requirements, as the levels of Fees incurred by other types of customer accounts.

(e) The Relationship Benefits offered under the arrangement must be provided by a Qualified Affiliate in the ordinary course of its business as a Bank or Broker-Dealer to customers who qualify for such benefits, but who do not maintain Covered Plans with a Qualified Affiliate.

(f) The combined total of fees for the provision of services to a Covered Plan is not in excess of reasonable compensation within the meaning of ERISA section 408(b)(2) and Code section 4975(d)(2).

(g) The investment performance of the investments made by the Covered Plan is no less favorable than the investment performance of identical investments that could have been made at the same time by a customer of BAC who is not eligible for (or who does not receive) Relationship Benefits.

(h) The Relationship Benefits offered under the arrangement to the Covered Plan customer must be the same as are offered to non-Covered Plan customers of Qualified Affiliates having the same aggregate Account Value or the same amount of Fees generated.

Section III: Definitions

The following definitions apply to this proposed exemption:

(a) The term ''Account Value'' means investments in cash or securities held in the account for which market quotations are readily available. For purposes of the exemption, the term ''cash'' includes savings accounts that are insured by a federal deposit insurance agency and constitute deposits as that term is defined in 29 CFR 2550.408b–4(c)(3). The term ''Account Value'' does not include investments that are offered by BAC (or a Qualified Affiliate) exclusively to Covered Plans.

(b) The term ''affiliate'' includes any person directly or indirectly controlling, controlled by, or under common control with Bank of America Corporation.

(c) The term ''Bank'' means a bank described in Code section 408(n).

(d) The term ''BAC'' means Bank of America Corporation and any of its affiliates.

(e) The term ''Broker-Dealer'' means a broker-dealer registered under the Securities Exchange Act of 1934, as amended.

(f) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(g) The term ''Covered Plan'' means an IRA or other savings account described in section III(j) of this proposed exemption or a Keogh Plan described in section III(k) of this proposed exemption that is established with BAC as trustee or custodian.

(h) The term ''Family Members'' means beneficiaries of the individual for whose benefit the Covered Plan is established or maintained, who would be members of the family as that term is defined in Code section 4975(e)(6), or a brother, a sister, or a spouse of a brother or sister.

(i) The term ''Fees'' means commissions and other fees received by a Broker-Dealer from the Covered Plan for the provision of services, including but not limited to: Brokerage commissions, investment management fees, investment advisory fees, custodial fees, and administrative fees.

(j) The term ''IRA'' means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b), a Coverdell education savings account described in Code section 530, an Archer MSA described in Code section 220(d), or a health savings account described in Code section 223(d). For purposes of this proposed exemption, the term ''IRA'' does not include an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in Code section 408(k) and a Simple Retirement Account described in Code section 408(p) that provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

(k) The term ''Keogh Plan'' means a pension, profit-sharing, or stock bonus plan qualified under Code section 401(a) and exempt from taxation under Code section 501(a) under which some or all of the participants are employees described in Code section 401(c). For purposes of this proposed exemption, the term ''Keogh Plan'' does not include an employee benefit plan covered by Title I of ERISA.

(l) The term ''Qualified Affiliate'' means any person directly or indirectly controlling, controlled by, or under common control with BAC that is a Bank or Broker-Dealer.

(m) The term ''Relationship Benefits'' means reduced or no cost financial products and services, including premium rates of account or investment interest, discounted rates of interest on loans, reductions or waivers of otherwise applicable fees and charges, and/or differentiated servicing.

Summary of Facts and Representations

1. Bank of America Corporation (the Applicant) is a bank holding company and a financial holding company under the Gramm-Leach-Bliley Act of 1999 (GLBA). As of December 31, 2011, Bank of America Corporation and its subsidiaries had total consolidated assets of approximately $2.1 trillion. The consumer and corporate banking business of Bank of America Corporation and its affiliates (together, BAC) is conducted primarily through Bank of America, National Association (BANA). BANA is a national franchise that includes branch and electronic banking, consumer lending services, and credit and debit card services. BAC's brokerage business, conducted primarily through Merrill Lynch, Pierce, Fenner & Smith Incorporated (Merrill Lynch), provides investment services, securities trading, research, and brokerage services to consumer and corporate customers. Merrill Lynch is a retail brokerage firm with approximately 17,000 financial advisors and offices located in all 50 states and the District of Columbia. Together, BANA and Merrill Lynch serve approximately 57 million consumer and small business relationships and client accounts with more than $2.2 trillion in net assets. In

the ordinary course of its business, BAC (including BANA and Merrill Lynch) provide a range of financial products and services to individuals including individual retirement accounts (IRAs) described in Code section 408(a), individual retirement annuities described in Code section 408(b), Coverdell education savings accounts described in Code section 530, Archer MSAs described in Code section 220(d), health savings accounts described in Code section 223(d) and Keogh plans (i.e., pension, profit-sharing, or stock bonus plans qualified under Code section 401(a) and exempt from taxation under Code section 501(a) under which some or all of the participants are employees described in Code section 401(c)) not covered by Title I of ERISA (each, a ''Covered Plan'' as defined in the proposed exemption and collectively, the ''Covered Plans''). For purposes of this proposed exemption, the term ''Covered Plan'' includes Simplified Employee Pensions (SEP) described in Code section 408(k) and Simple Retirement Accounts described in Code section 408(p) that provide participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

Reduced or No Cost Services in Prohibited Transaction Exemptions 93–33 and 97–11

2. The Applicant wishes to offer relationship banking and brokerage benefits that are similar to the reduced or no cost services contemplated by Prohibited Transaction Exemptions (PTEs) 93–33 and 97–11. PTE 93–33 [3] permits an individual for whose benefit an IRA or Keogh Plan is established or maintained, or his or her family members, to receive services at reduced or no cost from a bank under an arrangement in which the account balance of the IRA or Keogh Plan is considered when determining eligibility to receive such services. PTE 93–33 permits banks to offer their customers only those services allowed under applicable federal and state banking laws.[4] When an affiliate of the bank offers the service, it must be a type of service that the bank can offer its own customers.

3. PTE 97–11 [5] permits an individual for whose benefit an IRA or Keogh Plan is established or maintained, or his or her family members, to receive services at reduced or no cost from a broker-dealer registered under the Securities Exchange Act of 1934 under an arrangement in which the account value or the fees incurred for services provided to the IRA or Keogh Plan is considered when determining eligibility to receive such services. PTE 97–11 limits the services that broker-dealers may offer under a relationship brokerage program to services that are permitted under federal and state laws regulating broker-dealers.[6] Furthermore, when an affiliate of the broker-dealer offers the services, the services must be a type that the broker-dealer can offer its own customers.

4. PTEs 93–33 and 97–11 provide relief from the restrictions of ERISA sections 406(a)(1)(D) and 406(b) and the sanctions resulting from the application of Code section 4975, including the loss of exemption of an individual retirement account under Code section 408(e)(2) by reason of Code section 4975(c)(1)(D), (E) and (F), for individuals for whose benefit an IRA or Keogh Plan is established or maintained.

5. The Applicant states that BAC's decision to offer relationship banking and brokerage benefits reflects the important changes that have occurred in the financial industry since PTEs 93–33 and 97–11 were issued. In this regard, the Applicant notes that PTEs 93–33 and 97–11 were granted by the Department prior to the enactment of the GLBA. The Applicant represents that the GLBA altered the U.S. legal and regulatory framework governing the operations of U.S. bank holding companies such as Bank of America Corporation. The GLBA permits bank holding companies that qualify as ''financial holding companies''—including the Applicant—to affiliate broadly with various types of financial services firms, including full service broker-dealers. Furthermore, the enactment of the GLBA greatly facilitated financial services integration in the United States and growth of bank-affiliated securities operations.

6. According to the Applicant, another significant U.S. regulatory development occurred in 1995 when the U.S. Federal Reserve Board (FRB) adopted a rule regarding inter-affiliate ''combined-balance discount service programs'' offered to individual customers of banks and bank affiliates. In particular, the rule established a safe harbor from the statutory restrictions on bank tying arrangements so that banks have greater flexibility to package products with their affiliates. The Applicant represents that the rule validated the ability of banks and their broker-dealer affiliates to offer combined-balance discount programs (that meet the safe harbor requirements) to their customers. Furthermore, the Applicant represents that in 1997, the FRB reaffirmed the safe harbor when it re-wrote its Regulation Y, which includes a section dealing with anti-tying restrictions. The Applicant represents that the relationship banking and brokerage benefits described in this proposed exemption meet the safe harbor.

7. In 2008, the Department granted an individual exemption, PTE 2008–02,[7] to Citigroup Inc. (Citigroup) that provides relief similar to PTEs 93–33 and 97–11. Under the exemption, individuals for whose benefit an IRA or Keogh Plan is established or maintained, and their family members, can receive both banking and brokerage services at reduced or no cost under an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services. As part of the arrangement, Citigroup contemplated providing services such as: Reductions or waivers of fees for services such as checking, ATM, investment advisory and account opening or maintenance fees; preferred lending rates; premium interest crediting rates; credit or debit cards providing services such as enhanced mileage accumulation and reward point features; and the provision of investment information and seminars

[3] 58 FR 31053 (May 28, 1993), as amended at 59 FR 22686 (May 2, 1994), and as amended at 64 FR 11044 (March 8, 1999).

[4] In the notice of proposed exemption for PTE 93–2 (PTE 93–33 subsequently amended PTE 93–2), the following examples of relationship banking services were listed: free checking services, discounted safe deposit box rents, or free loan closing costs. 56 FR 8365, 8366 (February 28, 1991). In addition, the Department notes that a bank may offer other services or benefits to customers as part of its relationship banking program. For example, under PTE 93–33 a bank may offer its relationship banking customers a higher interest rate on their investments, provided the conditions of the exemption are met.

[5] 62 FR 5855 (February 7, 1997), as amended at 64 FR 11042 (March 8, 1999), and as amended at 67 FR 76425 (December 12, 2002).

[6] In the notice of proposed exemption for PTE 97–11, the following examples of relationship brokerage services were listed: financial planning services, direct deposit/debit and automatic fund transfer privileges, enhanced account statements, toll-free access to client service centers, check writing privileges, debit/credit cards, special newsletters, and reduced brokerage and asset management fees. 61 FR 39996, 39997 (July 31, 1996). In addition, the Department notes that a broker-dealer may offer its customers additional services and benefits as part of its relationship brokerage program. For example, under PTE 97–11, a broker-dealer may offer its relationship brokerage customers a higher interest rate on their investments, provided the conditions of the exemption are met.

[7] 73 FR 3280 (January 17, 2008).

that are available on an invitation-only basis.

Proposed Transactions

8. In 2009, the Applicant acquired Merrill Lynch, which operates a significant retail securities business. As a result, BAC developed programs that link retail banking services with retail brokerage services. Under these programs, the Applicant's affiliates are able to consider a customer's combined balance maintained with the Applicants's affiliates to determine the customer's eligibility to receive various benefits including bank and broker-dealer products and services at reduced or no cost. The Applicant does not believe these arrangements clearly fall within the relief provided by PTEs 93–33 and 97–11. Therefore, the Applicant requests an exemption to permit the receipt of certain benefits by an individual for whose benefit a Covered Plan is established or maintained, or his or her family members, from BAC, pursuant to an arrangement in which the account value of or the fees incurred for services provided to the Covered Plan, is taken into account for purposes of determining eligibility to receive such products and services. The Applicant represents that these products and services (Relationship Benefits) are defined as reduced or no cost financial products and services, including premium rates of account or investment interest, discounted rates of interest on loans, reductions or waivers of otherwise applicable fees and charges, and/or differentiated servicing. More specifically, the Relationship Benefits will include: (1) Higher interest rates on products such as checking accounts, savings accounts and certificates of deposit; (2) services with reduced cost or value added features such as reductions or waivers of fees on checking accounts and ATM access, reduced or waived investment advisory and account opening or maintenance fees, reduced or waived securities trading commissions, and preferred lending rates; (3) credit or debit cards that provide services such as enhanced mileage accumulation and reward points features; (4) access to enhanced customer support services; and/or (5) investment information and seminars that are available on an invitation-only basis. Differentiated servicing refers to the provision of an enhanced level of customer service relative to that which would otherwise be provided, such as reduced customer service wait times, access to specialized customer support representatives, specialized newsletters, and similar items.

9. The Applicant offers the following example of a Relationship Benefits program that could be offered under the proposed exemption, if granted:

An individual client of BAC is the beneficial owner of an IRA with assets of $25,000 in a 12-month certificate of deposit, and BAC is the IRA custodian. The client also maintains a savings account at BANA with a balance of $10,000; a BANA checking account with a balance of $5,000; and a brokerage account at Merrill Lynch with a balance of $20,000. BAC makes a Relationship Benefits program available to clients that maintain aggregate balances of $50,000 or more in accounts eligible to participate in the program. Under the Relationship Benefits program, certain account fees that might otherwise apply are waived for the eligible accounts of qualifying clients, and higher interest rates are paid on certain deposit accounts. Without the exemption proposed herein, the client's IRA is not an eligible account, so the client fails to qualify for the program. Consequently, the client's checking account may be charged a $10 fee for overdraft protection transfers, a $30 fee for stop payment requests, and/or a $3 fee for receiving images of paid checks. Additionally, the client's brokerage account will not be eligible for the 30 free trades per month that would otherwise be available through the program. Finally, if the client's IRA is not eligible to participate, the interest rate paid on the savings account will be 0.15% annual percentage yield (APY) rather than 0.20% APY, and the interest rate paid on the IRA's 12-month certificate of deposit will be 0.35% APY rather than 0.45% APY. If the proposed exemption is granted, the client will qualify for program participation due to the IRA's inclusion as an eligible account. Therefore, the client will receive more favorable interest rates and waived fees under the program.

Statutory Findings

10. The Applicant represents that the statutory criteria needed to grant an exemption under ERISA section 408(a) and Code section 4975(c)(2) will be satisfied. First, the proposed exemption is administratively feasible because: (1) The conditions and relief of the requested exemption are comparable to those described in PTEs 93–33, 97–11, and 2008–02; and (2) the requested exemption will not require continued monitoring or other involvement on behalf of the Department. Second, the Applicant claims that the proposed exemption is in the interest of the Covered Plans because the plans will benefit from access to better products and services available through the Relationship Benefits program. Finally, the Applicant claims that the proposed exemption is protective of the rights of the Covered Plan participants and beneficiaries because:

(a) The Covered Plan whose account value, or whose fees paid, are taken into account for purposes of determining eligibility to receive Relationship Benefits under the arrangement will be established and maintained for the exclusive benefit of the participant covered under the Covered Plan, his or her spouse, or their beneficiaries.

(b) The Relationship Benefits offered under the arrangement will be of a type that a qualified affiliate could offer consistent with all applicable federal and state banking laws and all applicable federal and state laws regulating broker-dealers.

(c) Where account values are taken into account for purposes of determining eligibility to receive benefits under the arrangement, the account values of Covered Plan accounts will be treated as favorably, for purposes of satisfying such eligibility requirements, as the account values of other types of customer accounts.

(d) Where levels of fees incurred are taken into account for purposes of determining eligibility to receive benefits under the arrangement, the levels of fees incurred by Covered Plan accounts will be treated as favorably for purposes of satisfying such eligibility requirements, as the levels of fees incurred by other types of customer accounts.

(e) The Relationship Benefits offered under the arrangement will be provided by a BAC affiliate in the ordinary course of its business as a bank or broker-dealer to customers who qualify for such benefits, but who do not maintain Covered Plans with a BAC affiliate.

(f) The combined total of fees for the provision of services to a Covered Plan will not be in excess of reasonable compensation within the meaning of ERISA section 408(b)(2) and Code section 4975(d)(2).

(g) The investment performance of the investments made by the Covered Plan will be no less favorable than the investment performance of identical investments that could have been made at the same time by a customer of BAC who is not eligible for (or who does not receive) Relationship Benefits.

(h) The Relationship Benefits offered under the arrangement to the Covered Plan customer will be the same as are offered to non-Covered Plan customers of BAC affiliates having the same aggregate account value or the same amount of fees generated.

Notice to Interested Persons

The Applicant represents that since the number of interested persons is very large, it will post notice of this proposed exemption on its principal consumer banking and brokerage Web sites in addition to publication of this notice in

the **Federal Register**. The Department must receive written comments and/or requests for a public hearing no later than 45 days from the date this notice is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Erin Hesse, U.S. Department of Labor, telephone (202) 693–8546. (This is not a toll-free number.)

Intel Corporation (Intel or the Applicant) Located in Santa Clara, CA

[Application No. L–11760]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in 29 CFR part 2570, Subpart B (76 FR 66637, 66644, October 27, 2011).

Section I. Transactions

If the proposed exemption is granted, the restrictions of sections 406(a)(1)(D) and 406(b) of the Act shall not apply to:

(a) The reinsurance of risks and the receipt of premiums therefrom by Technology Assurance Limited (TAL), an affiliate of Intel, as the term ''affiliate'' is defined in Section III(a) below, in connection with basic and supplemental group term life insurance sold by the Minnesota Life Insurance Company (MN Life), or any successor insurance company which is unrelated to Intel (the Fronting Insurer), to the Intel Group Life Insurance Plan (the Life Plan); and

(b) The reinsurance of risks and the receipt of premiums therefrom by TAL, in connection with basic and supplemental accidental death and dismemberment (AD&D) insurance sold by the Fronting Insurer to the Intel Group Accidental Death and Dismemberment Plan (the AD&D Plan);[8] provided the conditions set forth in Section II, below, are satisfied.

Section II. Conditions

(a) TAL—

(1) Is a party in interest with respect to the Plans by reason of a stock or partnership affiliation with Intel that is described in section 3(14)(E) or 3(14)(G) of the Act;

(2) Is licensed to sell insurance or conduct reinsurance operations in at least one ''State,'' as defined in section 3(10) of the Act;

(3) Has obtained a Certificate of Authority from the Hawaii Department of Insurance (HIDOI), which has neither been revoked nor suspended;

(4)(A) Will undergo an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction covered by this proposed exemption, if granted; or

(B) Has undergone a financial examination by the HIDOI within five (5) years prior to the end of the year preceding the year in which such reinsurance transaction has occurred; and

(5) Is licensed to conduct reinsurance transactions by Hawaii, whose law requires that an actuarial review of reserves be conducted annually by an independent firm of actuaries and reported to the appropriate regulatory authority.

(b) The Plans pay no more than adequate consideration for the insurance contracts.

(c) No commissions are paid by the Plans with respect to the direct sale of such contracts or the reinsurance thereof.

(d) In the initial year of every reinsurance contract involving TAL and a Fronting Insurer, there is an immediate and objectively determined benefit to participants and beneficiaries of the Plans in the form of increased benefits, and such benefits continue in all subsequent years of each such contract of reinsurance and in every renewal of each such contract, and will at least approximate the increase in benefits that will be effective as of the publication of the final exemption in the **Federal Register**, as described in this Notice of Proposed Exemption (the Notice).

(e) In the initial year and in subsequent years of coverage provided by a Fronting Insurer, the formula used by the Fronting Insurer to calculate premiums will be similar to formulae used by other insurers providing comparable coverage under similar programs. Furthermore, the premium charge calculated in accordance with the formula will be reasonable and will be comparable to the premium charged by the Fronting Insurer and its competitors with the same or a better rating providing the same coverage under comparable programs.

(f) The Fronting Insurer has a financial strength rating of ''A'' or better from A. M. Best Company (A. M. Best). The reinsurance arrangement between the Fronting Insurer and TAL will be indemnity insurance only, (*i.e.,* the Fronting Insurer will not be relieved of liability to the Plans should TAL be unable or unwilling to cover any liability arising from the reinsurance arrangement).

(g) The Plans retain an independent, qualified fiduciary (the I/F) or successor to such fiduciary, as defined in Section III(c), below, to analyze the transactions and to render an opinion that the requirements of Section II(a) through (f) and (h) of this proposed exemption have been satisfied.

(h) Participants and beneficiaries in the Plans will receive in subsequent years of every contract of reinsurance involving TAL and the Fronting Insurer no less than the immediate and objectively determined increased benefits such participants and beneficiaries received in the initial year of each such contract involving TAL and the Fronting Insurer.

(i) The I/F will: Monitor the transactions proposed herein on behalf of the Plans on a continuing basis to ensure such transactions remain in the interest of the Plans; take all appropriate actions to safeguard the interests of the Plans; and enforce compliance with all conditions and obligations imposed on any party dealing with the Plans.

(j) In connection with the provision to participants in the Plans of the insurance coverage provided by the Fronting Insurer which is reinsured by TAL, the I/F will review all contracts (and any renewal of such contracts) of the reinsurance of risks and the receipt of premiums therefrom by TAL and must determine that the requirements of this exemption, if granted, and the terms of the increased benefits continue to be satisfied.

Section III. Definitions

(a) The term ''affiliate'' of a person includes any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(b) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term ''I/F'' describes a person, or a successor to such person, who is not Intel or TAL or an affiliate of either entity; and:

(1) Does not have an ownership interest in Intel, in TAL, or in an affiliate of either;

(2) Is not a fiduciary with respect to the Plans prior to its appointment to serve as the I/F;

(3) Has acknowledged in writing acceptance of fiduciary responsibility and has agreed not to participate in any decision with respect to any transaction in which it has an interest that might affect its best judgment as a fiduciary; and

[8] The AD&D Plan and the Life Plan are together referred to herein as the ''Plans.''

(4) Has appropriate training, experience, and facilities to act on behalf of the Plans regarding the subject transactions in accordance with the fiduciary duties and responsibilities prescribed by the Act.

For purposes of this definition of an ''I/F,'' no organization or individual may serve as an I/F for any fiscal year if the gross income received by such organization or individual (or partnership or corporation of which such individual is an officer, director, or 10 percent or more partner or shareholder) for that fiscal year exceeds two percent (2%) of that organization's or individual's annual gross income from all sources for the prior fiscal year from Intel or from TAL, or from an affiliate of either (including amounts received for services as I/F under any prohibited transaction exemption granted by the Department).

In addition, no organization or individual who is an I/F, and no partnership or corporation of which such organization or individual is an officer, director, or 10 percent (10%) or more partner or shareholder, may acquire any property from, sell any property to, or borrow any funds from Intel or from TAL, or from any affiliate of either during the period that such organization or individual serves as an I/F, and continuing for a period of six (6) months after such organization or individual ceases to be the I/F, or negotiates any such transaction during the period that such organization or individual serves as the I/F.

In the event a successor I/F is appointed to represent the interests of the Plans with respect to the subject transactions, there may be no lapse in time between the resignation or termination of the former I/F and the appointment of the successor I/F.

Summary of Facts and Representations

1. Intel, which is headquartered in Santa Clara, California, develops advanced integrated digital technology products (primarily integrated circuits) for industries such as computing and communications. Intel also designs and manufactures computing and communications components, wireless and wired connectivity products, as well as platforms that incorporate these components.

For the fiscal year ending December 31, 2012, Intel earned revenue of $53.3 billion and net income of $11.0 billion. Intel reported a global employee workforce of 101,671 as of December 31, 2011 (with approximately 55,500 employees in the United States). Intel is a party in interest with respect to the Plans, pursuant to section 3(14)(C) of the Act, as an employer whose employees are covered by the Plans.

2. TAL is an insurance company that is wholly owned by Intel. TAL was originally incorporated in Hawaii on August 5, 2004, and subsequently licensed to commence business on September 1, 2004, for the purpose of reinsuring property and casualty risks of Intel. TAL is a party in interest with respect to the Plans pursuant to section 3(14)(G) of the Act because it is a corporation of which 50 percent (50%) or more of the combined voting power of all classes of stock entitled to vote is owned directly or indirectly held by Intel, an employer any of whose employees are covered by the Plans, as described in section 3(14)(C) of the Act.

3. TAL writes Intel's Terrorism Risk Insurance Act coverage to Intel and its subsidiaries. For the period and year-to-date ended December 31, 2012, TAL reported total assets of $9,570,558, gross written premiums of $3,300,636, and earned premiums of $166,200. TAL is subject to regulation by HIDOI, which requires that at least 100% of TAL's reserves be in some combination of cash, letters of credit, investments in approved investment policy, premiums in the course of collection, or other forms approved by HIDOI.

4. The Plans are welfare benefit plans that provide basic and supplemental group term life insurance and basic and supplemental AD&D coverage to active full-time and part-time employees of Intel. The Plans are funded through insurance.

Intel's general full-time employees, part-time employees, and contract employees are automatically enrolled in the basic Life Plan and the basic AD&D Plan. These employees are eligible to participate in supplemental and dependent coverage, regardless of age, sex, salary or position. The Life Plan had approximately 48,717 participants, as of August 31, 2012. Basic group term life insurance is paid for by Intel through employer premium contributions.

5. Under the terms of the Life Plan, basic group term life insurance is available to active full-time and contract employees at two times eligible annual earnings, multiplied by 100% and then rounded to the next higher $1,000 if not already a multiple thereof, subject to a maximum of $1,000,000 of coverage. For example, according to the Summary Plan Description (SPD) for the Life Plan, an employee earning $25,000 per year would have ''basic life amount'' coverage of $50,000, an employee earning $50,000 per year would have ''basic life amount'' coverage of $100,000, and so forth up to the maximum of $1,000,000.

In addition, basic group term life insurance is available to active part-time employees at two times full-time equivalent eligible annual earnings, multiplied by 62.5% and then rounded to the next higher $1,000 if not already a multiple thereof, subject to a maximum of $1,000,000 of coverage. For example, an employee earning $25,000 per year would have ''basic life amount'' coverage of $32,000, an employee earning $50,000 per year would have ''basic life amount'' coverage of $63,000, and so forth up to the maximum of $1,000,000.

6. The Life Plan also provides supplemental group term life coverage to full-time and part-time employees of Intel, but not to Intel contract employees. Under the current terms of the Life Plan, basic supplemental life insurance is available to active full-time employees at one to seven times annual earnings as elected by the employee, multiplied by 100% and then rounded to the next higher $1,000 if not already a multiple thereof, subject to a maximum of $2,000,000. Basic supplemental life insurance is available to active part-time employees at one to seven times annual earnings as elected by the employee, multiplied by 62.5% and then rounded to the next higher $1,000, if not already a multiple thereof, subject to a maximum of $2,000,000.

Supplemental insurance is paid for by Intel's employees through premium contributions. All insurance terminates at retirement, except as provided for under the portability provision found in the SPD of the Life Plan.

7. The Life Plan further provides supplemental dependent term life insurance to full-time and part-time employees of Intel. Contract employees are not eligible for this coverage. Dependent term life insurance for the spouses and domestic partners of Intel's employees is available to active full-time and part-time employees in the following amounts: $20,000, $50,000, $100,000, $150,000, $200,000 or $250,000, as elected by the employee. Dependent term life insurance for the children of Intel's employees is available to active full-time and part-time employees in the following amounts: $5,000, $10,000, $15,000 or $20,000, as elected by the employee.

Dependent term life insurance coverage is paid for by Intel's employees through premium contributions. All dependent insurance terminates upon the employee's retirement except as provided under the portability provision found in the Plans' SPD.

8. Under the terms of the AD&D Plan, basic AD&D insurance is available to active full-time and contract employees of Intel at two times the employee's eligible annual earnings, multiplied by 100%, and then rounded to the next higher $1,000, if not already a multiple thereof. Such AD&D coverage is subject to a maximum of $1,000,000 of coverage. In addition, basic AD&D insurance is available to active part-time employees of Intel at two times the employee's annual earnings, multiplied by 62.5% and then rounded to the next higher $1,000, if not already a multiple thereof. Such AD&D coverage is also subject to a maximum of $1,000,000. All basic AD&D insurance that is available to Intel employees is non-contributory insurance, which means that the employer is required to make premium contributions.

9. The AD&D Plan also provides supplemental AD&D insurance to full-time and part-time employees of Intel, but not to Intel's contract employees. AD&D supplemental coverage is available to an active full-time employee at one to seven times the annual earnings as elected by the employee, multiplied by 100% and then rounded to the next higher $1,000 if not already a multiple thereof. The maximum amount of coverage for an active full-time Intel employee is $1,000,000. AD&D coverage is also available to an active part-time employee of Intel at one to seven times the employee's full-time equivalent eligible annual earnings, multiplied by 62.5% and then rounded to the next higher $1,000, if not already a multiple thereof. The maximum amount of coverage is capped at $1,000,000.

Under the current terms of the AD&D Plan, all supplemental AD&D insurance is paid for by Intel's employees through premium contributions. Therefore, supplemental AD&D insurance is contributory insurance, which means that the employee is required to make premium contributions. All AD&D insurance terminates at retirement, except as provided for under the portability provision found in the SPD. There are 48,437 participants in the basic AD&D Plan, of which 21,202 participants have elected supplemental AD&D coverage.

10. The AD&D Plan further provides insurance coverage to dependents of full-time and part-time employees of Intel, but not to dependents of Intel's contract employees. Dependent AD&D insurance for the spouses, domestic partners and children of Intel's employees is available to active full-time and part-time employees in the following amounts: (a) Option 1: spouse/same sex domestic partner $50,000; child(ren) $10,000; (b) Option 2: spouse/same sex domestic partner $100,000; child(ren) $20,000; (c) Option 3: Spouse/same sex domestic partner $150,000; child(ren) $30,000; (d) Option 4: Spouse/same sex domestic partner $200,000; child(ren) $40,000; and (e) Option 5: spouse/same sex domestic partner $250,000; child(ren) $50,000. Dependent AD&D insurance coverage is paid for by Intel's employees through premium contributions. Benefits will terminate at the end of the calendar month in which the dependent is no longer eligible.

11. From January 1, 2007, until December 31, 2012, the Plans' benefits were insured by the Metropolitan Life Insurance Company (MetLife). Since January 1, 2013, MN Life has been providing direct insurance for the basic and supplemental group term life insurance and the basic and supplemental AD&D coverage offered under the Plans in accordance with an agreement MN Life entered into with Intel. As of September 30, 2012, MN Life had total assets of approximately $28.4 billion. MN Life has agreed to a rate guarantee for a 7 year period beginning January 1, 2013, through December 31, 2019. It is represented that Intel selected MN Life based upon consideration of relevant factors to the arrangement, including the reasonableness of the fees and the quality and quantity of the benefits offered. Both MN Life and MetLife are rated ''A+'' by A. M. Best.

The Applicant states that the change in insurance carriers from MetLife to MN Life has not reduced Intel's or the employees' overall costs for insurance benefits. The costs remain the same for both Intel and the employees. However, the Applicant represents that the change in carriers has resulted in several increased benefits for Intel employees, as described below.

12. Also, on January 1, 2013, MN Life entered into a reinsurance agreement with TAL to reinsure up to 100% of the Plans' risks with TAL. However, TAL will not receive any premiums from MN Life until this proposed exemption is granted. MN Life's reinsurance agreement with TAL (the Reinsurance Agreement) is ''indemnity only''—that is, MN Life will not be relieved of its liability for benefits under the Plans if TAL is unable or unwilling to satisfy the liabilities arising from the reinsurance arrangement.

13. As TAL is a party in interest with respect to the Plans, the reinsurance of the risks associated with the basic and supplemental group term life insurance and basic and supplemental AD&D coverage offered to the Plans by MN Life results in the indirect transfer to TAL of the Plans' premium payments, which are plan assets. Section 406(a)(1)(D) of the Act prohibits the transfer to, or use by or for the benefit of, a party in interest, of any assets of a plan. Accordingly, this proposed exemption, if granted, would provide relief from the prohibitions set forth in section 406(a)(1)(D) of the Act for the reinsurance of risks and the receipt of premiums therefrom by TAL, in connection with basic and supplemental group term life insurance and basic and supplemental AD&D coverage.

In addition, because the reinsurance by TAL of such insurance coverage was contemplated by Intel at the time that the Plans obtained insurance coverage from MN Life, such transactions could constitute violations by Intel of section 406(b) of the Act. In this regard, section 406(b)(1) of the Act prohibits a fiduciary from dealing with the assets of a plan in his own interest or for his own account. Section 406(b)(2) of the Act prohibits a fiduciary from acting in a transaction involving plan assets on behalf of a party whose interests are adverse to those of the plan. Section 406(b)(3) of the Act prohibits a fiduciary from receiving any consideration for his own personal account from any party dealing with a plan in connection with a transaction involving plan assets.

14. With respect to the Reinsurance Agreement between MN Life and TAL, the Applicant represents that all eligible active full-time and part-time employee participants in the Plans have been receiving certain increases to their basic and supplemental group term life insurance since January 1, 2013. In this regard, the supplemental group term life and supplemental AD&D benefit coverage under the Plans has been increased. According to the Applicant, as noted above, Intel employees are currently eligible to elect up to seven times their annual salary for supplemental group term life insurance and up to six times or seven times their annual salaries for supplemental AD&D benefits. Formerly, employees who elected supplemental group term life insurance and supplemental AD&D coverage were eligible to elect up to five times and six times their annual earnings, respectively. The maximum amount of coverage for these benefits will remain the same (capped at $2,000,000 for the supplemental group term life insurance, and $1,000,000 for the supplemental AD&D insurance).

The Applicant represents that the insurance premiums employees pay for these increases will not be raised unless the employees elect to increase their

supplemental life and/or supplemental AD&D coverage. The Applicant also explains that if Intel employees seek supplemental group term life insurance or AD&D insurance outside of their respective Plans, they would be doing so in the individual insurance market of the state in which they live. In most states, the employee would be subjected to individual underwriting, and would on average, pay higher premiums than on a group basis.

15. Intel is providing all of its employees who are participants in the Plans with access to Ceridian's Will Preparation and Legal Services program. This benefit enhancement includes the following services: (a) A free 30-minute initial consultation per legal issue with an attorney in the Plan participant's state of residence; (b) the creation of various legal documents, such as a will or a financial power of attorney; (c) a referral to a local attorney, access to a variety of legal forms, and access to an online legal library; and (d) a 25% discount off an attorney's normal hourly rate should an employee retain an attorney after an initial consultation. Intel is bearing the cost of this benefit enhancement.

According to the Applicant, previously, only Intel employees who were enrolled in the supplemental group term life insurance program had access to the free will preparation service offered by Hyatt Legal Plans.

16. Further, Intel is providing legacy planning services to employees to assist them in their time of need. These services relate to: (a) Asset distributions; (b) last wishes; (c) estate planning; (d) last will and testament; (e) power of attorney; (f) healthcare directives; (g) beneficiary designations; and (h) document locator. Legacy planning services are provided to all active Intel employees through secure Web site access. Intel is bearing the full cost of this enhancement to the Plan.

17. Finally, Intel is providing new beneficiary financial counseling services to beneficiaries of all active employees as part of the Plan. In effect, eligible individuals are able to receive financial services through PriceWaterhouseCoopers LLP. The beneficiary financial counseling services (BFC Services) are available to all beneficiaries receiving life benefits at no additional cost. The BFC Services provide the following benefits to beneficiaries of Intel employees: (a) A beneficiary guide giving information on estate issues, survivor benefits, financial planning and non-financial issues; (b) eAdvisor, an integrated planning tool giving beneficiaries access to online financial calculators, life event guides and related services; (c) access to the bi-monthly electronic financial planning newsletter, ''Your Money, Your Future;'' (d) a computer-generated personalized financial analysis; (e) ConseLine, an unlimited toll-free telephone access for one year on financial planning issues; and (f) six-months of personal financial counseling.

Intel states that the benefit enhancements described above will impose a financial burden on the sponsor of the Plans because, with the exception of employees electing increased supplemental group term life and AD&D coverage, Intel will be bearing the $94,000 annual costs.

18. In connection with this exemption request, Milliman, Incorporated (Milliman) has been engaged to act as the I/F on behalf of the Plans for the purpose of evaluating, and if appropriate, approving the subject transactions. Specifically, William J. Thomson, FSA, MAAA, Principal and Consulting Actuary with Milliman has been appointed to undertake the duties of the independent fiduciary. In this regard, Milliman is responsible for conducting a due diligence review and analysis of the proposed transactions and for providing a written opinion as to whether the arrangement complies with the Department's requirements for an administrative exemption. Milliman certifies that it is qualified to serve as the I/F and the personnel who comprise Milliman are experienced in prohibited transaction exemptions issued by the Department. Milliman represents that it is independent in that it does not have and has not previously had, any relationship with any party in interest (including any affiliates thereof) engaging in the transactions described above. Further, Milliman represents that the gross income it received from Intel, TAL or MN Life for its fiscal year does not exceed two percent of its gross annual income from all sources.

19. In connection with the transactions that are the subject of this proposed exemption, Milliman, among other things: (a) Reviewed a draft of Intel's request for an administrative exemption from the Department; (b) conferred with Intel's representative to discuss the transactions and the Plans; and (c) conducted such other due diligence reviews as were deemed necessary. Milliman also considered the premiums to be paid by the Plans for the proposed coverage, and determined that the premiums were comparable to the premiums that would have been charged by a competitor insurer. Milliman notes that the premium rate agreed to with MN Life includes a percentage allocation for non-claims expenses, which expenses here include fronting fees, expenses and taxes.

20. Milliman has determined that the reinsurance arrangement will result in an immediate and objectively determined benefit in the form of increased supplemental life insurance and AD&D benefits, enhanced will preparation and legal services, and new legacy planning and beneficiary financial counseling services to all participants and beneficiaries of the Plans. Milliman states that the benefit enhancements provide a means of reducing personal financial risks that may be unavailable to many of the Plans' participants as individuals, which provides a value to these persons even if they never file a claim.

21. The Applicant represents that the proposed exemption is administratively feasible because the reinsurance of the Plans' risks under the terms of the group term life insurance and AD&D coverage is, among other things, subject to review by an I/F, which can be audited. In addition, the Applicant notes that Intel has and will bear the cost of the exemption application and of notifying the interested persons. Further, the Applicant explains that the proposed exemption does not require continued monitoring or other involvement by the Department.

The Applicant also represents that the proposed exemption is in the interest of the Plans because the Plans will pay no more than adequate consideration for the insurance contracts with MN Life. The Applicant further represents that the proposed exemption is protective of the rights of the participants and beneficiaries of the Plans because the exemption requires the review and approval of an I/F, at Intel's expense. Specifically, the proposed exemption, if granted, requires that the I/F analyze the subject transactions and render an opinion regarding whether certain of the conditions of the exemption were satisfied, including that: (a) The Plans pay no more than adequate consideration for the insurance contracts; (b) the Plans pay no commissions with respect to the direct sale of such contracts or the reinsurance thereof; (c) in the initial year of every contract involving TAL and a Fronting Insurer, there is an immediate and objectively determined benefit to participants and beneficiaries of the Plans in the form of increased benefits approximating the increase in benefits that is effective January 1, 2013, as described herein, and such benefits continue in all subsequent years of each contract and in every renewal of each contract; and (d) in the initial year and in subsequent years of coverage

provided by a Fronting Insurer, the formula used by the Fronting Insurer to calculate premiums is similar to formulae used by other insurers providing comparable coverage under similar programs. Furthermore, the premium charge calculated in accordance with the formula will be reasonable and comparable to the premium charged by the Fronting Insurer and its competitors with the same or a better rating providing the same coverage under comparable programs.

The Applicant states that if exemptive relief is granted, any Fronting Insurer will have a financial strength rating of ''A'' or better from A. M. Best, and the reinsurance arrangement between the Fronting Insurer and TAL will be indemnity insurance only.

Finally, the Applicant notes that participants and beneficiaries in the Plans will receive in subsequent years of every contract of reinsurance involving TAL and the Fronting Insurer no less than the immediate and objectively determined increased benefits such participant and beneficiary received in the initial year of each such contract involving TAL and the Fronting Insurer.

22. In summary, the Applicant represents that the reinsurance transactions will meet the criteria of section 408(a) of the Act since, among other things:

(a) The Plans will pay no more than adequate consideration for the insurance contracts;

(b) No commissions will be paid by the Plans with respect to the direct sales of such contracts or the reinsurance thereof;

(c) In the initial year of every contract involving TAL and a Fronting Insurer, there will be an immediate and objectively determined benefit to participants and beneficiaries of the Plans in the form of increased benefits, and such benefits will continue in all subsequent years of each contract and in every renewal of each contract, and will approximate the increase in benefits that are effective January 1, 2013, as described in the Notice;

(d) In the initial year and in subsequent years of coverage provided by a Fronting Insurer, the formula used by the Fronting Insurer to calculate premiums will be similar to formulae used by other insurers providing comparable coverage under similar programs. Furthermore, the premium charge calculated in accordance with the formula will be reasonable and will be comparable to the premium charged by the Fronting Insurer and its competitors with the same or a better rating providing the same coverage under comparable programs;

(e) The Fronting Insurer will have a financial strength rating of ''A'' or better from A. M. Best. The reinsurance arrangement between the Fronting Insurer and TAL will be indemnity insurance only;

(f) The Plans will retain an I/F or successor to such fiduciary to analyze the transactions and to render an opinion that certain relevant requirements of the proposed exemption, if granted, have been satisfied;

(g) Participants and beneficiaries in the Plans will receive in subsequent years of every contract of reinsurance involving TAL and the Fronting Insurer no less than the immediate and objectively determined increased benefits such participant and beneficiary received in the initial year of each such contract involving TAL and the Fronting Insurer;

(h) The I/F will: Monitor the transactions proposed herein on behalf of the Plans on a continuing basis to ensure such transactions remain in the interest of the Plans; take all appropriate actions to safeguard the interests of the Plans; and enforce compliance with all conditions and obligations imposed on any party dealing with the Plans; and

(i) In connection with the provision to participants in the Plans of the insurance coverage provided by the Fronting Insurer which is reinsured by TAL, the I/F will review all contracts (and any renewal of such contracts) of the reinsurance of risks and the receipt of premiums therefrom by TAL and will determine that the requirements of this exemption, if granted, and the terms of the benefit enhancements continue to be satisfied.

Notice to Interested Persons

It is represented that Intel will notify interested persons of the publication of the Notice in the **Federal Register** by email and then first class mail to each such interested person's most recent address maintained in the records of the administrator of the Plans, if the email is undeliverable. The Notice will also be posted on Intel's internal Web site. Such notification will contain a copy of the Notice, as it appears in the **Federal Register** on the date of publication, plus a copy of the Supplemental Statement, as required pursuant to 29 CFR 2570.43(a)(2) which will advise all interested persons of their right to comment and to request a hearing. Intel will provide such notification to all such interested persons within 10 days of the date of publication of the Notice in the **Federal Register**. Intel will mail the letters within 10 days of the undeliverable response being received. All written comments and/or requests for a hearing must be received by the Department from interested persons no later than 50 days after publication of the Notice in the **Federal Register**.

All comments will be made available to the public.

Warning: Do not include any personally identifiable information (such as name, address, or other contact information) or confidential business information that you do not want publicly disclosed. All comments may be posted on the Internet and can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: Blessed Chuksorji-Keefe of the Department, telephone (202) 693–8567. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 31st day of October 2013.

Lyssa E. Hall,

Director Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2013–26506 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–11672]

Withdrawal of Notice of Proposed Exemption Involving the Studley, Inc. Section 401(k) Profit Sharing Plan (the Plan) Located in New York, NY

In the **Federal Register** dated November 16, 2012 (77 FR 68842), the Department of Labor (the Department) published a notice of proposed exemption (the Notice) from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974, as amended, and from certain taxes imposed by the Internal Revenue Code of 1986, as amended. The Notice concerned the proposed cash sale by the Plan of an 8.828121% partnership interest (the Interest) in the Julien J. Studley N Street Partnership, a general partnership (the JJS Partnership) to Studley, Inc. (the Employer), a party in interest with respect to the Plan.

Subsequent to the publication of the Notice in the **Federal Register**, the Department was informed that Melvin Lenkin, Edward J. Lenkin and the EJL Trust, who are unrelated parties with respect to the Plan, purchased the Interest from the Plan. Accordingly, the Department hereby withdraws the Notice from the **Federal Register**.

Signed at Washington, DC, this 31st day of October 2013.

Lyssa E. Hall,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2013–26505 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–81,387]

Eastman Kodak Company, IPS—Dayton Location, Including On-Site Leased Workers From Adecco, Dayton, Ohio; Notice of Negative Determination on Reconsideration

On March 2, 2012, the Department of Labor (Department) initiated an investigation in response to a Trade Adjustment Assistance (TAA) petition filed on behalf of workers and former workers of Eastman Kodak Company, IPS-Dayton Location, including on-site leased workers from Adecco, Dayton, Ohio (hereafter referred to as ''Eastman Kodak-IPS-Dayton''). On May 18, 2012, the Department denied the petition for group eligibility to apply for TAA. The Department's Notice of negative determination was published in the **Federal Register** on June 6, 2012 (77 FR 33494).

On August 1, 2012, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration, applicable to Eastman Kodak-IPS-Dayton. The Department's Notice of affirmative determination was published in the **Federal Register** on August 14, 2012 (77 FR 48549).

On March 19, 2013, the Department issued a Notice of Termination of Reconsideration Investigation to workers and former workers of Eastman Kodak-IPS-Dayton (TA–W–81,387) which stated that the worker group on whose behalf the request for reconsideration was filed is eligible to apply for TAA under the amended certification for TA–W–74,813A. The Department's Notice of termination of reconsideration investigation was published in the **Federal Register** on April 9, 2013 (78 FR 21155).

On June 21, 2013, the Department issued a Notice of Termination of Certification applicable to workers and former workers eligible to apply for TAA under TA–W–74,813A. The Department's Notice of Termination of Certification was published in the **Federal Register** on July 5, 2013 (78 FR 40507). In the Notice of Termination of Certification, the Department stated that the reconsideration investigation of TA–W–81,387 would be re-opened and a determination on reconsideration would be issued accordingly.

During the re-opened reconsideration investigation, the Department contacted the workers who filed the initial petition for information and received additional information from one of the petitioners.

The petition alleges that production of printers shifted from the Dayton, Ohio facility to a foreign country. In an attachment to the petition, the petitioners state that ''a few years back our facility . . . shipped the manufacture of . . . fluid systems and controllers to . . . China''; that ''in 2010 a large portion of the print head refurbishment for the 4″ (four inch) product line was shipped to . . . China''; that ''all of the printed circuit board production and testing was moved to China''; that a ''portion of the new product under development (Stream) was moved to Mexico for manufacture'' in 2011; that people from Malaysia spent months in the fall of 2011 ''to learn the processes of manufacture so equipment can be sent to their facility in Malaysia''; and that ''production of the new Stream product is to be done in Malaysia.''

During the re-opened reconsideration investigation, a former worker stated that separations at the Dayton, Ohio facility were due to the shift in production to China and/or Mexico; that production of ''legacy'' products were shifted to a facility in China that builds cameras and desktop printers; that the shift of production to China also resulted in reduced need for ''testing and repair of new build circuit boards and electronic assembly''; that production of ink jet print systems and the ''Four Inch'' product line were shifted to China; and that, in April 2012, three of the remaining workers were separated ''because the remaining repair work was shifted to a third party company in the Dayton area.''

During the re-opened reconsideration investigation, the Department obtained updated information from Eastman Kodak Company regarding operations at the Dayton, Ohio facility and responses to the afore-mentioned allegations.

Based on information obtained during the re-opened reconsideration investigation, the Department determines that while there was some production shift abroad in 2006 to 2008, no such shift occurred in 2012 and 2013, and that the shift which occurred during 2006 to 2008 did not contribute to worker separations at the Dayton, Ohio facility in 2012 and 2013.

Rather, information obtained during the reconsideration investigation confirmed that worker separations at the Dayton, Ohio facility in 2012 and 2013 have been part of bankruptcy-related activities, including restructuring and domestic outsourcing of some services, and have not resulted in a shift of production abroad.

Conclusion

After careful review of previously-submitted information and information obtained during the reconsideration investigation, I affirm that the requirements of the Act, 19 U.S.C. 2272, have not been met and, therefore, affirm the denial of the petition for group eligibility for Eastman Kodak Company, IPS-Dayton Location, Dayton, Ohio, to apply for adjustment assistance, in accordance with Section 223 of the Act, 19 U.S.C., 2273.

Signed in Washington, DC, this 23rd day of October, 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–26497 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,862]

United States Enrichment Corporation, Paducah Gaseous Diffusion Plant, Including On-Site Leased Workers From Diversified Management Consultants, Inbounds Engineering, Llc, Matrix Engineering, Manpower Inc., Bartlett Nuclear, Inc., C-Plant Federal Credit Union, CJ Enterprises, Pashacl Solutions, Ford Technical Services, Henry A. Petter Supply, KB Consultants, Henry, Meisenheimer, & Grende, SR Martin Group And CDI Corporation, Paducah, Kentucky; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 18, 2013, applicable to workers of United States Enrichment Corporation, Paducah Gaseous Diffusion Plant, including on-site leased workers from Diversified Management Consultants, Inbounds Engineering LLC, Matrix Engineering, Manpower Inc. and Bartlett Nuclear, Inc., Paducah, Kentucky. The Department's notice of determination was published in the **Federal Register** on August 6, 2013 (78 FR 47780).

At the request of the company official, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production of low enrichment uranium.

The company reports that workers leased from C-Plant Federal Credit Union, CJ Enterprises, Paschal Solutions, Ford Technical Services, Henry A. Petter Supply, KB Consultants, Henry, Meisenheimer & Grende, SR Martin Group and CDI Corporation were employed on-site at the Bristol, Virginia location of Bristol Compressors International, Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from C-Plant Federal Credit Union, CJ Enterprises, Paschal Solutions, Ford Technical Services, Henry A. Petter Supply, KB Consultants, Henry, Meisenheimer & Grende, SR Martin Group and CDI Corporation working on-site at the Paducah, Kentucky location of United States Enrichment Corporation.

The amended notice applicable to TA–W–82,862 is hereby issued as follows:

All workers of United States Enrichment Corporation, Paducah Gaseous Diffusion Plant, including on-site leased workers from Diversified Management Consultants, Inbounds Engineering LLC, Matrix Engineering, Manpower Inc., Bartlett Nuclear, Inc., C-Plant Federal Credit Union, CJ Enterprises, Paschal Solutions, Ford Technical Services, Henry A. Petter Supply, KB Consultants, Henry, Meisenheimer & Grende, SR Martin Group and CDI Corporation, Paducah, Kentucky, who became totally or partially separated from employment on or after June 27, 2012, through July 18, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 24th day of October 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–26502 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,010]

CTS Automotive LLC, a Subsidiary of CTS Corporation Including On-Site Leased Workers From Metro Staff and Aerotek Including Workers Whose Unemployment Insurance (UI) Wages Are Reported Through D&R Technology LLC, Carol Stream, Illinois; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 5, 2013, applicable to workers of CTS Automotive LLC, a subsidiary of CTS Corporation, including on-site leased workers from Metro Staff, Inc., and Aerotek, Carol Stream, Illinois. The workers are engaged in production of safety sensors for automobiles. The notice was published in the **Federal Register** on October 3, 2013(78 FR 61391).

At the request of Illinois State, the Department reviewed the certification for workers of the subject firm. New information from the company shows that some workers separated from employment at the Carol Stream, Illinois location had their wages reported through a separate unemployment insurance (UI) tax account under the name D&R Technology LLC.

Accordingly, the Department is amending this certification to include workers of the subject firm whose unemployment insurance (UI) wages are reported through D&R Technology LLC.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the production to a foreign country. The amended notice applicable to TA–W–83,010 is hereby issued as follows:

All workers of CTS Automotive LLC, a subsidiary of CTS Corporation including on-site leased workers of Metro Staff, Inc., and Aerotek, including workers whose unemployment insurance (UI) wages are reported through D&R Technology LLC, Carol Stream, Illinois, who became totally or partially separated from employment on or after August 20, 2012, through September 5, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance

under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 24th day of October 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–26499 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–82,926]

Salter Labs, a Subsidiary of Roundtable Healthcare Partners Including On-Site Leased Workers From Select Staffing, Kelly Services and Exact Staff, Arvin, California; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on August 2, 2013, applicable to workers of Salter Labs, a subsidiary of RoundTable Healthcare Partners, including on-site leased workers from Select Staffing and Kelly Services, Arvin, California. The workers are engaged in employment related to the production of respiratory products (medical devices). The notice was published in the **Federal Register** on August 27, 2013 (78 FR 52979).

At the request of the California State agency, the Department reviewed the certification for workers of the subject firm. New information from the company shows that workers leased from Exact Staff were employed on-site at the Arvin, California location of Salter Labs, a subsidiary of RoundTable Healthcare Partners. The Department has determined that these workers were sufficiently under the control of Salter Labs to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in the production of respiratory products (medical devices) to a foreign country.

Based on these findings, the Department is amending this certification to include workers leased from Exact Staff working on-site at the Arvin, California location of the subject firm.

The amended notice applicable to TA–W–82,926 is hereby issued as follows:

All workers from Salter Labs, a subsidiary of RoundTable Healthcare Partners, including on-site leased workers from Select Staffing, Kelly Services and Exact Staff, Arvin, California, who became totally or partially separated from employment on or after July 22, 2012, through August 2, 2015, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed at Washington, DC, this 25th day of October 2013.

Del Min Amy Chen,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–26498 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–83,024]

Blount International, Inc., Including On-Site Leased Workers From Express Employment Professionals, Portland, Oregon

[TA–W–83,024A]

Blount International, Inc., Carlton, Blount Including On-Site Leased Workers From Express Employment Professionals Milwaukie, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 19, 2013, applicable to workers of Blount International, Inc., including on-site leased workers from Express Employment Professionals Portland, Oregon. The workers are engaged in activities related to the production of replacement parts and equipment including saw chain bars, rims and saw chains. The notice will be published soon in the **Federal Register**.

At the request of a company official, the Department reviewed the certification for workers of the subject firm. Additional information shows that worker separations at the Milwaukie, Oregon facility are attributable to the same shift in production that was the basis for certifying workers at the Portland, Oregon facility.

Accordingly, the Department is amending the certification to include workers of the Milwaukie, Oregon location of Blount International, Carlton, Blount, Inc.

The amended notice applicable to TA–W–83,024 and TA–W–83,024A are hereby issued as follows:

All workers of Blount International, Inc., including on-site leased workers from Express Employment Professionals, Portland, Oregon (TA–W–83,024) and Blount International, Carlton, Blount, Inc., including on-site leased workers from Express Employment Professionals, Milwaukie, Oregon (TA–W–83,024A), who became totally or partially separated from employment on or after August 23, 2012, through September 19, 2015, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 17th day of October 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–26501 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *September 23, 2013 through October 18, 2013*.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles

produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) a significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) the acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) a significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) the workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,723	Glit Microtron, Continental Commercial Products	Wrens, GA	May 7, 2012.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
82,973	DHX Media LTD., Formerly Known as WildBrain	Sherman Oaks, CA	August 9, 2012.
82,976	CQ Sourcing, Inc., General Parts, Inc	New Castle, IN	August 12, 2012.

TA–W No.	Subject firm	Location	Impact date
82,983	Parker Hannifin Corporation, Medical Systems Division, Kimco Staffing	Riverside, CA	August 9, 2012.
82,999	ATOS IT Solutions and Services, Inc., Billing and Collections Department.	Mason, OH	August 16, 2012.
83,016	Fairchild Semiconductor, Product Development Group	West Jordan, UT	August 15, 2012.
83,018	Gamesa Wind US, LLC, Gamesatechnology Corporation, Inc	Ebensburg, PA	August 21, 2012.
83,034	West Point Products Acquisition, LLC, Clover Technologies Group, LLC, Kelly Services.	Valley Grove, WV	August 28, 2012.
83,036	Manpower Group, Working On-Site at IBM Corporation	Camp Hill, PA	August 28, 2012.
83,043	Volcano Corporation, Rancho Cordova Division, Aerotek Staffing, Oxford Staffing, etc.	Rancho Cordova, CA	August 29, 2012.
83,075	Power One Renewable Energy, Renewable Energy Division, Power One, Inc.	Phoenix, AZ	September 5, 2012.
83,083	American Wyott Corporation, d/b/a APW Wyott, Standex Int'l, Adecco, Express, SOS, Advance, and Aerotek.	Cheyenne, WY	September 11, 2012.

The following certifications have been issued. The requirements of Section 222(c) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
83,044	Spirit Aerosystems, Inc., Zero Chaos, Apollo, Butler, CTS, Foster Design, etc.	Wichita, KS	August 29, 2012.

The following certifications have been issued. The requirements of Section 222(c) (downstream producer for a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

TA–W number	Subject firm	Location	Impact date
82,927	Honeywell, Aeronautics Division, Aerotek, Manpower, Nesco and PDS Tech.	Strongsville, OH	July 16, 2012.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W number	Subject firm	Location	Impact date
82,681	Star City Machine	Roanoke, VA.	
82,871	Rafko Enterprises, Inc., Manpower, Ruggieri Enterprises, Spherion Staffing.	Lock Haven, PA.	
82,985	Von Hoffmann Corporation, RR Donnelley and Sons, Jefferson City Plant, Employment Plus, Manpower.	Jefferson City, MO.	
83,002	PVH Corp., Warehousing and Distribution Center	Duncansville, PA.	
83,002A	PVH Corp., Warehousing and Distribution Center	Huntingdon, PA.	
83,025	Baxter Healthcare Corporation, Baxter International, Medical Products	Buffalo Grove, IL.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
83,017	Ryerson	Jenison, MI.	
83,116	Print Plus, Inc	Santa Ana, CA.	

The following determinations terminating investigations were issued in cases where these petitions were not filed in accordance with the requirements of 29 CFR 90.11. Every petition filed by workers must be signed by at least three individuals of the petitioning worker group. Petitioners separated more than one year prior to

the date of the petition cannot be covered under a certification of a petition under Section 223(b), and therefore, may not be part of a petitioning worker group. For one or more of these reasons, these petitions were deemed invalid.

TA–W No.	Subject firm	Location	Impact date
83,037	BCforward	Indianapolis, IN.	

The following determinations terminating investigations were issued because the petitioning groups of workers are covered by active certifications. Consequently, further investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.

TA–W No.	Subject firm	Location	Impact date
83,078	TE Connectivity, Industrial Relays	Winston-Salem, NC.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
82,991	Bausch & Lomb Incorporated, Bausch and Lomb Place Facility.	Rochester, NY.	
82,991A	Bausch & Lomb Incorporated, N. Goodman Street Facility.	Rochester, NY.	

I hereby certify that the aforementioned determinations were issued during the period of *September 23, 2013 through October 18, 2013.* These determinations are available on the Department's Web site *tradeact/taa/taa_search_form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 24th day of October 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2013–26504 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 18, 2013.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 18, 2013.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 25th day of October 2013.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[54 TAA petitions instituted between 9/23/13 and 10/18/13]

TA–W No.	Subject firm (petitioners)	Location	Date of institution	Date of petition
83102	Pearl Pressman Liberty Communications Group (Union)	Philadelphia, PA	09/23/13	09/20/13
83103	EC Pigments USA Inc. (Company)	Fall River, MA	09/23/13	09/20/13
83104	Rhythm & Hues Studios (State/One-Stop)	El Segundo, CA	09/24/13	09/23/13
83105	Clear Pine Mouldings (State/One-Stop)	Prineville, OR	09/24/13	09/23/13
83106	Janesville Acoustics (Union)	Norwalk, OH	09/24/13	09/16/13

APPENDIX—Continued

[54 TAA petitions instituted between 9/23/13 and 10/18/13]

TA–W No.	Subject firm (petitioners)	Location	Date of institution	Date of petition
83107	American Sintered Technologies (Workers)	Emporium, PA	09/24/13	09/24/13
83108	Berkebile Excavating Inc. working on-site at Johnstown Specialty Castings (Workers).	Johnstown, PA	09/24/13	09/23/13
83109	Jewish Board of Family and Children Services (State/One-Stop).	New York, NY	09/25/13	09/24/13
83110	TK Holding, Inc. (Company)	San Antonio, TX	09/25/13	08/30/13
83110A	TK Holding, Inc. (Company)	Greensboro, NC	09/25/13	08/30/13
83111	Seton Identification (State/One-Stop)	Branford, CT	09/25/13	09/24/13
83112	American Fuji Seal, Inc. (Workers)	Anaheim, CA	09/25/13	09/20/13
83113	J P Morgan Chase, Consumer Direct, Superstreamline, HIARP Loans (Workers).	Westerville, OH	09/25/13	09/24/13
83114	Plantronics Inc (Workers)	Santa Cruz, CA	09/25/13	09/24/13
83115	Lester Electrical (State/One-Stop)	Lincoln, NE	09/25/13	09/24/13
83116	Print Plus, Inc. (State/One-Stop)	Santa Ana, CA	09/25/13	09/24/13
83117	Citi Group (Workers)	Fort Mill, SC	09/25/13	09/24/13
83118	Aleris Specifications Alloys, INC (Union)	Saginaw, MI	09/26/13	09/25/13
83119	Times Fiber Communications (Company)	Chatham, VA	09/26/13	09/25/13
83120	CEMEX (Workers)	West Palm Beach, FL	09/26/13	09/20/13
83121	Parkersburg Bedding LLC (Union)	Parksburg, WV	09/27/13	09/26/13
83122	YP Holdings LLC (Union)	Saint Louis, MO	09/27/13	09/26/13
83123	Osram Sylvania, Inc. (State/One-Stop)	Manchester, NH	09/27/13	09/26/13
83124	Aptuit (State/One-Stop)	Harrisonville, MO	09/30/13	09/27/13
83125	Acushnet Company (Workers)	New Bedford, MA	09/30/13	09/26/13
83126	Abbott Laboratories (State/One-Stop)	Temecula, CA	09/30/13	09/27/13
83127	Robert Bosch Tool Corp, Measuring Tools Unit (Company)	Watseka, IL	09/30/13	09/27/13
83128	Catalyst Paper (Union)	Snowflake, AZ	10/17/13	10/01/13
83129	International Paper Company (Workers)	Courtland, AL	10/17/13	10/10/13
83130	Harte Hanks Shoppers Inc. (State/One-Stop)	Brea, CA	10/17/13	09/30/13
83131	Boston Scientific (State/One-Stop)	Arden Hills, MN	10/17/13	09/30/13
83132	Citigroup Inc. (State/One-Stop)	New York, NY	10/17/13	10/11/13
83133	Philips Lighting Company (Union)	Franklin Park, IL	10/17/13	10/11/13
83134	Johnson Controls (Workers)	El Paso, TX	10/17/13	10/10/13
83135	Chippenhook (State/One-Stop)	Lewisville, TX	10/17/13	10/07/13
83136	Southworth Company (Workers)	Agawam, MA	10/17/13	10/03/13
83137	W.W. Grainger (State/One-Stop)	Niles, IL	10/17/13	10/10/13
83138	Cummins Filtration (Company)	Lake Mills, IA	10/17/13	09/30/13
83138A	Leased Workers from Whelan Security (Company)	Lake Mills, IA	10/17/13	09/30/13
83139	Bloomington Production Operations (Company)	Bloomington, IN	10/17/13	09/30/13
83140	Dresser-Rand (Workers)	Painted Post, NY	10/17/13	10/03/13
83141	Pitney Bowes, Inc. (Workers)	Neenah, WI	10/17/13	09/19/13
83142	JCs 5 Star Outlet (Company)	Columbus, OH	10/17/13	10/04/13
83143	Caterpillar, Inc. (Workers)	Houston, PA	10/17/13	09/27/13
83144	Dallco Industries, Inc. (State/One-Stop)	Rockhill Furnace & York, PA	10/18/13	10/01/13
83145	Westinghouse Fuel Components Facility (Workers)	Windsor, CT	10/18/13	10/17/13
83146	Toho Tenax America, Inc. (Company)	Rockwood, TN	10/18/13	10/03/13
83147	Warren Corporation (State/One-Stop)	Stafford Springs, CT	10/18/13	10/17/13
83148	Premier Pet Products (Company)	Midlothian, VA	10/18/13	10/10/13
83149	Navistar, Inc (Union)	Fort Wayne, IN	10/18/13	10/09/13
83150	Advanced Energy (Company)	Bend, OR	10/18/13	10/17/13
83151	Medtronic (State/One-Stop)	Minneapolis, MN	10/18/13	10/17/13
83152	Tennessee Apparel Corp. (Company)	Waynesboro, TN	10/18/13	10/03/13
83153	Motorola Solutions (Workers)	Schaumburg, IL	10/18/13	10/17/13

[FR Doc. 2013–26503 Filed 11–5–13; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL TRANSPORTATION SAFETY BOARD

SES Performance Review Board

AGENCY: National Transportation Safety Board.

ACTION: Notice; Correction.

SUMMARY: The NTSB published a document in the **Federal Register** on October 1, 2013, giving Notice of the appointment of members of the National Transportation Safety Board, Performance Review Board (PRB). This document contained incorrect names.

FOR FURTHER INFORMATION CONTACT: Emily T. Carroll, Chief, Human Resources Division, Office of Administration, National Transportation Safety Board, 490 L'Enfant Plaza SW., Washington, DC 20594–0001, (202)314–6233.

Correction

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5, United States Code requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards. The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor and considers recommendations to the appointing authority regarding the performance of the senior executive.

The following have been designated as members of the Performance Review Board of the National Transportation Safety Board:

The Honorable Christopher A. Hart, Member, National Transportation Safety Board; PRB Chair.

The Honorable Robert L. Sumwalt, III; Member, National Transportation Safety Board.

Steven E. Goldberg, Chief Financial Officer, National Transportation Safety Board.

John Cavolowsky, Director, Airspace Systems Program Office, National Aeronautics and Space Administration.

Jerold Gidner, Deputy Director, Office of Strategic Employee and Organizational Development, Department of the Interior.

David L. Mayer, Managing Director, National Transportation Safety Board (substitute only for Mr. Goldberg's rating review).

Anthony P. Scardino, Chief Financial Officer, U.S. Patent and Trademark Office (Alternate).

Candi R. Bing,

Federal Register Coordinator.

[FR Doc. 2013–26588 Filed 11–5–13; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

[Project No. 0782; NRC–2013–0244]

Korea Hydro and Nuclear Power Co., Ltd., and Korea Electric Power Corporation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt; availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) staff acknowledges receipt of the application for a standard design certification of the APR1400 Standard Plant Design submitted by Korea Hydro and Nuclear Power Co., Ltd. (KHNP) and Korea Electric Power Corporation (KEPCO).

ADDRESSES: Please refer to Docket ID NRC–2013–0244 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0244. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC'S Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that the document is referenced. The application is available in ADAMS under Accession No. ML13281A699.
- *NRC'S PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jeffrey Ciocco, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6391; email: *Jeff.Ciocco@nrc.gov.*

SUPPLEMENTARY INFORMATION: By letter dated September 30, 2013, KHNP and KEPCO filed with the NRC, pursuant to Section 103 of the Atomic Energy Act and part 52 of Title 10 of the *Code of Federal Regulations* (10 CFR), an application for standard design certification of the APR1400 Standard Plant Design.

The APR1400 stands for Advanced Power Reactor with a 1,400 megawatts electrical power and two-loop pressurized water reactor, developed in the Republic of Korea. Based on the self-reliant technologies and experiences from the design, construction, operation and maintenance of the Optimized Power Reactor 1000 (OPR1000), the APR1400 adopts advanced design features to enhance plant safety, economical efficiency, and convenience of operation and maintenance. The APR1400 application includes the entire power generation complex, except those elements and features considered site-specific. The acceptability of the tendered application for docketing and other matters relating to the requested rulemaking pursuant to 10 CFR 52.51 for design certification, including provisions for participation of the public and other parties, will be the subject of subsequent **Federal Register** notices.

Dated at Rockville, Maryland, this 30th day of October 2013.

For the Nuclear Regulatory Commission.

Jeffrey A. Ciocco,

Senior Project Manager, Environmental Projects Branch 2, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2013–26539 Filed 11–5–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–034 and 52–035; NRC–2008–0594]

Luminant Generation Company, LLC

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt; availability.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice once each week for four consecutive weeks of

a combined license (COL) application from Luminant Generation Company, LLC. (Luminant).

ADDRESSES: Please refer to Docket ID NRC–2008–0594 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0594. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Stephen Monarque, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1544; email: *Stephen.Monarque@nrc.gov.*

SUPPLEMENTARY INFORMATION: The following party has filed applications for COLs with the NRC, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, and Title 10 of the *Code of Federal* Regulations (10 CFR) Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants:''

1. On September 19, 2008, Luminant submitted an application for COLs for two United States-Advanced Pressurized Water Reactors designated as Comanche Peak Nuclear Power Plant, Units 3 and 4, in Somervell County, Texas.

This COL application is currently under review by the NRC staff.

An applicant may seek a COL in accordance with Subpart C of 10 CFR Part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79. These notices are being provided in accordance with the requirements in 10 CFR 50.43(a)(3).

Dated at Rockville, Maryland, this 30th day of October 2013.

For the Nuclear Regulatory Commission.

Jennifer Dixon-Herrity,

Chief Licensing Branch 2, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2013–26535 Filed 11–5–13; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Placement Service; OMB 3220–0057.

Section 12(i) of the Railroad Unemployment Insurance Act (RUIA), authorizes the RRB to establish, maintain, and operate free employment offices to provide claimants for unemployment benefits with job placement opportunities. Section 704(d) of the Regional Railroad Reorganization Act of 1973, as amended, and as extended by the Consolidated Omnibus Budget Reconciliation Act of 1985, required the RRB to maintain and distribute a list of railroad job vacancies, by class and craft, based on information furnished by rail carriers to the RRB. Although the requirement under the law expired effective August 13, 1987, the RRB has continued to obtain this information in keeping with its employment service responsibilities under Section 12(k) of the RUIA. Application procedures for the job placement program are prescribed in 20 CFR part 325. The procedures pertaining to the RRB's obtaining and distributing job vacancy reports furnished by rail carriers are described in 20 CFR 346.1.

The RRB currently utilizes four forms to obtain information needed to carry out its job placement responsibilities. Form ES–2, Central Register Notification, is used by the RRB to obtain information needed to update a computerized central register of separated and furloughed railroad employees available for employment in the railroad industry. Forms ES–21, Referral to State Employment Service, and ES–21c, Report of State Employment Service Office, are used by the RRB to provide placement assistance for unemployed railroad employees through arrangements with State Employment Service offices. Form UI–35, Field Office Record of Claimant Interview, is used primarily by RRB field office staff to conduct in-person interviews of claimants for unemployment benefits. Completion of these forms is required to obtain or maintain a benefit. In addition, the RRB also collects Railroad Job Vacancies information received voluntarily from railroad employers. No changes are proposed to any of the data collection instruments associated with the information collection.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
ES–2	7,500	.25	31
ES–21	3,500	.68	40
ES–21c	1,250	1.50	31

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
*UI–35 in person	9,000	7.00	1,050
*UI–35 by mail	1,000	10.50	175
Job Vacancies	750	10.00	125
Total	23,000		1,452

2. Title and purpose of information collection: Withholding Certificate for Railroad Retirement Monthly Annuity Payments; OMB 3220–0149.

The Internal Revenue Code requires that all payers of tax liable private pensions to U.S. citizens or residents: (1) Notify each recipient at least concurrent with initial withholding that the payer is, in fact, withholding benefits for tax liability and that the recipient has the option of electing not to have the payer withhold, or to withhold at a specific rate; (2) withhold benefits for tax purposes (in the absence of the recipient's election not to withhold benefits); and (3) notify all beneficiaries, at least annually, that they have the option to change their withholding status or elect not to have benefits withheld.

The RRB provides Form RRB–W4P, Withholding Certificate for Railroad Retirement Payments, to its annuitants to exercise their withholding options. Completion of the form is required to obtain or retain a benefit. One response is requested of each respondent. No changes are proposed to Form RRB W–4P.

The RRB estimates that 25,000 annuitants utilize Form RRB W–4P annually. The completion time for Form RRB W–4P varies depending on individual circumstances. The estimated average completion time for Form RRB W–4P is 39 minutes for recordkeeping, 24 minutes for learning about the law or the form, and 59 minutes for preparing the form.

3. Title and purpose of information collection: Investigation of Claim for Possible Days of Employment; OMB 3220–0196.

Under Section 1(k) of the Railroad Unemployment Insurance Act (RUIA), unemployment and sickness benefits are not payable for any day remuneration is payable or accrues to the claimant. Also Section 4(a-1) of the RUIA provides that unemployment or sickness benefits are not payable for any day the claimant receives the same benefits under any law other than the RUIA. Under the Railroad Retirement Board (RRB) regulation 20 CFR 322.4(a), a claimant's certification or statement on an RRB-provided claim form that he or she did not work on any day claimed and did not receive income such as vacation pay or pay for time lost for any day claimed is sufficient evidence unless there is conflicting evidence. Further, under 20 CFR 322.4(b), when there is a question raised as to whether or not remuneration is payable or has accrued to a claimant with respect to a claimed day or days, investigation shall be made with a view to obtaining information sufficient for a finding.

Form ID–5S (SUP), Report of Cases for Which All Days Were Claimed During a Month Credited Per an Adjustment Report, collects information about compensation credited to an employee during a period when the employee claimed either unemployment or sickness benefits from a railroad employer. The request is generated as a result of a computer match that compares data which is maintained in the RRB's RUIA Benefit Payment file with data maintained in the RRB's records of service. The ID–5S (SUP) is generated annually when the computer match indicates that an employee of the railroad employer was paid unemployment or sickness benefits for every day in one or more months for which creditable compensation was adjusted at the request of their railroad employer on RRB Form BA–4 (OMB Approved 3220–0008).

The computer-generated Form ID–5S (SUP) includes pertinent identifying information, the BA–4 adjustment process date, and the claimed months in question. Space is provided on the report for the employer's use in supplying the information requested in the computer-generated transmittal letter, Form ID–5S, Railroad Compensation Adjustment Discrepancy Report, which accompanies the report. Completion time is estimated at 10 minutes. One response is requested of each respondent. The RRB proposes no changes to Form ID–5S(SUP).

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
ID–5S (SUP)	55	10	9
Total	55		9

4. Title and purpose of information collection: Designation of Contact Officials; 3220–0200.

Coordination between railroad employers and the RRB is essential to properly administer the payment of benefits under the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). In order to enhance timely coordination activity, the RRB utilizes Form G–117a, Designation of Contact Officials. Form G–117a is used by railroad employers to designate employees who are to act as point of contact with the RRB on a variety of RRA and RUIA-related matters.

Completion is voluntary. One response is requested from each respondent. The RRB proposes no changes to Form G–117a.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–117a	100	15	25
Total	100		25

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Dana Hickman at (312) 751–4981 or *Dana.Hickman@RRB.GOV*. Comments regarding the information collection should be addressed to Charles Mierzwa, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or emailed to *Charles.Mierzwa@RRB.GOV*. Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Chief of Information Resources Management.

[FR Doc. 2013–26538 Filed 11–5–13; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70793; File No. S7–24–89]

Joint Industry Plan; Order Approving Amendment No. 30 to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privileges Basis Submitted by the BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

October 31, 2013.

I. Introduction

On September 9, 2013, the operating committee (''Operating Committee'' or ''Committee'') [1] of the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Nasdaq-Listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis (''Nasdaq/UTP Plan'' or ''Plan'') filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 608 thereunder,[3] a proposal to amend the Plan.[4] The proposal represents Amendment No. 30 to the Plan (''Amendment'') and reflects changes unanimously adopted by the Participants.[5] The Amendment was published for comment in the **Federal Register** on September 23, 2013.[6] No comment letters were received in response to the Notice. The Amendment would require that odd-lot transactions be reported to the consolidated tape. The Plan was amended to remove odd-lots from the list of transactions that are not to be reported for inclusion on the consolidated tape. This order approves the Amendment to the Plan.

II. Description of the Proposal

Currently, Section XIII(B) (Transaction Reports) of the Nasdaq/UTP Plan provides that ''Each Participant shall, during the time it is open for trading, be responsible promptly to collect and transmit to the Processor Transaction Reports in Eligible Securities executed in its Market by means prescribed herein.'' However, that section also provides a list of transactions that ''are not to be reported for inclusion on the consolidated tape.'' That list includes odd-lot transactions. According to the Participants, ''because odd-lot transactions account for a not insignificant percentage of trading volume, the Participants have determined that including odd-lot transactions on the consolidated tape of Nasdaq/UTP last sale prices would add post-trade transparency to the marketplace.'' [7] Accordingly, the Amendment proposes to add odd-lot transactions to the consolidated tape by removing them from Section XIII(B)'s list of transactions that are not to be reported for inclusion on the consolidated tape.

Due to the lack of economic significance of many individual odd-lot orders, the Participants did not propose to include odd-lot transactions in calculations of last sale prices. Therefore, odd-lot transactions would not be included in calculations of high and low prices and would not be subject to the Limit Up-Limit Down Plan [8] (*i.e.,* the National Market System Plan to Address Extraordinary Market Volatility). Moreover, including odd-lot transactions on the consolidated tape would not trigger short sale restrictions or trading halts. However, odd-lot transactions would be included in calculations of daily consolidated volume.

[1] The Plan Participants (collectively, ''Participants'') are the: BATS Exchange, Inc.; BATS Y-Exchange, Inc.; Chicago Board Options Exchange, Incorporated; Chicago Stock Exchange, Inc.; EDGA Exchange, Inc.; EDGX Exchange, Inc.; Financial Industry Regulatory Authority, Inc.; International Securities Exchange LLC; NASDAQ OMX BX, Inc.; NASDAQ OMX PHLX LLC; Nasdaq Stock Market LLC; National Stock Exchange, Inc.; New York Stock Exchange LLC; NYSE MKT LLC; and NYSE Arca, Inc. Each participant executed the proposed amendment.

[2] 15 U.S.C. 78k–1.

[3] 17 CFR 242.608.

[4] The Plan governs the collection, processing, and dissemination on a consolidated basis of quotation information and transaction reports in Eligible Securities for each of its Participants. This consolidated information informs investors of the current quotation and recent trade prices of Nasdaq securities. It enables investors to ascertain from one data source the current prices in all the markets trading Nasdaq securities. The Plan serves as the required transaction reporting plan for its Participants, which is a prerequisite for their trading Eligible Securities. *See* Securities Exchange Act Release No. 55647 (April 19, 2007), 72 FR 20891 (April 26, 2007).

[5] The proposal was originally designated as Amendment No. 31. *See* Letter from Thomas P. Knorring, Chairman, Nasdaq/UTP Plan Operating Committee to Elizabeth M. Murphy, Secretary, Commission, dated September 9, 2013. On September 17, 2013, the Participants filed a letter to re-designate the proposal as Amendment No. 30 and to correct a marking error in the Plan language. *See* Letter from Thomas P. Knorring, Chairman, Nasdaq/UTP Plan Operating Committee to Katherine A. England, Assistant Director, Division of Trading and Markets, Commission, dated September 17, 2013.

[6] *See* Securities Exchange Act Release No. 70429 (September 17, 2013), 78 FR 58352 (''Notice'').

[7] *Id.* at 58362.

[8] *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631) (the Limit Up-Limit Down Plan, as originally approved).

For purposes of allocating revenue among the Participants under the Nasdaq/UTP Plan, the Participants would include odd-lot transactions in the Security Income Allocation for each Eligible Security under Paragraph 2 (Security Income Allocation) of Exhibit 1 to the Nasdaq/UTP Plan. Just as with round lot transactions, an odd-lot transaction with a dollar value of $5000 or more would constitute one qualified transaction report and an odd-lot transaction with a dollar value of less than $5000 would constitute a fraction of a qualified transaction report that equals the dollar value of the transaction report divided by $5000. The Participants do not anticipate that this would produce a significant shift in revenue allocation among the Participants. According to the Participants, this treatment of odd-lot transactions for revenue allocation purposes does not require a change to the language of Exhibit 1 to the Nasdaq/UTP Plan.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the Amendment to the Nasdaq/UTP Plan is consistent with the requirements of the Act and the rules and regulations thereunder,[9] and, in particular, Section 11A(a)(1)(C)(iii) of the Act [10] and Rule 608 thereunder [11] in that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to transactions in securities. As the Participants stated in the proposal, odd-lot transactions comprise a noteworthy percentage of total trading volume. Thus, including odd-lot transactions on the consolidated tape will enhance post-trade transparency, as well as price discovery, and consequently would further the goals of the Act. The Commission believes that information about odd-lot transactions would provide important information to investors and other market participants and therefore represents a positive development in the provision of market data.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[12] and the rules thereunder, that the proposed amendment to the Nasdaq/UTP Plan (S7–24–89), be, and hereby is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26556 Filed 11–5–13; 8:45 am]

BILLING CODE 8011–01–P

[9] In approving the Amendment, the Commission has considered the proposed Amendment's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[11] 17 CFR 240.608.

[12] 15 U.S.C. 78k–1.

[13] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70794; File No. SR–CTA–2013–05]

Consolidated Tape Association; Order Approving the Eighteenth Substantive Amendment to the Second Restatement of the CTA Plan

October 31, 2013.

I. Introduction

On September 9, 2013, the Consolidated Tape Association (''CTA'') Plan participants (''Participants'') [1] filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 608 thereunder,[3] a proposal to amend the Second Restatement of the CTA Plan (''CTA Plan'').[4] The proposal represents the eighteenth substantive amendment to the CTA Plan (''Amendment'') and reflects changes unanimously adopted by the Participants. The Amendment was published for comment in the **Federal Register** on September 23, 2013.[5] No comment letters were received in response to the Notice. The Amendment would require that odd-lot transactions be reported to the consolidated tape. The Plan was amended to remove odd-lots from the list of transactions that are not to be reported for inclusion on the consolidated tape. This order approves the Amendment to the CTA Plan.

II. Description of the Proposal

Currently, Section VIII(a) (Responsibility of Exchange Participants) of the CTA Plan provides that each Participant will ''collect and report to the Processor all last sale price information to be reported by it relating to transactions in Eligible Securities taking place on its floor.'' However, Section VI(d) (Transactions not reported (related messages)) provides a list of transactions that ''are not to be reported for inclusion on the consolidated tape.'' That list includes odd-lot transactions. According to the Participants, ''because odd-lot transactions account for a not insignificant percentage of trading volume, the Participants have determined that including odd-lot transactions on the consolidated tape of CTA last sale prices would add post-trade transparency to the marketplace.'' [6] Accordingly, the Amendment proposes to add odd-lot transactions to the consolidated tape by removing them from Section VI(d)'s list of transactions that are not to be reported for inclusion on the consolidated tape.

Due to the lack of economic significance of many individual odd-lot orders, the Participants did not propose to include bids and offers for odd-lots in the best bid and best offer calculations that the Participants make available under the Consolidated Quotation Plan. Additionally, the Participants did not propose to include odd-lot transactions in calculations of last sale prices. Therefore, odd-lot transactions would not be included in calculations of high and low prices and would not be subject to the Limit Up-Limit Down Plan [7] (*i.e.,* the National Market System Plan to Address Extraordinary Market Volatility). Moreover, including odd-lot transactions on the consolidated tape would not trigger short sale restrictions or trading halts. However, odd-lot transactions would be included in calculations of daily consolidated volume.

For purposes of allocating revenue among the Participants under the CTA Plan, the Participants would include odd-lot transactions in the Security Income Allocation for each Eligible Security under Section XII(a)(ii) (Security Income Allocation) of the CTA

[1] Each participant executed the proposed amendment. The Participants are: BATS Exchange, Inc., BATS–Y Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., Nasdaq Stock Market LLC, National Stock Exchange, New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

[2] 15 U.S.C. 78k–1.

[3] 17 CFR 242.608.

[4] *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799 (declaring the CTA Plan effective). The CTA Plan, pursuant to which markets collect and disseminate last sale price information for non-NASDAQ listed securities, is a ''transaction reporting plan'' under Rule 601 under the Act, 17 CFR 242.601, and a ''national market system plan'' under Rule 608 under the Act, 17 CFR 242.608.

[5] *See* Securities Exchange Act Release No. 70428 (September 17, 2013), 78 FR 58362 (''Notice'').

[6] *Id.* at 58363.

[7] *See* Securities Exchange Act Release No. 67091, 77 FR 33498 (June 6, 2012) (File No. 4–631) (the Limit Up-Limit Down Plan, as originally approved).

plan. Just as with round lot transactions, an odd-lot transaction with a dollar value of $5000 or more would constitute one qualified transaction report and an odd-lot transaction with a dollar value of less than $5000 would constitute a fraction of a qualified transaction report that equals the dollar value of the transaction report divided by $5000. The Participants do not anticipate that this would produce a significant shift in revenue allocation among the Participants. According to the Participants, this treatment of odd-lot transactions for revenue allocation purposes does not require a change to the language of the CTA Plan.

III. Discussion and Commission's Findings

After careful review, the Commission finds that the Amendment to the CTA Plan is consistent with the requirements of the Act and the rules and regulations thereunder,[8] and, in particular, Section 11A(a)(1)(C)(iii) of the Act [9] and Rule 608 thereunder [10] in that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to transactions in securities. As the Participants stated in the proposal, odd-lot transactions comprise a noteworthy percentage of total trading volume. Thus, including odd-lot transactions on the consolidated tape will enhance post-trade transparency, as well as price discovery, and consequently would further the goals of the Act. The Commission believes that information about odd-lot transactions would provide important information to investors and other market participants and therefore represents a positive development in the provision of market data.

IV. Conclusion

It is therefore ordered, pursuant to Section 11A of the Act,[11] and the rules thereunder, that the proposed amendment to the CTA Plan (SR–CTA–2013–05), be, and hereby is approved.

[8] In approving the Amendment, the Commission has considered the proposed Amendment's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[10] 17 CFR 240.608.

[11] 15 U.S.C. 78k–1.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26557 Filed 11–5–13; 8:45 am]

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[12] 17 CFR 200.30–3(a)(27).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70789; File No. SR–CFE–2013–006]

Self-Regulatory Organizations; CBOE Futures Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Notification Provisions for Exchange of Contract for Related Position Transactions and Block Trades

October 31, 2013.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 17, 2013, CBOE Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') [2] on October 17, 2013.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

CFE proposes to revise the notification provisions contained in CFE Rules 414 (Exchange of Contract for Related Position) (''ECRP'') and 415 (Block Trading).

The scope of this filing is limited solely to the application of the rule changes to security futures traded on CFE. The only security futures currently traded on CFE are traded under Chapter 16 of CFE's Rulebook which is applicable to Individual Stock Based and Exchange-Traded Fund Based Volatility Index (''Volatility Index'') security futures.

The text of the proposed rule change is attached as *Exhibit 4* to the filing submitted by the Exchange but is not attached to the published notice of the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE 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

CFE recently amended the notification and reporting provisions contained in CFE Rule 414 (which sets forth requirements relating to ECRP transactions) and CFE Rule 415 (which sets forth requirements relating to Block Trades).[3] One provision of the recent amendment was to extend the time frames during which ECRP transactions and Block Trades may be reported. As described in SR–CFE–2013–005, the impetus for that filing was the first phase of implementation of the expansion of extended trading hours for CBOE Volatility Index (''VIX'') futures.[4] The current proposal seeks to amend the notification provisions of CFE Rules 414 and 415 in connection with implementation of the second phase of the extension of extended trading hours for VIX futures.

The CFE Help Desk will now be staffed to support VIX futures trading that commences at 2:00 a.m. (instead of 7:00 a.m.) on calendar days Monday through Friday. As a result, the Exchange is proposing to amend the notification provisions for ECRP transactions and Block trades that were

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

[3] *See* Securities Exchange Act Release No. 70611 (October 4, 2013) [sic] (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Notification and Reporting Provisions for Exchange of Contract for Related Position Transactions and Block Trades) (SR–CFE–2013–005).

[4] All times included in this filing and in CFE's Rules are Chicago time. The first phase of expanded extended trading hours introduces an additional 45-minute extended trading hours period from 3:30 p.m.–4:15 p.m. Monday through Thursday for VIX futures. The second phase will change the time that trading starts on a calendar day from 7:00 a.m. to 2:00 a.m. for Business Days Monday through Friday for VIX futures.

previously based on a 7:00 a.m. start to a calendar day to be based on a 2:00 a.m. start to a calendar day. Accordingly, the Exchange is proposing to change all references to ''7:00 a.m.'' to ''2:00 a.m.'' in the charts that are set forth in CFE Rules 414(i) and 415(g). No other changes are being proposed by this rule change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5)[6] in particular in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change would benefit investors and market participants because it would enhance CFE's ECRP and Block Trade reporting provisions by extending the time frames during which ECRP transactions and Block Trades may be reported. The Exchange also believes that the proposed rule change is equitable and not unfairly discriminatory because amended CFE Rules 414 and 415 would apply to all TPHs and Authorized Reporters and do not discriminate between market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE 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, in that the rule change makes enhancements to CFE's Block Trade and ECRP reporting process. In addition, the Exchange believes that the expansion of the ability to report Block Trades and ECRP transactions in security futures in conjunction with the expansion of trading hours in VIX futures will promote competition because it will provide for the reporting and dissemination of security futures Block Trades and ECRPs during additional time frames which will serve to promote additional transparency and thus potential further price competition.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were 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 proposed rule change will become operative on or after November 1, 2013.

At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[7]

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–CFE–2013–006 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–CFE–2013–006. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of 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–CFE–2013–006, and should be submitted on or before November 27, 2013.

[7] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26554 Filed 11–5–13; 8:45 am]

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[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70791; File No. SR–CHX–2013–16]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Approving a Proposed Rule Change To Adopt Standards for the Cancellation or Adjustment of Bona Fide Error Trades, the Submission of Error Correction Transactions, and the Cancellation or Adjustment of Stock Leg Trades of Stock-Option or Stock-Future Orders

October 31, 2013.

I. Introduction

On September 4, 2013, Chicago Stock Exchange, Inc. (''Exchange'' or ''CHX'') 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 CHX Article 20, Rule 9 to outline and clarify the Exchange's current requirements for the cancellation of trades based on Bona Fide Error and to establish new requirements for the adjustment of trades based on Bona Fide Error; to adopt CHX Article 20, Rule 9A to detail the Exchange's current requirements for Error Correction Transactions; and to adopt CHX Article 20, Rule 11 to amend

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the Exchange's current requirements for the cancellation of the stock leg trade of a Stock-Option order, to establish new requirements for the adjustment of the stock leg trade of a Stock-Option order, and to allow the stock leg trade of Stock-Future orders to be cancelled or adjusted. The proposed rule change was published for comment in the **Federal Register** on September 18, 2013.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change [4]

Current Article 20, Rule 9 governs the cancellation of both trades based on demonstrable error and stock legs of Stock-Option orders. Among other things, the Exchange proposes to separate current Article 20, Rule 9 into two different rules: proposed Rule 9 sets forth the requirements for the cancellation of trades based on demonstrable error, and proposed Rule 11 sets forth the requirements for the cancellation of the stock leg of a Stock-Option order.

A. Proposed Article 20, Rule 9: Cancellation or Adjustment of Bona Fide Error Trades

Proposed Rule 9(a) states that a trade executed on the Exchange in ''Bona Fide Error'' [5] may be cancelled or adjusted pursuant to this Rule, subject to the approval of the Exchange. The Exchange notes that proposed Rule 9 only applies to Bona Fide Error trades that were executed on the Exchange and, as such, orders that are routed to other market centers and executed at such away market centers are not within the purview of proposed Rule 9.[6]

Proposed paragraph (b) states that the Exchange may approve a request for a trade cancellation or adjustment pursuant to this Rule and take the corrective action(s) necessary to effectuate such a cancellation or adjustment, provided that the items listed thereunder are submitted to the Exchange, in a form prescribed by the Exchange, by the Participant that submitted the erroneous trade. Proposed Rule 9 requires the Participant that submitted the erroneous trade to: (1) Submit a written request for cancellation or adjustment, including all information and supporting documentation required by proposed Rule 9, no later than 4:30 p.m. CST on T+1, except such a request may be submitted after T+1 in extraordinary circumstances with the approval of an officer of the Exchange; (2) identify the error that is a ''Bona Fide Error'' and the source of the Bona Fide Error, and provide supporting documentation showing the objective facts and circumstances concerning the Bona Fide Error; and (3) provide supporting documentation evidencing that all parties consent to the requested cancellation or adjustment.

Proposed Rule 9(c) provides that a trade adjustment will be made only to the extent necessary to correct the Bona Fide Error (*i.e.,* to reflect the original terms of the order).[7] Under proposed Rule 9(d), if the Exchange approves a request for a trade cancellation or adjustment, Exchange operations personnel will effect all corrective action(s) necessary to effectuate the cancellation or adjustment. Finally, proposed Rule 9(e) mirrors current Article 20, Rule 9(b)(5) which provides that failure to comply with the provisions of this Rule will be considered conduct inconsistent with just and equitable principles of trade and a violation of Article 9, Rule 2.

B. Proposed Article 20, Rule 9A ''Error Correction Transactions''

Proposed Rule 9A adopts requirements for Error Correction Transactions (''ECTs''). Proposed 9A(a) provides that a Participant may submit an ECT to remedy the execution of customer orders that have been placed in error, provided that the following requirements are satisfied: (1) The erroneous transaction was the result of a ''Bona Fide Error,'' as defined under proposed Article 1, Rule 1(hh); (2) the Bona Fide Error is evidenced by objective facts and circumstances and the Participant maintains documentation of such facts and circumstances; (3) the Participant recorded the ECT in its error account; (4) the Participant established, maintained, and enforced written policies and procedures that were reasonably designed to address the occurrence of errors and, in the event of an error, the use and terms of an ECT to correct the error in compliance with this Rule; and (5) the Participant regularly surveilled to ascertain the effectiveness of its policies and procedures to address errors and transactions to correct errors and took prompt action to remedy deficiencies in such policies and procedures.

Proposed Rule 9A(b) states that an ECT may execute without the restrictions of the trade-through prohibition of Rule 611, provided that the ECT is marked with a special Bona Fide Error trade indicator. Proposed Rule 9A(b) further states that this exemption applies only to the ECT itself and does not, for example, apply to any subsequent trades made by a Participant to eliminate a proprietary position connected with the ECT. Proposed Rule 9A(c) provides that failure to comply with the provisions of this Rule will be considered conduct inconsistent with just and equitable principles of trade and a violation of Article 9, Rule 2.

C. Proposed Article 20, Rule 11: Cancelation or Adjustment of Stock Leg Trades

Proposed Rule 11(a) states that, unless otherwise expressly prohibited by the Exchange's rules, a trade representing the stock leg of a Stock-Option order, as defined under proposed

Article 1, Rule 1(ii) [8] or a Stock-Future order, as defined under proposed Article 1, Rule 1(jj),[9] may be subject to

[3] *See* Securities Exchange Act Release No. 70381 (September 12, 2013), 78 FR 57431 (SR–CHX–2013–16) (''Notice'').

[4] A more detailed description of the proposal is contained in the Notice. *See id.*

[5] Proposed Article 1, Rule 1(hh) defines ''Bona Fide Error'' as: (1) The inaccurate conveyance or execution of any term of an order, including, but not limited to, price, number of shares or other unit of trading; identification of the security; identification of the account for which securities are purchased or sold; lost or otherwise misplaced order tickets; or the execution of an order on the wrong side of a market; (2) the unauthorized or unintended purchase, sale, or allocation of securities, or the failure to follow specific client instructions; (3) the incorrect entry of data into relevant systems, including reliance on incorrect cash positions, withdrawals, or securities positions reflected in an account; or (4) a delay, outage, or failure of a communication system used to transmit market data prices or to facilitate the delivery or execution of an order. Proposed paragraph .01 provides that proposed Rule 9 applies only to Bona Fide Errors committed by the Participant that submitted the order to the Matching System or the customer of the Participant that submitted the order to the Matching System.

[6] Although the Exchange anticipates implementing it in the near future, the Exchange does not currently offer order routing. *See* Notice, *supra* note 3, 78 FR at 57432 n.10.

[7] Proposed Rule 9(c) states that, prior to approving an adjustment, the Exchange will validate that the proposed adjusted trade could have been executed in the Matching System at the time the trade was initially executed, in compliance with all applicable CHX and Commission rules.

[8] Proposed Article 1, Rule 1(ii) provides that a ''Stock-Option'' order is a combination order where at least one component is a cross order for a stated number of units of an underlying or related security coupled with the purchase or sale of options contract(s) on the opposite side of the market representing at least the same number of units as the underlying or related security portion of the order.

[9] Proposed Article 1, Rule 1(jj) provides that a ''Stock-Future'' order is a combination order where at least one component is a cross order for a stated number of units of an underlying or a related security coupled with the purchase or sale of futures contract(s) on the opposite side of the market representing at least the same number of

cancellation or adjustment by the Exchange pursuant to proposed Rule 11, if the stock leg trade was marked by a special trade indicator when it was originally submitted to the Matching System.[10] Proposed Rule 11(a) clarifies that if the stock leg trade was not originally marked by a special trade indicator, the trade will not be eligible for cancellation or adjustment, notwithstanding compliance with the other requirements of this Rule.

Cancellation of Stock Leg Trades

Proposed Rule 11(b) outlines the requirements for cancelling a stock leg trade that is a component of a Stock-Option/Stock-Future order. Proposed Rule 11(b)(1) provides that the Exchange may approve a request to cancel a stock leg trade that was originally marked by a special trade indicator and take the corrective action(s) necessary to effectuate such a cancellation, provided that certain items are submitted to the Exchange, in a form prescribed by the Exchange, by the Participant that submitted the stock leg trade. Proposed Rule 11(b) requires the Participant that submitted the stock leg trade to: (1) Submit a written request for cancellation, including all information and supporting documentation required by proposed Rule 9, no later than 4:30 p.m. CST on T+1, except such a request may be submitted after T+1 in extraordinary circumstances with the approval of an officer of the Exchange; (2) identify the Qualified Cancellation Basis [11] and provide supporting documentation showing the objective facts and circumstances supporting the Qualified Cancellation Basis; and (3) provide supporting documentation evidencing that all parties consent to the requested cancellation.

Adjustments of Stock Leg Trades

Proposed Rule 11(c) adopts new requirements that allow under specified circumstances adjustments to a stock leg trade that is a component of a Stock-Option or Stock-Future order. Proposed Rule 11(c)(1) provides that the Exchange may approve a request to adjust a stock leg trade that was originally marked by a special trade indicator and take the corrective action(s) necessary to effectuate such an adjustment, provided that certain items are submitted to the Exchange, in a form prescribed by the Exchange, by the Participant that submitted the stock leg trade. It further states that the requirements of proposed Rule 11(c) must be complied with, to the satisfaction of the Exchange, before a stock leg trade adjustment pursuant to this Rule may be approved or any corrective action may be taken.

Proposed Rule 11(c) requires the Participant that submitted the stock leg trade to: (1) submit a written request for adjustment, including all information and supporting documentation required by proposed Rule 9, no later than 4:30 p.m. CST on T+1, except such a request may be submitted after T+1 in extraordinary circumstances with the approval of an officer of the Exchange; (2) identify the Qualified Cancellation Basis [12] and provide supporting documentation showing the objective facts and circumstances supporting the Qualified Cancellation Basis; (3) provide supporting documentation evidencing that all parties consent to the requested adjustment; and (4) submit a proposed Adjusted Stock Price or Adjusted Stock Quantity, as detailed under proposed Rule 11(c)(3).

Proposed Rule 11(c)(3) provides that the Participant that submitted the stock leg trade may request only one of the following adjustments per Stock-Option or Stock-Future order: Adjusted Stock Price; Adjusted Stock Quantity; or Adjusted Stock Quantity (Stock-Option trade only). Proposed Rule 11(c)(3)(A) details the necessary calculations for Adjusted Stock Price, where a non-stock leg executed at a price or was adjusted to a price other than the price originally agreed upon by all of the parties to the Stock-Option or Stock-Future order and the parties wish to maintain the original aggregate cash flow of the Stock-Option or Stock-Future order. Proposed Rule 11(c)(3)(B) details the necessary calculations for Adjusted Stock Quantity, where a non-stock leg executed at a quantity or was adjusted to a quantity other than the quantity originally agreed upon by all of the parties to the Stock-Option or Stock-Future order. Proposed Rule 11(c)(3)(C) details the necessary calculations for Adjusted Stock Quantity for a Stock-Option order only, where an options leg trade executed at a price or was adjusted to a price other than the price originally agreed upon by all of the parties to the Stock-Option order and the parties wish to maintain the original delta-based hedge ratio.

Once the Adjusted Stock Quantity or Adjusted Stock Price has been presented to the Exchange pursuant to proposed Rule 11(c)(3), pursuant to proposed Rule 11(c)(4), the Exchange will ascertain whether the proposed adjusted stock leg trade could have been executed in the Matching System at the time the trade was initially executed, in compliance with all applicable CHX and Commission rules. Proposed Rule 11(c)(4) provides that, if the trade adjustment is approved, the adjustment will be accepted, recorded, and submitted to a Qualified Clearing Agency, without regard to orders residing in the Matching System at the time the adjustment is made.

Proposed Rule 11(d) provides that if the Exchange approves a request for a stock leg trade cancellation or adjustment, any corrective action(s) necessary to effectuate the cancellation or adjustment, including, but not limited to, corrective entries into the Exchange's records and/or corrective clearing submissions to a Qualified Clearing Agency, will be taken only by Exchange operations personnel. Finally, proposed Rule 11(e) provides that failure to comply with the provisions of this Rule will be considered conduct inconsistent with just and equitable principles of trade and a violation of Article 9, Rule 2.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires that the rules of a national securities exchange be designed, among other things, 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

units of the underlying or related security portion of the order.

[10] This special trade indicator requirement is in current Article 20, Rule 9(b)(6). The Exchange notes that the purpose of the special trade indicator is to mark a stock leg trade as being part of a Stock-Option order and consequently notifies the market after execution that the trade may be cancelled, as the trade is contingent upon the execution of non-stock legs that comprise the total Stock-Option order.

[11] Proposed Rule 11(b)(2) defines the ''Qualified Cancellation Basis'' as follows: (A) A non-stock leg executed at a price/quantity or was adjusted to a price/quantity other than the price/quantity originally agreed upon by all of the parties to the Stock-Option or Stock-Future order; (B) a non-stock leg could not be executed; or (C) a non-stock leg was cancelled by the exchange on which it was executed.

[12] Proposed Rule 11(c)(2) defines the ''Qualified Adjustment Basis'' as when a non-stock leg executed at a price/quantity or was adjusted to a price/quantity other than the price/quantity originally agreed upon by all of the parties to the Stock-Option or Stock-Future order.

[13] In approving the CHX proposed rule change, the Commission has considered its impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

system, and, in general, to protect investors and the public interest.

As discussed above, the Exchange proposes to expand Article 20, Rule 9 to permit the adjustment of Bona Fide Error trades and to clarify the requirements for cancelling a Bona Fide Error trade. The Commission finds that proposed Rule 9 is consistent with Section 6(b)(5) of the Act because it should allow the Exchange, through the cancellation and adjustment of Bona Fide Error trades, to promote the proper execution of trades, to promote the accurate reporting of trades, and to potentially prevent excessive reporting of trade activity to the Consolidated Tape.

Proposed Rule 9(b) enumerates the specific requirements that must be met by the executing broker Participant before the Exchange can consider a request to cancel or adjust an erroneous trade. The Commission believes that these requirements, which are designed to ensure that Participants can cancel or adjust erroneous trades while also creating the necessary filters to ensure that the Exchange only acts upon truly erroneous trades, are reasonable and provide a fair, objective process by which the Exchange may review requests to cancel or adjust an erroneous trade. Specifically, the Commission believes that the requirement that the written request for cancellation or adjustment be submitted no later than 4:30 p.m. CST on T+1 except in extraordinary circumstances is reasonable because it affords Participants with adequate time to identify an erroneous trade and to prepare its submission request. Additionally, the Commission believes that the requirements that all parties to a Bona Fide Error trade must consent to the Participant's request to cancel or adjust the erroneous trade and that the request to cancel or adjust be supported with documentation showing the objective facts and circumstances evidencing the Bona Fide Error should protect all parties to a trade and should prevent unfair or fraudulent cancellations or adjustments of trades from taking place. Similarly, the Commission believes that the requirement in proposed Rule 9(c), that the any potential trade adjustment will only be taken to the extent necessary to correct the Bona Fide Error and only if the proposed adjusted trade could have been executed in the Matching System at the time the trade was initially executed, should promote the integrity of the market system by ensuring that all adjusted trades comply with Exchange and Commission rules.

The Commission also finds that proposed Rule 9A, which codifies in CHX's rules the requirements that a Participant must follow when submitting an ECT, is consistent with the Act. The Exchange currently accepts ECTs to remedy the execution of customer orders that have been placed in error, but does not explain these requirements in its rules. The Commission believes that the inclusion of these requirements in CHX's rules should provide clarity and guidance to Participants and thereby promote the efficient functioning of the securities markets.[15]

As discussed in further detail above, proposed Rule 11 expands situations where a stock leg of a Stock-Option order or Stock-Future order stock leg may be cancelled and to permit the adjustment of stock leg trades if the stock leg trade was marked by a special trade indicator when it was originally submitted to the Matching System. This proposal allows Participants to adapt to changes to the options or futures leg of a trade and thereby facilitate the execution of Stock-Option or Stock-Future orders in ratios as originally agreed by the parties to the order, which the Commission believes should promote the efficient functioning of the securities market.

The Commission also finds that the requirements in proposed Rule 11(b) that a Participant must satisfy to request cancellation of a stock leg trade are consistent with the Act. The requirements contained in Rule 11(b)—that all parties submit a timely request no later than 4:30 p.m. CST on T+1, that the submitting Participant supports its request with appropriate documentation, and that all parties consent to the submission of the cancellation request—track those of Rule 9(b), and the Commission believes they are consistent with the Act for the reasons discussed above. In addition, the Commission believes that requiring the submitting Participant to identify the Qualified Adjustment Basis is reasonable because it should allow the Exchange to more quickly act upon the Participant's request for cancellation under proposed Rule 11(b).

Further, the Commission believes that proposed Rule 11(c), which proposes to allow adjustments of the stock leg trade, should prevent excessive reporting of activity to the Consolidated Tape and thereby should enhance the integrity of the securities markets by removing duplicative trade reports. As with proposed Rules 9(b) and 11(b), the Commission believes that the requirements of proposed Rule 11(c)—that a submitting Participant must comply with T+1 requirement, identify the qualified adjustment basis, ensure that all parties consent to the request, and support its submission with a proposed Adjusted Stock Price or Adjusted Stock Quantity—are consistent with the Act for the reasons discussed above. The Commission also believes that the Exchange's detailed methodology for determining and verifying the exact adjusted terms of a trade are adequate to effect the intent of the parties to the trade and ensure that any adjustments will be consistent with the rules of the Exchange and the Commission, including Rule 611 of Regulation NMS.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–CHX–2013–16) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26555 Filed 11–5–13; 8:45 am]

BILLING CODE 8011–01–P

[15] The Commission also notes that that the language of proposed Rule 9A is substantially similar to the key portions of the Commission order exempting certain error correction transactions From Rule 611 of Regulation NMS. *See* Securities Exchange Act Release No. 55884 (June 8, 2007), 72 FR 32926 (June 14, 2007).

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70795; File No. SR–NYSEArca–2013–109]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Options Fee Schedule To Apply Routing Fees to Penny Pilot Issues

October 31, 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 22, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Options Fee Schedule (''Fee Schedule'') to apply routing fees to Penny Pilot issues. The Exchange proposes to implement the fee change effective November 1, 2013. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to apply routing fees to Penny Pilot issues. The Exchange proposes to implement the fee change effective November 1, 2013.

The Exchange currently charges a routing fee of $0.11 per contract for orders in non-Penny Pilot issues that are routed and executed at away market centers pursuant to order protection requirements of the Options Order Protection and Locked/Crossed Market Plan.[4] The fee applies to standard and Mini option contracts. In addition, the Exchange passes through any transaction fees charged by the destination exchange on executions of such routed orders. The Exchange pays a fee to its routing brokers, and in turn pays clearing fees to OCC to clear routed orders.

The Exchange proposes to begin charging the same $0.11 per contract routing fee for orders in Penny Pilot issues, which would apply to both standard and Mini option contracts. The Exchange also proposes to pass through any transaction fees charged by the destination exchange on executions of routed orders in Penny Pilot issues. The proposed change would not affect the applicable liquidity take rates for Penny Pilot or non-Penny Pilot issues. The Exchange notes that it did not initially impose the routing fee on Penny Pilot issues because Penny Pilot issues were charged a take liquidity fee that offset the cost of routing.[5] The Exchange subsequently imposed a take liquidity fee on non-Penny Pilot issues.[6] The Exchange believes that imposing a routing fee would further defray the cost of routing orders and would allow routed orders in Penny Pilot issues to be charged in the same manner as routed orders in non-Penny Pilot issues, which may reduce investor confusion. The Exchange notes that firms may avoid routing charges by either routing orders themselves directly to the away market that is at the National Best Bid or Offer (''NBBO''), or by use of various order types on the Exchange that carry an instruction to not route the order.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that firms would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that it is reasonable to impose routing fees on Penny Pilot issues because it would further defray the cost of routing orders. These charges may be avoided by direct routing of an order to the away market that is at the NBBO or by the use of do-not-route order types on the Exchange. The Exchange believes that it is equitable and not unfairly discriminatory to impose routing fees on Penny Pilot issues because they are applied in an identical manner to all market participants with similarly situated orders. In addition, the Exchange would be imposing the same routing fees that currently apply to non-Penny Pilot issues. The Exchange also believes that harmonizing the routing fees that apply to Penny Pilot and non-Penny Pilot issues would reduce client confusion.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[9] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed changes will assist the Exchange in balancing its revenues and costs when routing orders to away market centers and allow routed orders in Penny Pilot issues to be charged in the same manner as routed orders in non-Penny Pilot issues, which may reduce investor confusion. The Exchange also notes that firms may avoid these charges by direct routing of an order to the away market that is at the NBBO or by the use of do-not-route order types on the Exchange.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [10] of the Act and

[4] *See* Securities Exchange Act Release No. 64216 (April 6, 2011), 76 FR 20396 (April 12, 2011) (SR–NYSEArca–2011–16).

[5] *Id.* at 20398.

[6] *See* Securities Exchange Act Release No. 68179 (November 8, 2012), 77 FR 68163 (November 15, 2012) (SR–NYSEArca–2012–121).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] 15 U.S.C. 78f(b)(8).

[10] 15 U.S.C. 78s(b)(3)(A).

subparagraph (f)(2) of Rule 19b–4 [11] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–109 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–109. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2013–109, and should be submitted on or before November 27, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26558 Filed 11–5–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 240.19b–4(f)(2).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70788; File No. SR–MIAX–2013–50]

Self-Regulatory Organizations: Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Fee Schedule

October 31, 2013.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2013, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend its Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish a $0.08 transaction fee for executions in standard option contracts and $0.008 transaction fee for Mini Option contracts for Market Makers [3] registered on the Exchange.

The current transaction fees for Market Makers are: (i) RMMs $0.05 per contract for standard options or $0.005 for Mini Options; (ii) LMMs $0.05 per contract for standard options or $0.005 for Mini Options; (iii) DLMMs and PLMMs $0.05 per contract for standard options or $0.005 for Mini Options; and (iv) DPLMMs $0.05 per contract for standard options or $0.005 for Mini Options.[4] The proposal will increase the transaction fees for all Market Makers in both standard options and Mini Options. The Exchange proposes to implement the new transaction fees beginning November 1, 2013.

The previous transaction fees were designed both to enhance the Exchange's competitiveness with other option exchanges and to strengthen its market quality. Now that both intermarket and intramarket competition has been increased the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Market Makers may be registered as a Lead Market Maker or as a Registered Market Maker. *See* Exchange Rule 600(b). Market Makers registered on the Exchange for purposes of the transaction fee and Section 1(a)(i) of the Fee Schedule include: (i) Registered Market Maker (''RMM''); (ii) Lead Market Maker (''LMM''); (iii) Directed Order Lead Market Maker (''DLMM''); (iv) Primary Lead Market Maker (''PLMM''); and Directed Order Primary Lead Market Maker (''DPLMM''). *See* MIAX Options Fee Schedule, Section 1(a)(i)—Market Maker Transaction Fees.

[4] *See* MIAX Options Fee Schedule, Section 1(a)(i)—Market Maker Transaction Fees. *See also* Securities Exchange Act Release No. 70346 (September 9, 2013), 78 FR 56762 (September 13, 2013) (SR–MIAX–2013–41).

Exchange believes that it would be beneficial to marginally increase the transaction fees for all Market Makers to bring rates closer in line with transaction fees charged to other market participants that execute orders on the Exchange. The Exchange notes that Market Maker transactions fees will still remain lower than other market participants in order to continue to incent market participants and market makers on other exchanges to register as Market Makers on the Exchange. The Exchange believes that maintaining lower transaction fees for Market Makers registered on the Exchange promotes tighter bid-ask spreads by Market Makers, and increases the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(4) of the Act [6] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposal is fair, equitable and not unreasonably discriminatory. The proposal is reasonable because it results in a marginal increase in transactions fees for all Market Makers on the Exchange to bring rates closer in line with transaction fees charged to other market participants that execute orders on the Exchange. The proposed fees are fair and equitable and not unreasonably discriminatory because they will apply equally to all Market Makers regardless of type. All Market Makers will be subject to the same transaction fee, and access to the Exchange is offered on terms that are not unfairly discriminatory. The registration as an Exchange Market Maker is equally available to all market participants and Electronic Exchange Members (''EEMs'') that satisfy the requirements of Rule 600. Any market participant may choose to satisfy the additional requirements and obligations of being a Market Maker in order to qualify for the transaction fee.

The Exchange believes that maintaining lower transaction fees for Market Makers is equitable and not unfairly discriminatory because Market Markers on the Exchange have enhanced quoting obligations measured in both quantity (% time) and quality (minimum bid-ask differentials) that other market participants do not have. Additionally, maintaining lower transaction fees for Market Makers registered on the Exchange promotes tighter bid-ask spreads by Market Makers, and increases the volume of transactions in order to allow the Exchange to compete more effectively with other options exchanges for such transactions. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

MIAX does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal increases both intermarket and intramarket competition by marginally increasing transactions fees for all Market Makers on the Exchange to bring rates closer in line with transaction fees charged to other market participants that execute orders on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposal reflects this competitive environment because it increases the Exchange's fees in a manner that continues to encourage market participants to register as Market Makers, to provide liquidity, and to attract order flow to the Exchange. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the increase in Market Maker activity on the Exchange will benefit all market participants and improve competition on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2013–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2013–50. 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

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

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–MIAX–2013–50 and should be submitted on or before November 27, 2013

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26553 Filed 11–5–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–70787; File No. SR–ISE–2013–42]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 1, To List Options on the Nations VolDex Index

October 31, 2013.

I. Introduction

On July 17, 2013, the International Securities Exchange, LLC (''Exchange'' or ''ISE'') 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 list options on the Nations VolDex Index (''Index''). The proposed rule change was published for comment in the **Federal Register** on August 2, 2013.[3] The Commission received one comment letter on the proposed rule change.[4] On September 10, 2013, the Commission extended the time period for Commission action to October 31, 2013.[5] On October 29, 2013, ISE submitted a response to the comment letter.[6] On October 30, 2013, ISE submitted Amendment No. 1 to the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal

The Exchange proposes to list and trade cash-settled, European-style options on the Index, which measures changes in implied volatility of the SPDR S&P 500 Exchange-Traded Fund (''SPY'').[8]

The Index is calculated using a methodology developed by NationsShares, which uses published real-time bid/ask quotes of SPY options.[9] The Index will be calculated and maintained by a calculation agent acting on behalf of NationsShares. The Index will be updated on a real-time basis on each trading day beginning at 9:30 a.m. and ending at 4:15 p.m. (New York time).[10] Values of the Index also will be disseminated every 15 seconds during the Exchange's regular trading hours to market information vendors such as Bloomberg and Thomson Reuters. In the event the Index ceases to be maintained or calculated, or its values are not disseminated every 15 seconds by a widely available source, the Exchange will not list any additional series for trading and will limit all transactions in such options to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

The Exchange proposes that the standard trading hours for index options (9:30 a.m. to 4:15 p.m., New York time) will apply to options on the Index. Options on the Index will expire on the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiration month. Trading in expiring options on the Index will normally cease at 4:15 p.m. (New York time) on the Tuesday preceding an expiration Wednesday. The exercise and settlement value will be calculated on Wednesday at 9:30 a.m. (New York time) using the mid-point of the NBBO for the SPY options used in the calculation of the Index at that time. The exercise-settlement amount is equal to the difference between the settlement value and the exercise price of the option, multiplied by $100. Exercise will result in the delivery of cash on the business day following expiration.

In Amendment No. 1, the Exchange expresses its view that manipulation of the Index would be very difficult, particularly around the time when the settlement value is determined. According to the Exchange, the Index options will be settled using a calculation based on the mid-point NBBO of the input components, a methodology unlike how other index settlement values are determined, as most of those are calculated based on transaction prices of the individual index components. The Exchange believes that manipulating the Index settlement value will be difficult based on the dynamics of a quote-based calculation methodology as opposed to a single transaction price and because the option prices themselves would make such an endeavor cost prohibitive. Further, according to the Exchange, the vast liquidity of SPY options as well as the underlying SPY shares ensures a multitude of market participants at any given time—at least 19 market makers actively traded SPY options on ISE during September 2013 on any given day, and there are now 12 options exchanges that list SPY options. Due to the high level of participation among market makers that can enter quotes in SPY options series, the Exchange believes it would be very difficult for a single participant to alter the NBBO width across multiple series in any significant way without exposing the would-be manipulator to regulatory scrutiny and financial costs.

The Exchange proposes to adopt minimum trading increments for

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70059 (July 29, 2013), 78 FR 47041 (''Notice'').

[4] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Edward T. Tilly, Chief Executive Officer, Chicago Board Options Exchange, Incorporated (''CBOE''), dated August 23, 2013 (''CBOE Letter'').

[5] *See* Securities Exchange Act Release No. 70362, 78 FR 56955 (September 16, 2013).

[6] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary and General Counsel, ISE, dated October 29, 2013 (''ISE Letter'').

[7] 15 U.S.C. 78s(b)(2)(B).

[8] According to the Exchange, SPY is historically the largest and most actively-traded exchange-traded fund in the United States as measured by its assets under management and the value of shares traded. Specifically, the Exchange states that, according to State Street Global Advisor, the Trustee of SPY, as of June 20, 2013, the net assets under management in SPY was approximately $106.8 billion; the weighted average market capitalization of the portfolio components was approximately $106 billion; the smallest market capitalization was approximately $2.1 billion (Apollo Group Inc., ticker: APOL), and the largest was approximately $395.9 billion (ExxonMobil, ticker: XOM). Further, according to the Exchange, for the three months ending on June 20, 2013, the average daily volume in SPY shares was 137 million, and the average value of shares traded was $22.1 billion. According to the Exchange, for the same period, the average daily volume in SPY options was approximately 2.8 million contracts and open interest in SPY options was approximately 25.2 million contracts. *See* Notice, *supra* note 3, at 47042.

[9] *See id.* (describing in more detail the calculation methodology for the Index).

[10] If the current published value of a component is not available, the last published value will be used in the calculation.

options on the Index to be $0.05 for series trading below $3, and $0.10 for series trading at or above $3. The Exchange also proposes to set the minimum strike price interval for options on the Index at $1 or greater when the strike price is $200 or less, and $5 or greater when the strike price is greater than $200. Currently, when new series of index options with a new expiration date are opened for trading, or when additional series of index options in an existing expiration date are opened for trading as the current value of the underlying index moves substantially from the exercise prices of series already opened, the exercise prices of such new or additional series must be reasonably related to the current value of the underlying index at the time such series are first opened for trading.[11] The Exchange, however, proposes to eliminate this range limitation that would otherwise limit the number of $1 strikes that may be listed in options on the Index. The Exchange's proposal to eliminate this range limitation is identical to strike price intervals adopted by CBOE for the CBOE Volatility Index (''VIX'').[12]

The Exchange proposes to list options on the Index in the three consecutive near-term expiration months plus up to three successive expiration months in the March cycle.[13] In addition, long-term option series having up to sixty months to expiration,[14] Short Term Option Series,[15] and Quarterly Options Series [16] may also be traded. Options on the Index will be quoted and traded in U.S. dollars.[17]

The Exchange believes that the Index is a broad-based index, as that term is defined in ISE Rule 2001(k).[18] The Exchange proposes that the Index should be treated as a broad-based index for purposes of position limits, exercise limits, and margin requirements. Accordingly, the Exchange proposes no position or exercise limits for options on the Index [19] and the Exchange proposes to apply margin requirements that are identical to those applied for its other broad-based index options.

In addition, the Exchange proposes that the trading of options on the Index will be subject to the same rules that currently govern the trading of Exchange index options, including sales practice rules and trading rules. Trading of options on the Index will also be subject to the trading halt procedures applicable to other index options traded on the Exchange.[20] Further, Chapter 6 of the Exchange's rules, which is designed to protect public customer trading, will apply to trading in options on the Index.[21] A trading license issued by the Exchange will also be required for all market makers to effect transactions as market makers in the Index options in accordance with ISE Rule 2013.

The Exchange represents that it has an adequate surveillance program in place for options on the Index and intends to apply those same program procedures that it applies to the Exchange's other options products. Further, in Amendment No. 1, the Exchange states that it will monitor for any potential manipulation of the Index settlement value both according to its current procedures and additional surveillance measures.[22] Additionally, the Exchange notes that it is a member of the Intermarket Surveillance Group, through which it can coordinate surveillance and investigative information sharing in the stock and options markets with all of the U.S. registered stock and options markets. The Exchange also represents that it has the necessary system capacity to support additional quotations and messages that will result from the listing and trading of options on the Index.

III. Comment Letters

As noted above, the Commission received one comment letter regarding the proposed rule change.[23] In its comment letter, CBOE argues that the Index should not be treated as a broad-based security index for regulatory purposes.[24] Specifically, CBOE notes that the spot calculation of the Index would be comprised of a total of four component SPY put options and that the settlement value for the Index option would be calculated using the opening NBBO quotations of those component options.[25] CBOE states that the component weights of the four put options used to calculate the Index can become highly concentrated in just one or two component options, depending on the time to expiration and the relationship of the forward SPY price to the strike prices of the component options.[26] In this regard, CBOE questions the Exchange's proposal not to impose position limits for options on the Index.[27] In particular, CBOE asserts that, although the Commission has permitted some broad-based security index options to have no position limits, the same rationale should not apply to the proposed Index options because they are not options on a broad-based security index.[28] CBOE argues that the more analogous comparison for position limit treatment is the Alpha Index

[11] *See* ISE Rule 2009(c)(3). The term ''reasonably related to the current index value of the underlying index'' means that the exercise price is within thirty percent of the current index value. *See* ISE Rule 2009(c)(4).

[12] *See* Securities Exchange Act Release No. 63155 (October 21, 2010), 75 FR 66402 (October 28, 2010) (SR–CBOE–2010–096).

[13] *See* ISE Rule 2009(a)(3).

[14] *See* ISE Rule 2009(b)(1).

[15] *See* ISE Rule 2009, Supplementary Material .01.

[16] *See* ISE Rule 2009, Supplementary Material .02.

[17] *See* ISE Rule 2009(a)(1).

[18] ISE Rule 2001(k) defines the terms ''market index'' and ''broad-based index'' to mean an index designed to be representative of a stock market as a whole or of a range of companies in unrelated industries.

[19] The Exchange believes that because the Index will settle using published quotes of SPY options and there are currently no position limits for SPY options, it is appropriate not to impose position or exercise limits for options on the Index. The Exchange notes that because the size of the market underlying SPY options is so large, it should dispel concerns regarding market manipulation. The Exchange believes that the same reasoning applies to options on the Index since the value of options on the Index is derived from the volatility of SPY, as implied by SPY options. The Exchange also notes that VIX options are not subject to any position or exercise limits. *See* Notice, *supra* note 3, at 47043.

[20] *See* ISE Rule 2008(c).

[21] The Exchange notes that ISE Rules 608(a) and (b) prohibit Members from accepting a customer order to purchase or write an option, including options on the Index, unless such customer's account has been approved in writing by a designated Options Principal of the Member. In addition, ISE's Rule 610, regarding suitability, is designed to ensure that options, including options on the Index, are only sold to customers capable of evaluating and bearing the risks associated with trading in this instrument. Further, ISE Rule 611 permits members to exercise discretionary power with respect to trading options, including options on the Index, in a customer's account only if the Member has received prior written authorization from the customer and the account had been accepted in writing by a designated Options Principal. According to the Exchange, ISE Rule 611 also requires designated Options Principals or Representatives of a Member to approve and initial each discretionary order, including discretionary orders for options on the Index, on the day the discretionary order is entered. Finally, ISE Rule 609, Supervision of Accounts, Rule 612, Confirmation to Customers, and Rule 616, Delivery of Current Options Disclosure Documents and Prospectus, will also apply to trading in options on the Index. *See* Notice, *supra* note 3, at 47043–44.

[22] The Exchange represents that it will review the opening ISE BBO (''IBBO'') for the input options components to determine if the IBBO had an effect on the NBBO for these options series. If it did, the Exchange can determine which member entered the IBBO quote and review the member's position and quoting activity to determine if the quote may have been entered to impact the NBBO. The Exchange also represents that it will compare the Index settlement value to the subsequent disseminated value. If the difference between these two values is significant, the Exchange will review the opening quotes used in the calculation of the Index across all marketplaces to determine which exchange(s) contributed to opening NBBO quote(s) and contact the exchange(s) that entered the quote(s).

[23] *See* CBOE Letter, *supra* note 4.

[24] *See id.*, at 1–2.

[25] *See id.*, at 1.

[26] *See id.*

[27] *See id.*, at 2–3.

[28] *See id.*, at 2.

options that trade on NASDAQ OMX PHLX LLC (''Phlx'').[29] According to CBOE, Alpha Index options are cash-settled index options that measure the relative performance of two securities (a target component and a benchmark component), and all approved Alpha Index pairs include SPY as the benchmark component.[30] CBOE notes that Alpha Index options where the target component is an exchange-traded fund have a position limit of 15,000 contracts, and Alpha Index options where the target component is a single stock have a position limit of 60,000 contracts.[31]

In its response letter, ISE draws an analogy between the Index and the VIX.[32] ISE argues that, as with the VIX, designating the Index as a broad-based index should not be based only on the number of components that the index contains, but rather, on the economic exposure that the underlying reference seeks to provide.[33] ISE states that, according to CBOE, the VIX is a key measure of the market expectations of near-term volatility conveyed by options on the S&P 500 Index.[34] ISE asserts that the Index provides a similar economic exposure as exposure to the VIX because it measures changes in implied volatility of SPY, which is a broad-based exchange-traded fund based on the price and yield of the stocks held in the SPY portfolio.[35] ISE therefore concludes that the Index should similarly be treated as broad-based by looking through to the exposure provided by the underlying reference.[36]

In its response letter, ISE also argues that the proposed Index options are not analogous to Alpha Index options.[37] In particular, ISE points out that Phlx's Alpha Index options involve the pairing of a single equity security or an exchange-traded fund that has a position limit against the SPY that has no position limit.[38] ISE believes that, because the pairing includes one security that has position limits, it does not follow that the combined new index should have no position limits.[39] In contrast, ISE believes that its proposal to apply no position limits to the Index options is appropriate.[40] Further, as discussed above, in Amendment No. 1, the Exchange provides additional information regarding the potential for manipulation of the settlement value of the Index and the additional surveillance measures that the Exchange will undertake with respect to the Index options.

IV. Proceedings To Determine Whether To Approve or Disapprove SR–ISE–2013–42 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B)[41] of the Act to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposed rule change.

Pursuant to Section 19(b)(2)(B),[42] the Commission is providing notice of the grounds for disapproval under consideration. The section of the Act applicable to the proposed rule change that provides the grounds for the disapproval (or approval) under consideration is Section 6(b)(5),[43] which requires that the rules of an exchange be designed, among other things, 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.

As discussed above, the proposed rule change would allow ISE to list and trade cash-settled, European-style options on the Index, which measures changes in implied volatility of the SPY. As proposed, the Index options would be treated as broad-based index options for purposes of position limits, exercise limits, and margin. Accordingly, ISE proposes no position or exercise limits for the Index options. In addition, the exercise and settlement value will be calculated on expiration Wednesday at 9:30 a.m. using the mid-point of the NBBO for the SPY options that compose the Index, a methodology that ISE states is unlike how other index settlement values are determined, as most of those are calculated based on transaction prices of the individual index components.[44] In Amendment No. 1, ISE asserts that manipulation of the Index would be very difficult, particularly around the time when the settlement value is determined.[45] The Exchange believes that manipulating the Index settlement value will be difficult based on the dynamics of a quote-based calculation methodology as opposed to a single transaction price and because the option prices themselves would make such an endeavor cost prohibitive. In addition, the Exchange contends that its surveillance procedures currently in place, coupled with the additional measures proposed in Amendment No. 1, would allow for adequate surveillance for any potential manipulation in the trading of the Index options.[46]

The Commission believes that questions remain as to whether the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act, including whether the proposed rules to allow the listing and trading of the Index options are designed to protect investors and the public interest and to prevent fraudulent and manipulative acts and practices. Thus, the Commission believes the issues raised by the proposed rule change can benefit from additional consideration and evaluation in light of the requirements of Section 6(b)(5) of the Act.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any others they may have identified with the proposal. In particular, the Commission invites the written views of interested

[29] *See id.*

[30] *See id.*

[31] *See id.*

[32] ISE notes that CBOE sought to designate the VIX as a broad-based index. *See* ISE Letter, *supra* note 6, at 1.

[33] *See id.,* at 2.

[34] *See id.*

[35] *See id.*

[36] *See id.*

[37] *See id.*

[38] *See id.*

[39] *See id.*

[40] *See id.,* at 2–3. *See also supra* note 19. In its response letter, ISE also states that ISE members are bound by the initial and maintenance margin requirements of either CBOE or the New York Stock Exchange. *See* ISE Letter, *supra* note 6, at 3. ISE clarifies that although CBOE has margin rules designed for individual stock- or ETF-based volatility index options, its proposal intends to require compliance with CBOE's margin rules applicable to broad-based index options rather than its specialized rules adopted for specified individual stock- or ETF-based volatility index options. *See id. See also* text accompanying *supra* note 19.

[41] 15 U.S.C. 78s(b)(2)(B).

[42] 15 U.S.C. 78s(b)(2)(B).

[43] 15 U.S.C. 78f(b)(5).

[44] *See* Amendment No. 1.

[45] *See id.*

[46] *See id.*

persons concerning whether the proposed rule change is consistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[47]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by November 27, 2013. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by December 11, 2013.

The Commission is asking that commenters address the merit of ISE's statements in support of the proposal. Specifically, the Commission is requesting comment on the following:

- What are commenters' views regarding whether the terms of the proposal sufficiently mitigate concerns about potential manipulation and potential market disruption to support trading this product without position limits?
- What are commenters' views regarding the settlement methodology for the Index options and the additional information the Exchange has provided to support its contention that manipulation of the Index would be very difficult, particularly around the time when the settlement value is determined?

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–ISE–2013–42 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–ISE–2013–42. 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–ISE–2013–42 and should be submitted on or before November 27, 2013. Rebuttal comments should be submitted by December 11, 2013.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[48]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–26552 Filed 11–5–13; 8:45 am]

BILLING CODE 8011–01–P

[47] Section 19(b)(2) of the Act, as amended by the Securities Acts Amendments of 1975, Public Law 94–29, 89 Stat. 97 (1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing and Urban Affairs to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[48] 17 CFR 200.30–3(a)(57).

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–26367]

Motor Carrier Safety Advisory Committee; Charter Renewal

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

ACTION: Announcement of advisory committee charter renewal.

SUMMARY: FMCSA announces the charter renewal of the MCSAC, a Federal Advisory Committee that provides the Agency with advice and recommendations on motor carrier safety programs and motor carrier safety regulations through a consensus process. This charter renewal will took effect on October 1, 2013, and will expire after 2 years.

FOR FURTHER INFORMATION CONTACT: Ms. Shannon L. Watson, Senior Advisor to the Associate Administrator for Policy, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 385–2395, *mcsac@dot.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FMCSA is giving notice of the charter renewal for the MCSAC. The MCSAC was established to provide FMCSA with advice and recommendations on motor carrier safety programs and motor carrier safety regulations.

The MCSAC is composed of 20 voting representatives from safety advocacy, safety enforcement, labor, and industry stakeholders of motor carrier safety. The diversity of the Committee ensures the requisite range of views and expertise necessary to discharge its responsibilities. The Committee operates as a discretionary committee under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. See FMCSA's MCSAC Web site for additional information about the committees activities at *http://mcsac.fmcsa.dot.gov/.*

Issued on: October 31, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–26545 Filed 11–5–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 290 (Sub-No. 349X)]

Norfolk Southern Railway Company—Abandonment Exemption—in St. Joseph County, Ind.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F–*Exempt Abandonments* to abandon a total of approximately 1.5 miles of rail line located in the City of

South Bend, St. Joseph County, Ind., extending easterly from milepost PY 1.90 (near the intersection of Prairie Ave. and Edward St.) to milepost PY 2.60/PM 181.80 (near Franklin St. and W Indiana Ave.), and from there southward to milepost PM 181.00 (to the west of W Woodside St.) (the Line). The Line traverses United States Postal Service Zip Codes 46613 and 46614.

NSR has certified that: (1) No local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years and that overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 6, 2013, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 18, 2013.[3] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 26, 2013, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Robert A. Wimbish, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

NSR has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by November 8, 2013. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by NSR's filing of a notice of consummation by November 6, 2014, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–26604 Filed 11–5–13; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,600. See 49 CFR 1002.2(f)(25).

[3] NSR states that it may not have fee title to the entire rights-of-way for the Line, which could affect future public use should NSR consummate the proposed abandonment.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35776]

Union Pacific Railroad Company—Operation Exemption—In Bexar and Wilson Counties, Tex.

Union Pacific Railroad Company (UP), a Class I rail carrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate as a rail common carrier over approximately 7,391 feet of track between milepost 16.1 and milepost 17.5 in Bexar and Wilson Counties, Tex. (the Line).

According to UP, the Line lies entirely within a right-of-way formerly occupied by a line of railroad that was abandoned in 1994 by UP's predecessor, the Southern Pacific Transportation Company. UP states that following the abandonment, the track and ties were removed but UP retained ownership of the right-of-way, which has not been used for any non-rail purposes.

According to UP, in 2012, it was approached by a potential customer, Frac Resources, LP (Frac Resources), interested in reinstating rail service on the Line, and, in order to facilitate rail service to its desired location on the Line, Frac Resources constructed 7,391 feet of track to reach its facility. UP states that as plans for rail service developed, the parties determined that the best course of action was for UP to operate the Line as a rail common carrier due primarily to the potential for additional customers on the Line. To this end, UP purchased the Line from Frac Resources.[1]

The earliest the transaction can be consummated is November 20, 2013, the effective date of the exemption (30 days after the exemption was filed).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than November 13, 2013 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35776, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In

[1] According to UP, at the time of the purchase the Line was properly classified either as excepted track pursuant to 49 U.S.C. 10906 or a private track outside the Board's jurisdiction. Thus, UP asserts that Board authority was not needed for UP to purchase the Line.

addition, a copy of each pleading must be served on Jeremy M. Berman, Union Pacific Railroad Company, 1400 Douglas St., STOP 1580, Omaha, NE 68179.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: October 31, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–26592 Filed 11–5–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service Bureau of the Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (Treasury) is announcing a new fee schedule applicable to transfers of U.S. Treasury book-entry securities maintained on the National Book-Entry System (NBES) that occur on or after January 2, 2014.

DATES: Effective January 2, 2014.

FOR FURTHER INFORMATION CONTACT: Kristina Yeh, Bureau of the Fiscal Service, 202–504–3550.

SUPPLEMENTARY INFORMATION: Treasury has established a fee structure for the transfer of Treasury book-entry securities maintained on NBES. Treasury reassesses this fee structure periodically based on our review of the latest book-entry costs and volumes.

For each Treasury securities transfer or reversal sent or received on or after January 2, 2014, the basic fee will be unchanged at $0.56. The Board of Governors of the Federal Reserve System (Federal Reserve) will increase its fee for Federal Reserve funds movement from $0.09 to $0.11. This will result in a combined fee of $0.67 for each transfer of Treasury book-entry securities. The surcharge for an off-line Treasury book-entry securities transfer will remain at $40.00. Off-line refers to the sending and receiving of transfer messages to or from a Federal Reserve Bank by means other than on-line access, such as by written, facsimile, or telephone voice instruction. The basic transfer fee assessed to both sends and receives is reflective of costs associated with the processing of securities transfers. The off-line surcharge reflects the additional processing costs associated with the manual processing of off-line securities transfers.

Treasury does not charge a fee for account maintenance, the stripping and reconstitution of Treasury securities, the wires associated with original issues, or interest and redemption payments. Treasury currently absorbs these costs.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on NBES. Information concerning fees for book-entry transfers of Government Agency securities, which are priced by the Federal Reserve, is set out in a separate **Federal Register** notice published by the Federal Reserve.

The following is the Treasury fee schedule that will take effect on January 2, 2014, for book-entry transfers on NBES:

TREASURY-NBES FEE SCHEDULE [1]

[Effective January 2, 2014 (in dollars)]

Transfer type	Basic fee	Off-line surcharge	Funds [2] movement fee	Total fee
On-line transfer originated	0.56	N/A	0.11	0.67
On-line transfer received	0.56	N/A	0.11	0.67
On-line reversal transfer originated	0.56	N/A	0.11	0.67
On-line reversal transfer received	0.56	N/A	0.11	0.67
Off-line transfer originated	0.56	40.00	0.11	40.67
Off-line transfer received	0.56	40.00	0.11	40.67
Off-line account switch received	0.56	0.00	0.11	0.67
Off-line reversal transfer originated	0.56	40.00	0.11	40.67
Off-line reversal transfer received	0.56	40.00	0.11	40.67

[1] Treasury does not charge a fee for account maintenance, the stripping and reconstituting of Treasury securities, the wires associated with original issues, or interest and redemption payments. Treasury currently absorbs these costs.

[2] The funds movement fee is not a Treasury fee, but is charged by the Federal Reserve for the cost of moving funds associated with the transfer of a Treasury book-entry security.

Authority: 31 CFR 357.45.

October 30, 2013.

Richard L. Gregg,

Fiscal Assistant Secretary.

[FR Doc. 2013–26561 Filed 11–5–13; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974; System of Records

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of Amendment to System of Records.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is amending the system of records currently entitled ''Veterans Appellate Records System—VA'' (44VA01) established at 40 FR 38095 (8/26/75) and revised at 53 FR 46741–03 (11/18/88), 56 FR 15663–03 (4/17/91), 63 FR 37941–02 (7/14/98), 66 FR 47725–02 (9/13/01), and 70 FR 6079–02, (2/4/05). VA is amending the system by revising the Storage and Retention and Disposal sections and adding six routine uses.

DATES: Comments on the amendment of this system of records must be received no later than December 6, 2013. If no public comment is received, the amended system will become effective December 6, 2013.

ADDRESSES: Written comments may be submitted through *www.Regulations.gov;* by mail or hand-delivery to: Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. All comments received will be available

for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Laura H. Eskenazi, Vice Chairman and Executive in Charge, Board of Veterans' Appeals (012), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–4603.

SUPPLEMENTARY INFORMATION: The Board of Veterans' Appeals (BVA, Board) proposes to make changes to the Storage and Retention and Disposal sections of this system of records to reflect current practice and add six routine uses.

Hearings are currently recorded digitally and the recordings stored indefinitely. Some facilities may still need to record hearings on audio tape. In those instances, the tapes are sent to the Wilkes-Barre VA facility, where they are transcribed and, as in the past, the tapes are maintained for one year from the date of the hearing, after which time they are destroyed.

The first new routine use will permit the release of information from this system of records to representatives and Veterans Service Organizations. The representative will have to be of record and the information released must pertain only to a client. Veterans Service Organizations at the Board will have computer access to the Veterans Appeals Control and Locator System records of their clients. They will not be able to read any other records and will not be able to alter the records of their clients'. Since representatives are entitled to access data pertaining to their clients, this computer access will save time and effort in the appropriate dissemination of this information.

The second new routine use will permit the Board to release information from this system of records to the Comptroller General, or his or her authorized representative, in the course of the performance of the duties of the United States General Accountability Office.

The third new routine use will permit disclosure of information to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for information relevant to DoJ's representation of the United States in legal proceedings, provided that such a release would be a use of the information that is compatible with the purposes for which the records were collected.

The fourth new routine use will permit the release of relevant information to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement and the information is necessary for the entities to complete their contractual obligations to VA.

The fifth new routine use permits disclosure to other Federal agencies to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their programs or operations.

The sixth new routine use permits VA to disclose information to appropriate agencies, entities, or persons when VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised, or the Department has determined that there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security of the system or other systems or programs.

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which the information was collected. In all of the routine use disclosures described above, the recipient of the information will use the information in connection with a matter relating to one of VA's programs, will use the information to provide a benefit to VA, or disclosure is required by law.

Approved: October 9, 2013.

Jose D. Riojas,

Chief of Staff, Department of Veterans Affairs.

SOR# 44VA01

SYSTEM NAME:

Veterans Appellate Records System-VA

SYSTEM LOCATION:

Board of Veterans' Appeals, Department of Veterans Affairs (VA), 810 Vermont Avenue NW., Washington, DC 20420, at the Wilkes-Barre VA facility, 1127 East End Boulevard, Building 42, Wilkes-Barre, PA 18702, and with the Board's contractor, Promisel & Korn, Inc., 3228 Amberley Lane, Fairfax, VA 22031.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Veterans, other appellants, Veterans Law Judges, Board staff attorneys and Members of Congress.

CATEGORIES OF RECORDS IN THE SYSTEM:

The computer database entitled Veterans Appeals Control and Locator System (VACOLS) is a part of this system and can include electronically attached copies of Board of Veterans' Appeals decisions and remands; personal information on appellants and contesting parties including names, addresses, identifying numbers, phone numbers, service dates and issues on appeal; names, addresses and phone numbers of representatives, powers of attorney and attorney fee agreements; information on and dates of procedural steps taken in claims; records of and electronic copies of correspondence concerning appeals; diary entries, notations of mail received, information requests; transcripts of hearings; tracking information as to file location and employee productivity information. Material in this system that is not maintained in VACOLS includes verbatim digital recordings of hearings that are maintained indefinitely, microfiche decision locator tables and indices to decisions from 1983 to 1994, and microfiche reels with texts of decisions from 1977 to 1989.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

38 U.S.C. 7101(a), 7104, 5904.

PURPOSE(S):

Initial decisions on claims for Federal Veterans' benefits are made at VA field offices throughout the nation. Claimants may appeal those decisions to the Board of Veterans' Appeals. See 38 U.S.C. Chapter 71. The Board gathers or creates the records in this system in order to carry out its appellate function, to statistically evaluate the appellate process, and to evaluate employee performance.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. Disclosure to law enforcement personnel and security guards may be made in order to alert them to the presence of dangerous persons in VA facilities or at VA activities conducted in non-VA facilities.

2. VA may disclose on its own initiative any information in this system, except the names and home addresses of Veterans and their dependents, which is relevant to a suspected or reasonably imminent violation of law, whether civil, criminal or regulatory in nature and whether arising by general or program statute or by regulation, rule or order issued pursuant thereto, to a Federal, State, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, regulation, rule or order. On

its own initiative, VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule or order issued pursuant thereto.

3. A record from this system of records may be disclosed to a Veteran, claimant or a third party claimant (e.g., a Veteran's survivors or dependents) to the extent necessary for the development of that claimant's claim for VA benefits.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made to the National Archives and Records Administration (NARA) in records management inspections conducted under authority of Title 44 U.S.C.

6. A record from this system (other than the address of the beneficiary) may be disclosed to a former representative of a beneficiary to the extent necessary to develop and adjudicate a claim for payment of attorney fees to such representative from past due benefits under 38 U.S.C. 5904(d).

7. Where VA determines that there is good cause to question the legality or ethical propriety of the conduct of a person or organization prospectively, presently or formerly representing a person in a matter before VA, a record from this system may be disclosed, on VA's initiative, to any or all of the following: (1) Applicable civil or criminal law enforcement authorities; (2) a person or entity responsible for the licensing, supervision, or professional discipline of the person or organization prospectively, presently or formerly representing a person in a matter before VA; (3) to other Federal and State agencies and to Federal courts when such information may be relevant to the individual's or organization's provision of representational services before such agency or court. Names and home addresses of Veterans and their dependents will be released on VA's initiative under this routine use only to Federal entities.

8. Disclosure may be made to the VA-appointed representative of an employee, including all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

9. Disclosure may be made to officials of the Merit Systems Protection Board, or the Office of Special Counsel, or both, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. Disclosure may be made to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices, examination of Federal affirmative employment programs, compliance with the Uniform Guidelines of Employee Selection Procedures, or other functions of the Commission as authorized by law or regulation.

11. VA may disclose to the Federal Labor Relations Authority (FLRA), including its General Counsel, information from this system related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or the resolution of exceptions to arbitration awards when a question of material fact is raised and to address matters properly before the Federal Services Impasses Panel, investigate representation petitions, and conduct or supervise representation elections.

12. Disclosure of information in this system of records may be made to the United States Court of Appeals for Veterans Claims when requested by the Court to further the performance of its duties as delineated in Chapter 72 of Title 38 of the United States Code Annotated with respect to any action brought under that chapter.

13. A record from this system may be disclosed to a Service Organization where the Service Organization is the representative of record of the subject of the records to be released.

14. As permitted by the Privacy Act at 5 U.S.C.A. § 552a(b)(10), the Board will release information from this system of records to the Comptroller General, or any of his or her authorized representatives, in the course of the performance of the duties of the United States General Accountability Office.

15. VA may disclose information from this system of records to the Department of Justice (DoJ), either on VA's initiative or in response to DoJ's request for the information, after either VA or DoJ determines that such information is relevant to DoJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DoJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

16. Disclosure of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform such services as VA may deem practicable for the purpose of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement.

17. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

18. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the potentially compromised information; and (3) the disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

Note: Any record maintained in this system of records, which may include

information relating to drug abuse, alcoholism or alcohol abuse, infection with the human immunodeficiency virus, or sickle cell anemia will be disclosed pursuant to an applicable routine use for the system only when permitted by 38 U.S.C. 7332.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is kept in a computer database entitled VACOLS and backed up on computer tape. Archived records that were created prior to expansion of the Board of Veterans' Appeals' electronic storage capability may be stored in filing folders or cabinets, microfiche, computer disks, or computer tape. Hearings before the Board are digitally recorded and stored indefinitely. Where a facility must use audio tape to record hearings, the recording is maintained for one year after which period it is destroyed. A transcript is made for each hearing held and is electronically attached to the record in VACOLS. Digital recordings of hearings are maintained on a back-up server. Under the Vital Records Schedule, electronic back-up tapes are updated quarterly. A back-up tape is transferred weekly to the Board's contractor for quick access back-up tape storage.

RETRIEVABILITY:

VACOLS records in this system may be retrieved by any searchable field in the VACOLS database. This system notice covers only information retrieved by an individual's name or other identifier. Archived material from this system that is not in VACOLS may be retrieved by Veteran's name, VA file number, or BVA archive citation number.

SAFEGUARDS:

Files are under custody of designated VA employees, including employees of the Board of Veterans' Appeals and its contractor, all of whom have a need to know the contents of the system of records in order to perform their duties. Access to VACOLS is strictly limited to reflect the need individual employees have for the different records in the system. Where a Veterans Service Organization office is located in a VA facility and has access to VACOLS through the Wide Area Network, that access is strictly limited to viewing records of current clients of the organization. No personal identifiers are used in statistical and management reports, and personal identifiers are removed from all archived Board of Veterans' Appeals decisions and other records in this system before VA makes them available to the public. Files kept by the contractor are in a locked safe in locked rooms in a secured building.

RETENTION AND DISPOSAL:

Records in this system, in VACOLS, and those collected prior to VACOLS' use as a repository are retained indefinitely as Category B Vital Records unless otherwise specifically noted. Under the Vital Records Schedule, electronic back-up tapes are destroyed by erasure upon receipt of the next quarterly tape set. Recordings of hearings will be made as described in Rule 714, 38 CFR 20.714, and transcriptions of recordings of hearings will be attached electronically in VACOLS. Electronic recordings of hearings will be retained for at least one year from the date of the hearing, giving the hearing subject the opportunity to challenge the accuracy of the transcript.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman (01), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420.

NOTIFICATION PROCEDURES:

An individual desiring to know whether this system of records contains a record pertaining to him or her, how she or he may gain access to such a record, and how she or he may contest the content of such a record may write to the following address: Privacy Act Officer (01C1), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420. The following information, or as much as is available, should be furnished in order to identify the record: Name of Veteran, name of appellant other than the Veteran (if any), and Department of Veterans Affairs file number. For information about hearing transcripts or tape recordings, also furnish the date, or the approximate date, of the hearing.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to information contained in this system of records may write or call the Board of Veterans' Appeals Freedom of Information Act Officer, whose address and telephone number are as follows: Freedom of Information Act Officer (01C1), Board of Veterans' Appeals, 810 Vermont Avenue NW., Washington, DC 20420.

CONTESTING RECORD PROCEDURES:

(See notification procedures above.)

RECORD SOURCE CATEGORIES:

VA Claims, insurance, loan guaranty, vocational rehabilitation, education, hospital records, and outpatient clinic records folders and associated folders; Board of Veterans' Appeals records; data presented by appellants and their representatives at hearings and in briefs and correspondence; and data furnished by Board of Veterans' Appeals employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 2013–26522 Filed 11–5–13; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Privacy Act of 1974

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice of a New System of Records.

SUMMARY: The Privacy Act of 1974 (5 U.S.C. 552(e) (4)) requires all agencies publish in the **Federal Register** a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is establishing a new system of records titled ''VA Mobile Application Environment (MAE)-VA'' (173VA005OP2).

DATES: Comments on this new system of records must be received no later than December 6, 2013. If no public comment is received during the period allowed for comment or unless otherwise published in the **Federal Register** by VA, the new system will become effective December 6, 2013.

ADDRESSES: Written comments concerning the proposed amended system of records may be submitted by: Mail or hand-delivery to Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue NW, Room 1068, Washington, DC 20420; fax to (202) 273–9026; or email to *http://www.Regulations.gov.* All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 for an appointment. (This is not a toll-free number.)

FOR FURTHER INFORMATION CONTACT: Veterans Health Administration (VHA) Privacy Officer, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or by telephone at (704) 245–2492.

SUPPLEMENTARY INFORMATION:

I. Description of Proposed Systems of Records

The MAE contains the core set of records to be used to support VA efforts to expand its technology into the mobile and Web-based application domain as well as facilitate utilization of applications and systems directly by patients and VA customers. The proposed system of records contains information on Veterans, Veteran beneficiaries, Veteran caregivers, members of the Armed Forces, and other VA customers in addition to VA-authorized users. VA-authorized users are VA employees, VA contractors, VA volunteers, and other individuals with permission to access VA Information Technology (IT) systems. These data are stored in VA resources, accessible to authorized users through applications utilizing services available in VA's MAE middle tier service layer (the VA Health Adapter). These records will be used in the provision of health care and benefits by VA. The records contain information that will be directly updated by Veterans, Veteran beneficiaries, Veteran caregivers, members of the Armed Forces, Reserves and National Guard, other VA customers, and VA-authorized users, such as demographics (e.g., name, social security number, physical address, phone number, email address), health-related information (e.g., vital signs, allergies, medications, health-related history, health assessments), benefits-related information, information provided to VA for the potential provision of services and benefits, military history and service, preferences for authorizing the sharing of their health information (e.g., electronic surrogate authorizations, electronic surrogate revocations). The records may include identifiers such as VA's integration control number. The records include information provided by Veterans and their beneficiaries or caregivers, members of the Armed Forces, Reserves or National Guard, VA employees, other VA-authorized users (e.g., Department of Defense), and information from VA computer systems and databases including, but not limited to, Veterans Health Information Systems and Technology Architecture (VistA)-VA (79VA10P2), National Patient Databases-VA (121VA10P2), VA Medical Centers (VAMC), Federal and non-Federal Veterans Lifetime Electronic Records (VLER)/eHealth Exchange partners, and the Department of Defense (DoD).

The purpose of the system of records is to provide a repository for the clinical and administrative information that is collected, retrieved, or displayed from within a VA mobile or Web application. The purpose of use will include, but not be limited to: Health care treatment information, disability adjudication, and benefits to the Veteran both within the VAMC and in sharing with partners who are participating through the eHealth Exchange in VA's Mobile pilots and subsequent public and enterprise roll-out of new applications. Data may also be used at an aggregate, non-personally identifiable level to track and evaluate local or national health and benefits initiatives and preventative-care measures, such as detecting outbreaks of flu or other diseases, detection of antibiotic resistance bacteria, etc. The data may be used for such purposes as scheduling patient treatment services, including nursing care, clinic appointments, surveys, diagnostic and therapeutic procedures. The data may also be used for the purpose of health care operations such as: Producing various management and patient follow-up reports; responding to patients and other inquiries for epidemiological research and other health care-related studies, statistical analysis, resource allocation and planning; providing clinical and administrative support to patient medical care; determining entitlement and eligibility for VA benefits; processing and adjudicating benefit claims by Veterans Benefits Administration Regional Office (VARO) staff, for audits, reviews, and investigations conducted by staff of VA Central Office, and VA's Office of Inspector General (OIG); sharing of health information between and among VHA, DoD, Indian Health Services (IHS), and other Government and private industry health care organizations; law enforcement investigations; quality assurance audits, reviews, and investigations; personnel management and evaluation; employee ratings and performance evaluations; and employee disciplinary or other adverse action, including discharge; advising health care professional licensing or monitoring bodies or similar entities of activities of VA and former VA health care personnel.

II. Proposed Routine Use Disclosures of Data in the System

To the extent that records contained in the system include information protected by 38 United States Code (U.S.C.) 7332 (e.g., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus). That information cannot be disclosed under a routine use unless there is also specific statutory authority permitting disclosure.

VHA is proposing the following routine use disclosures of information to be maintained in the system:

1. On its own initiative, VA may disclose information, except for the names and home addresses of Veterans and their dependents, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto. On its own initiative, VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto. VA must be able to comply with the requirements of agencies charged with enforcing the law and conducting investigations. VA must also be able to provide information to state or local agencies charged with protecting the public's health as set forth in state law.

2. Disclosure may be made to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an individual's eligibility, care history, or other benefits.

3. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia's government in response to its request or at the initiation of VA, in connection with disease tracking, patient outcomes, or other health information required for program accountability.

4. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress or a staff person acting for the Member, when the Member or staff person requests the record on behalf of and at the written request of the individual. Individuals sometimes request the help of a Member of Congress in resolving some issues relating to a matter before VA. The Member of Congress then writes to VA, and VA must be able to give sufficient information to give response to the inquiry.

5. Disclosure may be made to the National Archives and Records Administration (NARA) and the General Services Administration (GSA) in

records management inspections conducted under authority of Title 44, Chapter 29, of the United States Code. NARA and GSA are responsible for the management of old records no longer actively used, but which may be appropriate for preservation, and for the physical maintenance of the Federal Government's records. VA must be able to provide the records to NARA and GSA in order to determine the proper disposition of such records.

6. VA may disclose information from this system of records to the Department of Justice (DOJ), either on VA's initiative or in response to DOJ's request for the information, after either VA or DOJ determines that such information is relevant to DOJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

7. Records from this system of records may be disclosed to inform a Federal agency, licensing boards, or the appropriate non-Government entities about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients receiving medical care in the private sector or from another Federal agency.

8. Disclosure may be made to a national certifying body which has the authority to make decisions concerning the issuance, retention, or revocation of licenses, certifications or registrations required to practice a health care profession, when requested in writing by an investigator or supervisory official of the national certifying body for the purpose of making a decision concerning the issuance, retention, or revocation of the license, certification, or registration of a named health care professional. VA must be able to report information regarding the care a health care practitioner provides to a national certifying body charged with maintaining the health and safety of patients by making a decision about a health care professional's license, certification, or registration, such as issuance, retention, revocation, or other actions such as suspension.

9. Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

10. Disclosure may be made to the VA-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

11. VA may disclose information to officials of the Merit Systems Protection Board (MSPB) or the Office of Special Counsel (OSC), when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

12. VA may disclose information to the Equal Employment Opportunity Commission (EEOC) when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation. VA must be able to provide information to the Commission to assist it in fulfilling its duties to protect employees' rights, as required by statute and regulation.

13. VA may disclose to the Fair Labor Relations Authority (FLRA) (including its General Counsel) information related to the establishment of jurisdiction, the investigation and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised; to disclose information in matters properly before the Federal Services Impasse Panel (FSIP) and to investigate representation petitions and conduct or supervise representation elections. VA must be able to provide information to FLRA to comply with the statutory mandate under which it operates.

14. Disclosure of medical record data, excluding name and address, unless name and address are furnished by the requester, may be made to epidemiological and other research facilities for research purposes determined to be necessary and proper when approved in accordance with VA policy.

15. Disclosure of names and addresses of present or former personnel of the Armed Forces and/or their dependents, may be made to: (a) A Federal department or agency, at the written request of the head or designee of that agency; or (b) directly to a contractor or subcontractor of a Federal department or agency, for the purpose of conducting Federal research necessary to accomplish a statutory purpose of an agency. When disclosure of this information is made directly to a contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

16. Disclosures of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform the services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

17. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

18. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that, as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency), or disclosure is to agencies, entities, or persons whom VA determines are

reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

19. VA may disclose any information to another covered entity that is a Government agency administering a Government program providing public benefits if the programs serve the same or similar populations as VA, and the disclosure of information is necessary to coordinate the functions of such programs or to improve administration and management relating to the functions of such programs.

20. VA may disclose health care information to a non-VA health care provider, such as private health care providers or hospitals, DoD, or IHS providers, for the purpose of treating VA patients. To better facilitate medical care and treatment for Veterans, VA must be prepared to share health information between VHA, DoD, IHS, and other government health care organizations.

21. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in pending or reasonably anticipated litigation against the individual regarding health care provided during the period of his or her employment or contract with VA.

III. Compatibility of the Proposed Routine Uses

The Privacy Act permits VA to disclose information about individuals without their consent for a routine use when the information will be used for a purpose that is compatible with the purpose for which VA collected the information. In all of the routine use disclosures described above, either the recipient of the information will use the information in connection with a matter relating to one of VA's programs, to provide a benefit to the VA, or to disclose information as required by law.

Under section 264, Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Public Law 104–191, 100 Stat. 1936, 2033–34 (1996), the United States Department of Health and Human Services (HHS) published a final rule, as amended, establishing Standards for Privacy of Individually-Identifiable Health Information, 45 CFR Parts 160 and 164. VHA may not disclose individually identifiable health information (as defined in HIPAA and the Privacy Rule, 42 U.S.C. 1320(d)(6) and 45 CFR 164.501) pursuant to a routine use unless either: (a) the disclosure is required by law, or (b) the disclosure is also permitted or required by HHS' Privacy Rule. The disclosures of individually-identifiable health information contemplated in the routine uses published in this amended system of records notice are permitted under the Privacy Rule or required by law. However, to also have authority to make such disclosures under the Privacy Act, VA must publish these routine uses. Consequently, VA is publishing these routine uses and is adding a preliminary paragraph to the routine uses portion of the system of records notice stating that any disclosure pursuant to the routine uses in this system of records notice must be either required by law or permitted by the Privacy Rule, before VHA may disclose the covered information.

The notice of intent to publish and an advance copy of the system notice have been sent to the appropriate Congressional committees and to the Director, Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) (Privacy Act) and guidelines issued by OMB (65 FR 77677), December 12, 2000.

Approved: October 9, 2013.

Jose D. Riojas,

Chief of Staff, Department of Veterans Affairs.

173VA005OP2

SYSTEM NAME:

VA Mobile Application Environment (MAE)–VA

SYSTEM LOCATION:

Records are maintained at VA Contracted Service Provider, Terremark, at 18155 Technology Drive, Culpeper, VA 22701–3805.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The records contain information on Veterans, Veteran beneficiaries, Veteran caregivers, members of the Armed Forces, Reserves and National Guard, and other VA customers in addition to VA authorized users (e.g., VA employees, VA contractors, VA volunteers, and other individuals permitted VA have access to VA IT systems).

CATEGORIES OF RECORDS IN THE SYSTEM:

The records may include information related to data entered through Web and mobile applications developed and maintained by VA, accessed and updated by the individuals covered by the system as well as by VA-authorized users. The records may contain information, such as demographics (e.g., name, social security numbers, physical address, phone number, email address), health-related information (e.g., vital signs, allergies, medications, health-related history, health assessments), benefit-related information, information provided to VA for the potential provision of services and benefits, military history and services, preferences for authorizing the sharing of their health information (e.g., electronic surrogate authorizations, electronic surrogate revocations). The records may include identifiers such as VA's integration control number. The information will be primarily benefits and health-related but may include other information such as customer-entered updates to demographic information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 38, United States Code, Section 501.

PURPOSE(S):

The records and information will be used to provide a repository for the clinical and administrative information that is collected, retrieved, or displayed from within a VA mobile or Web application. The purpose of use will include, but not be limited to, health care treatment information, disability adjudication, and benefits to the Veteran both within the VA Medical Center and in sharing with partners who are participating through the eHealth Exchange in VA's Mobile pilots and subsequent public and enterprise roll-out of new applications. Data may also be used at an aggregate, non-personally identifiable level to track and evaluate local or national health and benefits initiatives and preventative-care measures, such as detecting outbreaks of flu or other diseases, detection of antibiotic resistance bacteria, etc. These data may be used for such purposes as scheduling patient treatment services, including nursing care, clinic appointments, surveys, diagnostic, and therapeutic procedures. These data may also be used for the purpose of health care operations, such as producing various management and patient follow-up reports; responding to patient and other inquiries; for epidemiological research and other health care-related studies; statistical analysis, resource allocation and planning; providing clinical and administrative support to patient medical care; determining entitlement and eligibility for VA

benefits; processing and adjudicating benefit claims by Veterans Benefits Administration Regional Office staff; for audits, reviews, and investigations conducted by staff of VA Central Office and VA's OIG; sharing of health information between and among VHA, DoD, IHS, and other Government and private industry health care organizations; law enforcement investigations; quality assurance audits, reviews, and investigations; personnel management and evaluation; employee ratings and performance evaluations; and employee disciplinary or other adverse action, including discharge; advising health care professional licensing or monitoring bodies or similar entities of activities of VA and former VA health care personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent that records contained in the system include information protected by 38 U.S.C. 7332, (e.g., medical treatment information related to drug abuse, alcoholism or alcohol abuse, sickle cell anemia or infection with the human immunodeficiency virus), that information cannot be disclosed under a routine use unless there is also specific statutory authority permitting disclosure.

1. On its own initiative, VA may disclose information, except for the names and home addresses of Veterans and their dependents, to a Federal, state, local, tribal, or foreign agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto. On its own initiative, VA may also disclose the names and addresses of Veterans and their dependents to a Federal agency charged with the responsibility of investigating or prosecuting civil, criminal, or regulatory violations of law, or charged with enforcing or implementing the statute, regulation, rule, or order issued pursuant thereto.

2. Disclosure may be made to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request), and to identify the type of information requested), when necessary to obtain information relevant to an individual's eligibility, care history, or other benefits.

3. Disclosure may be made to an agency in the executive, legislative, or judicial branch, or the District of Columbia's government in response to its request or at the initiation of VA, in connection with disease tracking, patient outcomes or other health information required for program accountability.

4. The record of an individual who is covered by a system of records may be disclosed to a Member of Congress, or a staff person acting for the Member, when the Member or staff person requests the record on behalf of and at the written request of the individual.

5. Disclosure may be made to NARA and GSA in records management inspections conducted under authority of Title 44, Chapter 29, of the United States Code.

6. VA may disclose information from this system of records to DOJ, either on VA's initiative or in response to DOJ's request for the information, after either VA or DOJ determines that such information is relevant to DOJ's representation of the United States or any of its components in legal proceedings before a court or adjudicative body, provided that, in each case, the agency also determines prior to disclosure that release of the records to DOJ is a use of the information contained in the records that is compatible with the purpose for which VA collected the records. VA, on its own initiative, may disclose records in this system of records in legal proceedings before a court or administrative body after determining that the disclosure of the records to the court or administrative body is a use of the information contained in the records that is compatible with the purpose for which VA collected the records.

7. Records from this system of records may be disclosed to inform a Federal agency, licensing boards, or the appropriate non-Government entities about the health care practices of a terminated, resigned, or retired health care employee whose professional health care activity so significantly failed to conform to generally-accepted standards of professional medical practice as to raise reasonable concern for the health and safety of patients receiving medical care in the private sector or from another Federal agency.

8. Disclosure may be made to a national certifying body which has the authority to make decisions concerning the issuance, retention, or revocation of licenses, certifications or registrations required to practice a health care profession, when requested in writing by an investigator or supervisory official of the national certifying body for the purpose of making a decision concerning the issuance, retention, or revocation of the license, certification, or registration of a named health care professional.

9. Disclosure may be made to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

10. Disclosure may be made to the VA-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee in connection with an examination ordered by VA under medical evaluation (formerly fitness-for-duty) examination procedures or Department-filed disability retirement procedures.

11. VA may disclose information to officials of MSPB or OSC, when requested in connection with appeals, special studies of the civil service and other merit systems, review of rules and regulations, investigation of alleged or possible prohibited personnel practices, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as authorized by law.

12. VA may disclose information to EEOC when requested in connection with investigations of alleged or possible discriminatory practices, examination of Federal affirmative employment programs, or for other functions of the Commission as authorized by law or regulation.

13. VA may disclose to FLRA (including its General Counsel) information related to the establishment of jurisdiction, investigation, and resolution of allegations of unfair labor practices, or information in connection with the resolution of exceptions to arbitration awards when a question of material fact is raised to disclose information in matters properly before the Federal Services Impasse Panel and to investigate representation petitions and conduct or supervise representation elections.

14. Disclosure of medical record data, excluding name and address, unless name and address is furnished by the requester, may be made to epidemiological and other research facilities for research purposes determined to be necessary and proper when approved in accordance with VA policy.

15. Disclosure of names and addresses of present or former personnel of the Armed Forces, and/or their dependents, may be made to: (a) a Federal department or agency, at the written request of the head or designee of that agency; or (b) directly to a contractor or subcontractor of a Federal department or agency, for the purpose of conducting

Federal research necessary to accomplish a statutory purpose of an agency. When disclosure of this information is made directly to a contractor, VA may impose applicable conditions on the department, agency, and/or contractor to ensure the appropriateness of the disclosure to the contractor.

16. Disclosures of relevant information may be made to individuals, organizations, private or public agencies, or other entities with whom VA has a contract or agreement or where there is a subcontract to perform the services as VA may deem practicable for the purposes of laws administered by VA, in order for the contractor or subcontractor to perform the services of the contract or agreement. This routine use includes disclosures by the individual or entity performing the service for VA to any secondary entity or individual to perform an activity that is necessary for individuals, organizations, private or public agencies, or other entities or individuals with whom VA has a contract or agreement to provide the service to VA.

17. Disclosure to other Federal agencies may be made to assist such agencies in preventing and detecting possible fraud or abuse by individuals in their operations and programs.

18. VA may, on its own initiative, disclose any information or records to appropriate agencies, entities, and persons when (1) VA suspects or has confirmed that the integrity or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of embarrassment or harm to the reputations of the record subjects, harm to economic or property interests, identity theft or fraud, or harm to the security, confidentiality, or integrity of this system or other systems or programs (whether maintained by the Department or another agency or disclosure is to agencies, entities, or persons whom VA determines are reasonably necessary to assist or carry out the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm. This routine use permits disclosures by the Department to respond to a suspected or confirmed data breach, including the conduct of any risk analysis or provision of credit protection services as provided in 38 U.S.C. 5724, as the terms are defined in 38 U.S.C. 5727.

19. VA may disclose any information to another covered entity that is a Government agency administering a Government program providing public benefits if the programs serve the same or similar populations as VA, and the disclosure of information is necessary to coordinate the functions of such programs or to improve administration and management relating to the functions of such programs.

20. VA may disclose health care information to a non-VA health care provider, such as private health care providers or hospitals, DoD, or IHS providers, for the purpose of treating VA patients.

21. VA may disclose information to a former VA employee or contractor, as well as the authorized representative of a current or former employee or contractor of VA, in pending or reasonably anticipated litigation against the individual regarding health care provided during the period of his or her employment or contract with VA.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on electronic storage media including magnetic tape, disk, and laser optical media.

RETRIEVABILITY:

Records may be retrieved by name, social security number, VA's integration control number, or other assigned identifiers of the individuals for whom they are maintained.

SAFEGUARDS:

1. Access to and use of national administrative databases, warehouses, and data marts are limited to those persons whose official duties require such access, and VA has established security procedures to ensure that access is appropriately limited. Information security officers and system data stewards review and authorize data access requests. VA regulates data access with security software that authenticates users and requires individually-unique codes and passwords. VA requires information security training for all staff and instructs staff on the responsibility each person has for safeguarding data confidentiality.

2. Physical access to computer rooms housing national administrative databases, warehouses, and data marts is restricted to authorized staff and protected by a variety of security devices. Unauthorized employees, contractors, and other staff are not allowed in computer rooms.

3. Data transmissions between operational systems and national administrative databases, warehouses, and data marts maintained by this system of record are protected by state-of-the-art telecommunication software and hardware. This may include firewalls, intrusion detection devices, encryption, and other security measures necessary to safeguard data as it travels across the VA-Wide Area Network.

4. In most cases, copies of back-up computer files are maintained at off-site locations.

RETENTION AND DISPOSAL:

Records from this system that are needed for audit purposes will be disposed of 6 years after a user's account becomes inactive. Routine records will be disposed of when the agency determines they are no longer needed for administrative, legal, audit, or other operational purposes. These retention and disposal statements are pursuant to NARA General Records Schedules GRS 20, item 1c and GRS 24, item 6a.

SYSTEM MANAGER(S) AND ADDRESS:

Official maintaining this system of records and responsible for policies and procedures is the Executive Director of VA Enterprise Infrastructure Engineering, VA Office of Information and Technology, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Official delegated to maintain this system of records on behalf of VA OIT is the Director of VA Connected Health, VHA Office of Informatics and Analytics, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420.

NOTIFICATION PROCEDURE:

Individuals who wish to determine whether this system of records contains information about them should contact the Director of VA Connected Health, VHA Office of Informatics and Analytics, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or via the Web at *http://mobilehealth.va.gov*. Inquiries should include the person's full name, social security number, and their return address.

RECORD ACCESS PROCEDURES:

Individuals seeking information regarding access to and contesting of records in this system may write the Director of VA Connected Health, VHA Office of Informatics and Analytics, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. Inquiries should, at a minimum, include the person's full name, social security number, type of information

requested or contested, their return address, and phone number.

CONTESTING RECORD PROCEDURES:

(See Record Access Procedures above.)

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by Veterans and their beneficiaries or caregivers, members of the Armed Services, Reserves or National Guard; VA employees, other VA-authorized users (e.g., DoD), and information from VA computer systems and databases include, but not limited to, Veterans Health Information Systems and Technology Architecture (VistA)-VA (79VA10P2) and National Patient Databases-VA (121VA10P2), VAMCs, Federal and non-Federal VLER/eHealth Exchange partners, and DoD.

[FR Doc. 2013–26520 Filed 11–5–13; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of State

22 CFR Part 41

Visas: Regulatory Exception to Permit Compliance With the United Nations Headquarters Agreement and Other International Obligations and Clarification of the Definition of ''Immediate Family'' for Certain Nonimmigrant Visa Classifications; Final Rule

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice 8511]

RIN 1400–AD43

Visas: Regulatory Exception to Permit Compliance With the United Nations Headquarters Agreement and Other International Obligations and Clarification of the Definition of ''Immediate Family'' for Certain Nonimmigrant Visa Classifications

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule creates a regulatory exception to visa restrictions under applicable laws providing for such an exception, in order to permit compliance with the Agreement between the United States and the United Nations Regarding the Headquarters of the United Nations (UNHQA), signed at Lake Success June 26, 1947, entered into force November 21, 1947, and other international obligations. This rule also clarifies that the Department of State's definition of ''immediate family'' for classifications and also applies to foreign government officials who may be admitted in immediate and continuous transit through the United States, and to all relevant NATO visa classifications under the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives, and International Staff, signed at Ottawa, September 20, 1951, entered into force May 18 1954.

DATES: This rule is effective November 6, 2013.

FOR FURTHER INFORMATION CONTACT: Jennifer Liu, Legislation and Regulations Division, Legal Affairs, Office of Visa Services, Bureau of Consular Affairs, Department of State, 2401 E Street NW., Room L–603D, Washington, DC 20520–0106, (202) 663–1203, email (*LiuJN@state.gov*).

SUPPLEMENTARY INFORMATION:

Why is the Department promulgating this rule?

This rule amends paragraph (d)(4) of 22 CFR 41.21, by broadening the regulatory exception to visa restrictions under applicable laws providing for such an exception, in order to allow compliance with the UNQHA and other international obligations. Currently, 22 CFR 41.21(d)(4) implements exceptions to the visa restrictions that are contained in the Tom Lantos Bloc Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (Pub. L. 110–286), in order to permit the United States to comply with the UNHQA and other applicable international agreements, and to permit operation of the U.S. and Burmese diplomatic missions and other official U.S. business in Burma. Other statutory visa restrictions contain similar exceptions, which the regulation does not currently implement. For example, the Secretary of State is also authorized to prescribe regulations providing for exceptions to the visa restrictions to permit the United States to comply with the UNHQA and other applicable international obligations under Section 105(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA) (Pub. L. 111–195) and Executive Order 13553, and Section 301(d) of the Iran Threat Reduction and Syria Human Rights Act of 2012 (ITRA) (Pub. L. 112–158) and Presidential Memorandum of October 9, 2012, 78 FR 21183 (Apr. 19, 2013). This rule amends 22 CFR 41.21(d) to implement exceptions to the visa restrictions contained in such legislation, to allow the United States to comply with UNHQA and other applicable international obligations. The term ''international obligations'' includes ''international agreements,'' and is used to cover the scope of exceptions authorized by ITRA and CISADA. This final rule retains the exception authorized by the JADE Act to permit operation of the U.S. and Burmese missions and other official U.S. business in Burma.

Additionally, this rule amends 22 CFR 41.21(a)(3) to clarify that, under the Agreement on the Status of the North Atlantic Treaty Organization, National Representatives, and International Staff, the definition of ''immediate family'' used for the classifications in INA 101(a)(15)(A) and 101(a)(15)(G) also applies to classifications under all the NATO visa symbols, where applicable. Similarly, this rule adopts the same definition of ''immediate family'' for purposes of INA 212(d)(8), which permits the admission of officials of foreign governments and their immediate families who are in immediate and continuous transit through the United States without regard to certain provisions of the INA.

Regulatory Findings

A. Administrative Procedure Act

The Department is publishing this rule as a final rule based on its determination that this regulation involves a foreign affairs function of the United States and, therefore, in accordance with 5 U.S.C. 553(a)(1), is not subject to the rule making procedures set forth at 5 U.S.C. 553.

B. Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth at sections 603 and 604 of the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule regulates individual aliens applying for visas under INA § 101(A)(15) and does not affect any small entities, as defined in 5 U.S.C. 601(6).

C. The Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48, codified at 2 U.S.C. 1532) generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of $100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

D. Small Business Regulatory Enforcement Fairness Act of 1996

This 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 (Pub. L. 104–121). This rule will 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 and import markets.

E. Executive Order 12866

The Department has reviewed this proposed rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866 and has determined that the benefits of this final regulation outweigh its costs. The Department does not consider this final rule to be an economically significant action within the scope of section 3(f)(1) of the Executive Order since it is not likely to have an annual effect on the economy

of $100 million or more or adversely affect in a material way the economy, a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities.

F. Executive Order 13563: Improving Regulation and Regulatory Review

The Department has considered this rule in light of Executive Order 13563 and affirms that this regulation is consistent with the guidance therein.

G. Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders No. 12372 and No. 13132.

H. Executive Order 12988: Civil Justice Reform

The Department has reviewed the regulations in light of sections 3(a) and 3(b)(2) of Executive Order No. 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

I. Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

J. Paperwork Reduction Act

This rule does not impose new information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Documentation of nonimmigrants.

Accordingly, for the reasons set forth in the preamble, the 22 CFR part 41 is amended as follows:

PART 41—[AMENDED]

■ 1. The authority citation for Part 41 continues to read as follows:

Authority: 8 U.S.C. 1104.

■ 2. In § 41.21, paragraphs (a)(3) and (d)(4) are revised to read as follows:

§ 41.21 Foreign Officials—General.

(a) * * *

(3) *Immediate family,* as used in INA 101(a)(15)(A), 101(a)(15)(G), and 212(d)(8), and in classification under the NATO visa symbols, means the spouse and unmarried sons and daughters, whether by blood or adoption, who are not members of some other household, and who will reside regularly in the household of the principal alien. ''Immediate family'' also includes individuals who:

(i) Are not members of some other household;

(ii) Will reside regularly in the household of the principal alien;

(iii) Are recognized as immediate family members of the principal alien by the sending Government as demonstrated by eligibility for rights and benefits, such as the issuance of a diplomatic or official passport, or travel or other allowances; and

(iv) Are individually authorized by the Department.

* * * * *

(d) * * *

(4) Notwithstanding the visa restrictions imposed by applicable laws and consistent with a provision in such laws providing for a regulatory exception to the visa restrictions contained therein, a visa may be issued to a visa applicant who is otherwise ineligible for a visa under such laws:

(i) To permit the United States to comply with the United Nations Headquarters Agreement and other applicable international obligations; and

(ii) To permit the United States and Burma to operate their diplomatic missions, and to permit the United States to conduct other official United States Government business in Burma.

* * * * *

Dated: September 26, 2013.

Janice L. Jacobs,

Assistant Secretary for Consular Affairs, Department of State.

[FR Doc. 2013–26590 Filed 11–5–13; 8:45 am]

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FEDERAL REGISTER

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Part III

The President

Executive Order 13653—Preparing the United States for the Impacts of Climate Change

Federal Register
Vol. 78, No. 215
Wednesday, November 6, 2013

Presidential Documents

Title 3—

The President

Executive Order 13653 of November 1, 2013

Preparing the United States for the Impacts of Climate Change

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to prepare the Nation for the impacts of climate change by undertaking actions to enhance climate preparedness and resilience, it is hereby ordered as follows:

Section 1. *Policy.* The impacts of climate change—including an increase in prolonged periods of excessively high temperatures, more heavy downpours, an increase in wildfires, more severe droughts, permafrost thawing, ocean acidification, and sea-level rise—are already affecting communities, natural resources, ecosystems, economies, and public health across the Nation. These impacts are often most significant for communities that already face economic or health-related challenges, and for species and habitats that are already facing other pressures. Managing these risks requires deliberate preparation, close cooperation, and coordinated planning by the Federal Government, as well as by stakeholders, to facilitate Federal, State, local, tribal, private-sector, and nonprofit-sector efforts to improve climate preparedness and resilience; help safeguard our economy, infrastructure, environment, and natural resources; and provide for the continuity of executive department and agency (agency) operations, services, and programs.

A foundation for coordinated action on climate change preparedness and resilience across the Federal Government was established by Executive Order 13514 of October 5, 2009 (Federal Leadership in Environmental, Energy, and Economic Performance), and the Interagency Climate Change Adaptation Task Force led by the Council on Environmental Quality (CEQ), the Office of Science and Technology Policy (OSTP), and the National Oceanic and Atmospheric Administration (NOAA). In addition, through the U.S. Global Change Research Program (USGCRP), established by section 103 of the Global Change Research Act of 1990 (15 U.S.C. 2933), and agency programs and activities, the Federal Government will continue to support scientific research, observational capabilities, and assessments necessary to improve our understanding of and response to climate change and its impacts on the Nation.

The Federal Government must build on recent progress and pursue new strategies to improve the Nation's preparedness and resilience. In doing so, agencies should promote: (1) engaged and strong partnerships and information sharing at all levels of government; (2) risk-informed decisionmaking and the tools to facilitate it; (3) adaptive learning, in which experiences serve as opportunities to inform and adjust future actions; and (4) preparedness planning.

Sec. 2. *Modernizing Federal Programs to Support Climate Resilient Investment.* (a) To support the efforts of regions, States, local communities, and tribes, all agencies, consistent with their missions and in coordination with the Council on Climate Preparedness and Resilience (Council) established in section 6 of this order, shall:

(i) identify and seek to remove or reform barriers that discourage investments or other actions to increase the Nation's resilience to climate change while ensuring continued protection of public health and the environment;

(ii) reform policies and Federal funding programs that may, perhaps unintentionally, increase the vulnerability of natural or built systems, economic sectors, natural resources, or communities to climate change related risks;

(iii) identify opportunities to support and encourage smarter, more climate-resilient investments by States, local communities, and tribes, including by providing incentives through agency guidance, grants, technical assistance, performance measures, safety considerations, and other programs, including in the context of infrastructure development as reflected in Executive Order 12893 of January 26, 1994 (Principles for Federal Infrastructure Investments), my memorandum of August 31, 2011 (Speeding Infrastructure Development through More Efficient and Effective Permitting and Environmental Review), Executive Order 13604 of March 22, 2012 (Improving Performance of Federal Permitting and Review of Infrastructure Projects), and my memorandum of May 17, 2013 (Modernizing Federal Infrastructure Review and Permitting Regulations, Policies, and Procedures); and

(iv) report on their progress in achieving the requirements identified above, including accomplished and planned milestones, in the Agency Adaptation Plans developed pursuant to section 5 of this order.

(b) In carrying out this section, agencies should also consider the recommendations of the State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience (Task Force) established in section 7 of this order and the National Infrastructure Advisory Council established by Executive Order 13231 of October 16, 2001 (Critical Infrastructure Protection in the Information Age), and continued through Executive Order 13652 of September 30, 2013 (Continuance of Certain Federal Advisory Committees).

(c) Interagency groups charged with coordinating and modernizing Federal processes related to the development and integration of both man-made and natural infrastructure, evaluating public health and social equity issues, safeguarding natural resources, and other issues impacted by climate change—including the Steering Committee on Federal Infrastructure Permitting and Review Process Improvement established by Executive Order 13604, the Task Force on Ports established on July 19, 2012, the Interagency Working Group on Coordination of Domestic Energy Development and Permitting in Alaska established by Executive Order 13580 of July 12, 2011, and the Federal Interagency Working Group on Environmental Justice established by Executive Order 12898 of February 11, 1994—shall be responsible for ensuring that climate change related risks are accounted for in such processes and shall work with agencies in meeting the requirements set forth in subsections (a) and (b) of this section.

Sec. 3. *Managing Lands and Waters for Climate Preparedness and Resilience.* Within 9 months of the date of this order and in coordination with the efforts described in section 2 of this order, the heads of the Departments of Defense, the Interior, and Agriculture, the Environmental Protection Agency, NOAA, the Federal Emergency Management Agency, the Army Corps of Engineers, and other agencies as recommended by the Council established in section 6 of this order shall work with the Chair of CEQ and the Director of the Office of Management and Budget (OMB) to complete an inventory and assessment of proposed and completed changes to their land- and water-related policies, programs, and regulations necessary to make the Nation's watersheds, natural resources, and ecosystems, and the communities and economies that depend on them, more resilient in the face of a changing climate. Further, recognizing the many benefits the Nation's natural infrastructure provides, agencies shall, where possible, focus on program and policy adjustments that promote the dual goals of greater climate resilience and carbon sequestration, or other reductions to the sources of climate change. The assessment shall include a timeline and plan for making changes to policies, programs, and regulations. Agencies shall build on efforts already completed or underway as outlined in agencies' Adaptation Plans, as discussed in section 5 of this order, as well as recent interagency climate adaptation strategies such as the *National Action Plan: Priorities for Managing*

Freshwater Resources in a Changing Climate, released October 28, 2011; the *National Fish, Wildlife and Plants Climate Adaptation Strategy,* released March 26, 2013; and the *National Ocean Policy Implementation Plan,* released April 16, 2013.

Sec. 4. *Providing Information, Data, and Tools for Climate Change Preparedness and Resilience.* (a) In support of Federal, regional, State, local, tribal, private-sector and nonprofit-sector efforts to prepare for the impacts of climate change, the Departments of Defense, the Interior, Agriculture, Commerce, Health and Human Services, Housing and Urban Development, Transportation, Energy, and Homeland Security, the Environmental Protection Agency, the National Aeronautics and Space Administration, and any other agencies as recommended by the Council established in section 6 of this order, shall, supported by USGCRP, work together to develop and provide authoritative, easily accessible, usable, and timely data, information, and decision-support tools on climate preparedness and resilience.

(b) As part of the broader open data policy, CEQ and OSTP, in collaboration with OMB and consistent with Executive Order 13642 of May 9, 2013 (Making Open and Machine Readable the New Default for Government Information), shall oversee the establishment of a web-based portal on ''Data.gov'' and work with agencies on identifying, developing, and integrating data and tools relevant to climate issues and decisionmaking. Agencies shall coordinate their work on these data and tools with relevant interagency councils and committees such as the National Science and Technology Council and those that support the implementation of Presidential Policy Directive–21 of February 12, 2013 (Critical Infrastructure Security and Resilience).

Sec. 5. *Federal Agency Planning for Climate Change Related Risk.* (a) Consistent with Executive Order 13514, agencies have developed Agency Adaptation Plans and provided them to CEQ and OMB. These plans evaluate the most significant climate change related risks to, and vulnerabilities in, agency operations and missions in both the short and long term, and outline actions that agencies will take to manage these risks and vulnerabilities. Building on these efforts, each agency shall develop or continue to develop, implement, and update comprehensive plans that integrate consideration of climate change into agency operations and overall mission objectives and submit those plans to CEQ and OMB for review. Each Agency Adaptation Plan shall include:

(i) identification and assessment of climate change related impacts on and risks to the agency's ability to accomplish its missions, operations, and programs;

(ii) a description of programs, policies, and plans the agency has already put in place, as well as additional actions the agency will take, to manage climate risks in the near term and build resilience in the short and long term;

(iii) a description of how any climate change related risk identified pursuant to paragraph (i) of this subsection that is deemed so significant that it impairs an agency's statutory mission or operation will be addressed, including through the agency's existing reporting requirements;

(iv) a description of how the agency will consider the need to improve climate adaptation and resilience, including the costs and benefits of such improvement, with respect to agency suppliers, supply chain, real property investments, and capital equipment purchases such as updating agency policies for leasing, building upgrades, relocation of existing facilities and equipment, and construction of new facilities; and

(v) a description of how the agency will contribute to coordinated interagency efforts to support climate preparedness and resilience at all levels of government, including collaborative work across agencies' regional offices and hubs, and through coordinated development of information, data, and tools, consistent with section 4 of this order.

(b) Agencies will report on progress made on their Adaptation Plans, as well as any updates made to the plans, through the annual Strategic

Sustainability Performance Plan process. Agencies shall regularly update their Adaptation Plans, completing the first update within 120 days of the date of this order, with additional regular updates thereafter due not later than 1 year after the publication of each quadrennial National Climate Assessment report required by section 106 of the Global Change Research Act of 1990 (15 U.S.C. 2936).

Sec. 6. *Council on Climate Preparedness and Resilience.*

(a) *Establishment.* There is established an interagency Council on Climate Preparedness and Resilience (Council).

(b) *Membership.* The Council shall be co-chaired by the Chair of CEQ, the Director of OSTP, and the Assistant to the President for Homeland Security and Counterterrorism. In addition, the Council shall include senior officials (Deputy Secretary or equivalent officer) from:

(i) the Department of State;

(ii) the Department of the Treasury;

(iii) the Department of Defense;

(iv) the Department of Justice;

(v) the Department of the Interior;

(vi) the Department of Agriculture;

(vii) the Department of Commerce;

(viii) the Department of Labor;

(ix) the Department of Health and Human Services;

(x) the Department of Housing and Urban Development;

(xi) the Department of Transportation;

(xii) the Department of Energy;

(xiii) the Department of Education;

(xiv) the Department of Veterans Affairs;

(xv) the Department of Homeland Security;

(xvi) the United States Agency for International Development;

(xvii) the Army Corps of Engineers;

(xviii) the Environmental Protection Agency;

(xix) the General Services Administration;

(xx) the Millennium Challenge Corporation;

(xxi) the National Aeronautics and Space Administration;

(xxii) the U.S. Small Business Administration;

(xxiii) the Corporation for National and Community Service;

(xxiv) the Office of the Director of National Intelligence;

(xxv) the Council of Economic Advisers;

(xxvi) the National Economic Council;

(xxvii) the Domestic Policy Council;

(xxviii) the Office of Management and Budget;

(xxix) the White House Office of Public Engagement and Intergovernmental Affairs;

(xxx) the United States Trade Representative; and

(xxxi) such agencies or offices as the President or Co-Chairs shall designate.

(c) *Administration.* CEQ shall provide administrative support and additional resources, as appropriate, for the Council to the extent permitted by law and within existing appropriations. Agencies shall assist and provide

information to the Council, consistent with applicable law, as may be necessary to carry out its functions. Each agency shall bear its own expenses for participating in the Council.

(d) *Council Structure.* The Co-Chairs shall designate a subset of members of the Council to serve on a Steering Committee, which shall help determine priorities and strategic direction for the Council. The Co-Chairs and Steering Committee may establish working groups as needed, and may recharter working groups of the Interagency Climate Change Adaptation Task Force, as appropriate.

(e) *Mission and Function of the Council.* The Council shall work across agencies and offices, and in partnership with State, local, and tribal governments (as well as the Task Force established in section 7 of this order), academic and research institutions, and the private and nonprofit sectors to:

(i) develop, recommend, coordinate interagency efforts on, and track implementation of priority Federal Government actions related to climate preparedness and resilience;

(ii) support regional, State, local, and tribal action to assess climate change related vulnerabilities and cost-effectively increase climate preparedness and resilience of communities, critical economic sectors, natural and built infrastructure, and natural resources, including through the activities as outlined in sections 2 and 3 of this order;

(iii) facilitate the integration of climate science in policies and planning of government agencies and the private sector, including by promoting the development of innovative, actionable, and accessible Federal climate change related information, data, and tools at appropriate scales for decisionmakers and deployment of this information through a Government-wide web-based portal, as described in section 4 of this order; and

(iv) such other functions as may be decided by the Co-Chairs, including implementing, as appropriate, the recommendations of the Task Force established in section 7 of this order.

(f) *Termination of the Interagency Climate Change Adaptation Task Force.* The Interagency Climate Change Adaptation Task Force (Adaptation Task Force), established in 2009, created the framework for coordinated Federal action on climate preparedness and resilience, driving agency-level planning and action. The Adaptation Task Force shall terminate no later than 30 days after the first meeting of the Council, which shall continue and build upon the Adaptation Task Force's work.

Sec. 7. *State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience.*

(a) *Establishment.* To inform Federal efforts to support climate preparedness and resilience, there is established a State, Local, and Tribal Leaders Task Force on Climate Preparedness and Resilience (Task Force).

(b) *Membership.* The Task Force shall be co-chaired by the Chair of CEQ and the Director of the White House Office of Intergovernmental Affairs. In addition, its members shall be such elected State, local, and tribal officials as may be invited by the Co-Chairs to participate. Members of the Task Force, acting in their official capacity, may designate employees with authority to act on their behalf.

(c) *Mission and Function.* Within 1 year of the date of this order, the Task Force shall provide, through its Co-Chairs, recommendations to the President and the Council for how the Federal Government can:

(i) remove barriers, create incentives, and otherwise modernize Federal programs to encourage investments, practices, and partnerships that facilitate increased resilience to climate impacts, including those associated with extreme weather;

(ii) provide useful climate preparedness tools and actionable information for States, local communities, and tribes, including through interagency collaboration as described in section 6 of this order; and

(iii) otherwise support State, local, and tribal preparedness for and resilience to climate change.

(d) *Sunset.* The Task Force shall terminate no later than 6 months after providing its recommendations.

Sec. 8. *Definitions.* As used in this order:

(a) ''preparedness'' means actions taken to plan, organize, equip, train, and exercise to build, apply, and sustain the capabilities necessary to prevent, protect against, ameliorate the effects of, respond to, and recover from climate change related damages to life, health, property, livelihoods, ecosystems, and national security;

(b) ''adaptation'' means adjustment in natural or human systems in anticipation of or response to a changing environment in a way that effectively uses beneficial opportunities or reduces negative effects; and

(c) ''resilience'' means the ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from disruptions.

Sec. 9. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with U.S. obligations under international agreements and applicable U.S. law, and be subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
November 1, 2013.

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