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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN 3206–AM14

Collection by Offset From Indebted Government Employees

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing final regulations to eliminate the 10-year statute of limitations on collection of debt by administrative offset, which includes centralized salary offset. The final regulations conform with an amendment made by the Food, Conservation, and Energy Act of 2008. This change would authorize the offset of nontax payments (via salary offset) to collect delinquent Federal debt without regard to the amount of time the debt has been delinquent. OPM is also making several technical changes to be consistent with the Department of the Treasury and the Department of Justice Federal Claims Collection Standards and the Department of the Treasury salary offset regulations.

DATES: *Effective date:* These regulations are effective on February 5, 2014.

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

SUPPLEMENTARY INFORMATION: On May 2, 2011, the U.S. Office of Personnel Management (OPM) issued proposed regulations (76 FR 24406) to eliminate the 10-year statute of limitations on collection of debt by administrative offset, which includes centralized salary offset. The proposed regulations conformed with an amendment to 31 U.S.C. 3716(e) made by section 14219 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246 (122 Stat. 1651)) that became effective on June 18, 2008, to authorize the offset of nontax payments (via salary offset) to collect delinquent Federal debt without regard to the amount of time the debt has been delinquent.

The 60-day comment period for the proposed regulations ended July 1, 2011. OPM received comments from one agency that concurred with changes in the proposed regulations. We also received comments from two labor organizations and two individuals. This supplementary information addresses these comments.

One labor organization appreciated that the proposed regulations were designed to conform to the statutory change authorizing the offset of nontax payments to collect Federal debt without time limitations. However, the labor organization believed the proposed regulations do not give sufficient clarification on the requirement for the creditor agency to notify employees about such a longstanding overdue debt. We agree. We have revised 5 CFR 550.1104(d) to specify the requirements for notification of employees for debts outstanding more than 10 years on or before June 11, 2009; see also the Department of the Treasury's salary offset regulations at 31 CFR 285.7(d)(7) for additional notification requirements.

The labor organization also questioned whether OPM should amend its own internal agency salary offset regulations at 5 CFR part 179, subpart B, which contains the obsolete 10-year limitation provision. This final regulation does not amend OPM's internal salary offset regulations at 5 CFR part 179, subpart B. Under 5 U.S.C. 5514 and 5 CFR 550.1104, each covered agency must issue regulations, subject to OPM approval, governing its internal procedures for collecting a debt by salary offset. OPM's internal salary offset regulations, as well as the internal salary offset regulations issued by other agencies, must be amended to reflect the changes made by these final regulations on or after the effective date of these regulations. OPM considers amendments to agency internal salary offset regulations in this case to be conforming changes. Agencies need not submit these conforming changes to OPM for approval prior to publication.

A different labor organization and an individual opposed the removal of the 10-year limit from the salary offset regulations. The labor organization stated the proposed regulations would allow agencies to be less accountable for clearing up mistakes in a timely fashion and expressed concerns that in some cases they could allow agencies to retaliate against employees and their exclusive representatives. The labor organization believed that the statute of limitations governing debt collection should be based upon the nature of actions of the agencies and the employees involved, and that, where an employee in good faith earned compensation that is later judged to be erroneously paid, there should be no more than a 6-year statute of limitations, consistent with the time limit under the Back Pay Act. The individual stated that there must be boundaries on salary offset rules and the Government should move swiftly to collect debt within a reasonable period of time.

OPM is not changing the regulations in response to these comments. Elimination of the 10-year limitation in OPM's regulations to authorize the offset of nontax payments (via salary offset) to collect delinquent Federal debt without regard to the amount of time the debt has been delinquent is required by changes made to 31 U.S.C. 3716(e) by the Food, Conservation, and Energy Act of 2008. OPM has no authority to establish a time limitation under regulations for collecting a debt via salary offset that is inconsistent with the law.

Another individual questioned the legality of the changes to § 550.1104 regarding deductions of greater than 15 percent of the employee's disposable pay, as it related to employee due process rights. We are not revising the regulations in response to this comment. Employees will continue to have notice and due process rights as provided in 5 U.S.C. 5514 and 5 CFR 550.1104 if a court orders deductions greater than 15 percent of pay.

Regulatory Flexibility Act

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

Executive Order 13563 and Executive Order 12866

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

List of Subjects in 5 CFR Part 550

Administrative practice and procedure, Claims, Government employees, Wages.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

Accordingly, OPM is amending 5 CFR part 550 as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart K—Collection by Offset From Indebted Government Employees

■ 1. The authority citation for subpart K of part 550 continues to read as follows:

Authority: 5 U.S.C. 5514; sec. 8(1) of E.O. 11609; redesignated in sec. 2–1 of E.O. 12107.

■ 2. In § 550.1102, revise paragraph (b)(1) and add a new paragraph (b)(3) to read as follows:

§ 550.1102 Scope.

* * * * *

(b) * * *

(1) *Excluded debts.* The procedures contained in this subpart do not apply to—

(i) Debts arising under the Internal Revenue Code (26 U.S.C. 1 *et seq.*);

(ii) Debts arising under the tariff laws of the United States;

(iii) Any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108); or

(iv) Any other debt excluded by the FCCS or 31 CFR part 285.

* * * * *

(3) *Compromise, suspension, or termination of collection actions.* This subpart does not preclude the compromise, suspension, or termination of collection actions, where appropriate, as provided in the FCCS (31 CFR 900.4) or the use of alternative dispute resolution methods if they are not inconsistent with agency-specific laws and regulations.

■ 3. In § 550.1103, revise the definition of ''FCCS'' to read as follows:

§ 550.1103 Definitions.

* * * * *

FCCS means the Federal Claims Collections Standards published in 31 CFR parts 900 through 904.

* * * * *

■ 4. In § 550.1104, revise paragraph (d) introductory text and paragraphs (d)(3), (i), and (j) to read as follows:

§ 550.1104 Agency regulations.

* * * * *

(d) *Notification before deductions begin.* Provide for notification before deductions begin. Except as provided in paragraph (c) of this section, deductions under the authority of 5 U.S.C. 5514 must not be made unless the head of the creditor agency (or authorized designee) provides the employee a written notice at least 30 days before any deduction begins. (For debts outstanding more than 10 years on or before June 11, 2009, see also 31 CFR 285.7(d) for additional notification requirements.) The written notice must state at a minimum:

* * * * *

(3) The frequency and amount of the intended deduction (stated as a fixed dollar amount or as a percentage of pay, not to exceed 15 percent of disposable pay except as provided in paragraph (i) of this section) and the intention to continue the deductions until the debt is paid in full or otherwise resolved;

* * * * *

(i) *Limitation on amount of deductions.* Prescribe the limitations on the amount of the deduction. Ordinarily, the size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay (see the FCCS at 31 CFR 901.8). However, the amount deducted for any period under this subpart may not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount or a higher deduction has been ordered by a court under section 124 of Public Law 97–276 (96 Stat.1195).

(j) *Duration of deductions.* Prescribe the duration of deductions under this subpart. Ordinarily, debts must be collected in one lump sum where possible. However, if the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposable pay (or other applicable limitation as provided in paragraph (i) of this section) for an officially established pay interval, collection must be made in installments. Such installment deductions must be made over a period not greater than the anticipated period of active duty or employment, as the case may be, except as provided in paragraphs (1) and (m) of this section.

* * * * *

■ 5. Revise § 550.1106 to read as follows:

§ 550.1106 Time limit on collection of debts.

Agencies may initiate salary offset to collect a debt without time limitations on any debt outstanding after the Government's right to collect the debt first accrued. (See § 550.1108 for requirement when debts are delinquent over 180 days.)

[FR Doc. 2013–31508 Filed 1–3–14; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206–AM98

Federal Employees' Group Life Insurance Program: Election Opportunities for Pathways Participants

AGENCY: U.S. Office of Personnel Management.

ACTION: Interim Final Rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing an interim final regulation to update the Federal Employees' Group Life Insurance (FEGLI) regulations to reflect updated election opportunities for participants in the Pathways Programs, which were designed to promote employment for students and recent graduates in the Federal workforce through internships with Federal agencies.

DATES: This interim final rule is effective February 5, 2014. Comments are due on or before March 7, 2014.

FOR FURTHER INFORMATION CONTACT: Ronald Brown, Policy Analyst, (202)606–0004, or by email to *Ronald.Brown@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is issuing an interim final regulation to reflect the FEGLI election opportunities authorized by Executive Order (E.O.) 13562 signed by the President on December 27, 2010. E.O. 13562 established the Internship Program and the Recent Graduates Program, which, along with the Presidential Management Fellows Program, as modified therein, became the Pathways Programs. This interim final rule updates 5 CFR 870.302(b)(2) to allow FEGLI election opportunities for participants in the

Pathways Programs as authorized by the final rule: ''Excepted Service, Career and Career-Conditional Employment; and Pathways Programs,'' 77 FR 28193 (May 11, 2012).

Changes

Students hired under an Internship Program, Recent Graduate Program, or Presidential Management Fellows (PMF) Program, collectively known as the Pathways Programs, and who are employed in an appointment for a period expected to last longer than 1 year are eligible for life insurance coverage, as long as they are expected to be in a pay status for at least one-third of the total period of time from the date of their initial appointment to the date of the completion of the Program. The regulations are being changed to reflect this enrollment opportunity. This change can be found in section 870.302(b)(2).

Waiver of Proposed Rulemaking

OPM has determined that it would be impracticable, unnecessary, and contrary to the public interest to delay putting the provisions of this interim final regulation in place until a public notice and comment process has been completed. Under section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.) a general notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. The FEGLI elections authorized by E.O. 13562 for students and recent graduates require immediate implementation to protect available election opportunities for enrollees and their eligible dependents.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects life insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

Accordingly, OPM is amending 5 CFR part 870 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

■ 1. The authority citation for 5 CFR part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604.

Subpart C—Eligibility

■ 2. Section 870.302(b)(2) is revised to read as follows:

§ 870.302 Exclusions.

* * * * *

(b) * * *

(2) An employee who is employed for an uncertain or purely temporary period, who is employed for brief periods or intervals, or who is expected to work less than 6 months in each year. Exception: an employee who receives an appointment of at least 1 year's duration as an Intern under § 213.3402(a) of this chapter and who is expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

* * * * *

[FR Doc. 2013–31505 Filed 1–3–14; 8:45 am]

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 890 and 894

RIN 3206–AM97

Federal Employees Health Benefits Program and Federal Employees Dental and Vision Insurance Program: Eligibility for Pathways Programs Participants

AGENCY: U.S. Office of Personnel Management.

ACTION: Interim Final Rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing an interim final regulation to update the Federal Employees Health Benefits Program (FEHBP) and the Federal Employees Dental and Vision Insurance Program (FEDVIP) regulations to reflect updated election opportunities for participants in the Pathways Programs. The Pathways Programs were created by Executive Order (E.O.) 13562, signed by the President on December 27, 2010, and are designed to enable the Federal Government to compete effectively for students and recent graduates by improving its recruitment efforts through internships and similar programs with Federal agencies. This interim final rule furthers these recruitment and retention efforts by providing health insurance, as well as dental and vision benefits, to eligible program participants and their families.

DATES: This interim final rule is effective February 5, 2014. Comments are due on or before March 7, 2014.

FOR FURTHER INFORMATION CONTACT: Ronald Brown, Policy Analyst, (202)606–0004, or by email to *Ronald.Brown@opm.gov.*

SUPPLEMENTARY INFORMATION: The Pathways Programs offer clear paths to civil service careers for recent graduates and provide meaningful training, mentoring, and career-development opportunities through internships and similar programs with Federal Government agencies. This interim final rule updates 5 CFR 890.303 and 5 CFR 894.302 to allow election opportunities for participants in these programs as authorized by the final rule: ''Excepted Service, Career and Career-Conditional Employment; and Pathways Programs,'' 77 FR 28193 (May 11, 2012). Accordingly, to provide essential healthcare benefits, and dental and vision benefits, and to further the recruitment and retention of talent by Federal agencies, OPM is issuing this rule to allow Pathways Programs participants to elect FEHBP and FEDVIP benefits.

Changes

(1) Executive Order 13562, Recruiting and Hiring Students and Recent Graduates, and implementing regulations provide employee benefits to eligible participants in the Federal Government internships known as the Pathways Programs. The Federal Employee Dental and Vision Insurance Program (FEDVIP), signed into law on December 23, 2004, established a dental benefits and vision benefits program for Federal employees, annuitants, and their eligible family members. The FEDVIP benefit is available to all eligible Federal employees and is a valuable tool to recruit and retain

students and recent graduates by allowing talented employees to participate in Government internships and similar programs. Similarly, eligibility to enroll in health benefits is a valuable tool that can be used as part of an overall plan to attract students and recent graduates interested in Federal careers and to successfully recruit and retain them. Accordingly, OPM is proposing to amend the existing Federal regulations to clarify that eligible employees in the Pathways Programs are eligible to elect FEDVIP benefits. Also, we are proposing to amend the FEHBP rules to clarify that Pathways Programs interns are eligible to elect FEHBP enrollment pursuant to authorities contained in Schedule D of the excepted service, a new schedule created by E.O. 13562 to make necessary exceptions to the competitive hiring rules. These changes can be found in 5 CFR 894.302(f) and 5 CFR 890.303(e)(2).

Waiver of Proposed Rulemaking

OPM has determined that it would be impracticable, unnecessary, and contrary to the public interest to delay putting the provisions of this interim final regulation in place until a public notice and comment process has been completed. Under section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 et seq.), a general notice of proposed rulemaking is not required when an agency, for good cause, finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. The expanded FEDVIP elections authorized by the Pathways Programs final rule require immediate implementation to protect available election opportunities for employees and their eligible dependents.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation only affects health insurance benefits of Federal employees and retirees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Parts 890 and 894

Administrative practice and procedure, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR chapter I as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.301 also issued under sec. 311 of Pub. L. 111–3, 123 Stat. 64; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; Sec. 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061.

Subpart C—Enrollment

■ 2. In § 890.303, revise paragraph (e)(2) to read as follows:

§ 890.303 Continuation of enrollment.

* * * * *

(e) * * *

(2) However, in the case of an employee who is employed under an OPM approved career-related work-study program under Schedule D of at least one year's duration and who is expected to be in a pay status during not less than one-third of the total period of time from the date of the first appointment to the completion of the work-study program, his/her enrollment continues while he/she is in nonpay status so long as he/she is participating in the work-study program.

* * * * *

PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

■ 3. The authority citation for part 894 is revised to read as follows:

Authority: 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604.

Subpart C—Eligibility

■ 4. In § 894.302, paragraph (f) is revised to read as follows:

§ 894.302(f) What is an excluded position?

* * * * *

(f) Expected to work fewer than six months in each year. *Exception:* you are eligible if you receive an appointment of at least one year's duration as an Intern under § 213.3402(a) of this chapter. To qualify, you must be expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

* * * * *

[FR Doc. 2013–31506 Filed 1–3–14; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0208; Directorate Identifier 2012–NM–204–AD; Amendment 39–17702; AD 2013–25–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 series airplanes. This AD was prompted by a determination that certain maintenance activities, such as repairs or the accumulation of paint layers, might cause the weight of an elevator to exceed the certified limits. This AD requires checking the weight of certain elevators, and corrective action if necessary; and re-identifying the elevators. We are issuing this AD to detect and correct elevators that exceed the certified weight limits, which could result in reduced control of the airplane.

DATES: This AD becomes effective February 10, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 10, 2014.

ADDRESSES: You may examine the AD on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0208;* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

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

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on March 11, 2013 (78 FR 15335). The NPRM proposed to correct an unsafe condition for the specified products.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0221, dated October 23, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It has been identified that maintenance activities, such as repairs or the accumulation of paint layers, may cause the weight of an elevator to exceed the certified limits.
> This condition, if not detected and corrected, could result in reduced control of the aeroplane.
> For the reasons described above, this [EASA] AD requires a onetime weight check of both left-hand (LH) and right-hand (RH) elevators, accomplishment of corrective actions, as applicable, depending on findings, and re-identification of the elevators.
> The monitoring of elevator weight evolution after having complied with this [EASA] AD is ensured by Airbus A318/A319/A320/A321 ALS Part 2 CDCCL (Critical Design Configuration Control Limitations), compliance with which is currently required by EASA AD 2010–0071R1 (*http://ad.easa.europa.eu/blob/easa_ad_2010_0071_R1.pdf/AD_2010-0071R1_1*), [which corresponds to FAA AD 2011–14–06, Amendment 39–16741 (76 FR 42024, July 18, 2011)].

Corrective action includes removing the paint from the elevator surface and repainting, or replacing the elevator with a serviceable elevator if the weight estimate is over the certified weight limit; and repairing the elevator. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0208-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Support for the NPRM (78 FR 15335, March 11, 2013)

US Airways stated it agrees with the NPRM (78 FR 15335, March 11, 2013) to ensure safety and has been actively weighing and applying new part numbers for over a year.

Request To Change Compliance Time Stipulation

Airbus requested we change paragraph (i) of the NPRM (78 FR 15335, March 11, 2013) to specify that the corrective action for an overweight elevator is required before further flight for that elevator and not for the airplane.

We agree with the commenter's request because the intent of the final rule is to prohibit flight with elevators that exceed the weight limit established in accordance with Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011. We have changed paragraph (i) in this final rule to state ''. . . Before further flight with an elevator that exceeds the weight limits established in Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011, repair . . . .''

Request To Allow Maintenance Record Check To Identify Affected Elevators

Delta Airlines (DAL) requested we revise the NPRM (78 FR 15335, March 11, 2013) to allow omitting the elevator weight check if a review of the airplane maintenance records shows that an affected elevator is not installed on the airplane.

We disagree with the commenter's request. This final rule does not specify a particular method of determining if an affected elevator is installed. Paragraph (c) of this final rule identifies the affected airplanes, and table 1 to paragraph (g) of this AD lists the affected elevator part numbers. Once an operator determines an affected elevator part number is not installed on an airplane in its fleet, the operator may record compliance with this AD for those airplanes and elevator part numbers. However, the operator is still subject to paragraph (l) of this AD, which prohibits installing the elevator part numbers listed in table 1 to paragraph (g) of this AD, unless the actions required by this AD are accomplished on the elevator before installation. We have not changed this final rule in this regard.

Request To Omit the Elevator Weight Check Under Certain Conditions

DAL requested we add a note to the NPRM (78 FR 15335, March 11, 2013) similar to a note in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011. DAL stated that elevator installation requires compliance with a critical design configuration control limitation (CDCCL) that requires weighing the elevator. DAL commented that the note states it is not necessary to weigh the elevator again if an elevator has previously been weighed for the CDCCL requirement and, since the elevator was weighed, no maintenance actions were carried out on it that could have led to an elevator weight increase.

We disagree with the commenter's request to add a note to this final rule. Paragraph (g)(1) of this AD already allows a records review if the elevator weight can be conclusively determined from review of maintenance records. We have not changed this final rule in this regard.

Request To Change Applicability

US Airways requested we change the applicability of the NPRM (78 FR 15335, March 11, 2013) from airplanes to all part numbers of affected elevators. US Airways stated that the NPRM should be a component AD, as the elevators are interchanged among the fleet, and AD applicability by manufacturer serial number (MSN) of the airplane could be confusing.

We disagree with the commenter's request. The FAA risk assessment was performed to determine corrective action(s) for mitigating the unsafe condition at an airplane level. Since the elevator parts are interchanged among the fleet, this final rule applicability at an airplane level will ensure discrepant elevator parts are identified and corrected. We have not changed this final rule in this regard.

Request for Clarification of Applicability

US Airways requested clarification as to why elevators having ''MPN D55280002002 & D55280002003'' are not included in the NPRM (78 FR 15335, March 11, 2013). US Airways stated that these elevators have a requirement for a weight check after any repair according to Component Maintenance Manual Manufacturer 55–21–15, Revision 13, dated January 1, 2013.

We agree to clarify. The purpose of this AD is to perform a one-time weight check of all elevators that are in service with no record of weight at the time of production. Airbus Modification 150390 installs a placard with the elevator weight during production. The two part numbers referenced by US Airways are installed in production by Airbus Modification 150390, and the configuration is maintained by CDCCL in Airbus A318/A319/A320/A321 Airworthiness Limitations Section Part 2—Damage-Tolerant Airworthiness Limitation Items. Therefore, the two part numbers are not included in this final rule. We have not changed this final rule in this regard.

Request To Approve Alternative Paints

US Airways requested we change the corrective actions in the NPRM (78 FR 15335, March 11, 2013) to reflect that primer paints called out in Structural Repair Manual 51–23–11, Page 10, Table 6, Sheet 3 (F1 area), are approved as alternate paints to apply to elevators that need to be re-painted. US Airways stated that Appendix 1, step (5)(b) and step (6) of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011, requires an external paint scheme and the primer materials called out in this service information are not readily available.

We disagree with the commenter's request. The commenter did not provide substantiation for an equivalent alternative to the primer material referenced in the service information in this final rule. The operator may apply for approval of an alternative method of compliance under the provisions of paragraph (m) of this final rule to use different primer material. We have not changed this final rule in this regard.

Request To Correct Typographical Error

DAL noted an error in paragraph (h)(2) of the NPRM (78 FR 15335, March 11, 2013), which should state ''than'' instead of ''that.''

Paragraph (h)(2) of the NPRM (78 FR 15335, March 11, 2013) stated ''For elevators other that those identified in . . . .'' We agree with the commenter's request and have changed paragraph (h)(2) of this final rule to state ''For elevators other than those . . . .''

Request To Revise Certain Terminology

Airbus requested we revise paragraph (i) of the NPRM (78 FR 15335, March 11, 2013) to use the word ''restore'' in lieu of ''repair.'' Airbus stated it considers the word ''restore'' to be more appropriate for the required actions (i.e., removal of paint layers).

We disagree with the commenter's request. The intent of word ''repair'' is to restore the structure/part to its original type design configuration. Therefore, replacing the word ''repair'' with ''restore'' may be misinterpreted. We have not changed this final rule in this regard.

Change to This Final Rule

We have changed the first compliance time specified in paragraph (i) of this AD from ''before further flight'' to ''within the applicable time specified in paragraph (h)(1) or (h)(2) of this AD.'' We have determined that this change will provide sufficient time to adequately address the identified unsafe condition.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 15335, March 11, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 15335, March 11, 2013).

Costs of Compliance

We estimate that this AD affects 755 products of U.S. registry. We estimate that it will take about 45 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $2,887,875, or $3,825 per product.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0208-0002;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–25–06 Airbus: Amendment 39–17702. Docket No. FAA–2013–0208; Directorate Identifier 2012–NM–204–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 10, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus airplanes, certificated in any category, listed in paragraphs (c)(1) through (c)(4) of this AD, all serial numbers.

(1) Model A318–111, –112, –121, and –122 airplanes.

(2) Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes.

(3) Model A320–111, –211, –212, –214, –231, –232, and –233 airplanes.

(4) Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Reason

This AD was prompted by a determination that certain maintenance activities, such as repairs or the accumulation of paint layers, might cause the weight of an elevator to exceed the certified limits. We are issuing this AD to detect and correct elevators that exceed certified weight limits, which could result in reduced control of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Weight Check

At the applicable time specified in paragraph (h)(1) or (h)(2) of this AD: Do a weight check on the elevators identified in table 1 to paragraph (g) of this AD. Do the weight check in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011, except as specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—AFFECTED PART NUMBERS (P/N)

Part name	P/N (first 12 digits only)
Left Hand Elevator	D55280001000
Left Hand Elevator	D55280001002
Left Hand Elevator	D55280001004
Left Hand Elevator	D55280001008
Left Hand Elevator	D55280001010
Left Hand Elevator	D55280001012
Left Hand Elevator	D55280002000
Right Hand Elevator	D55280001001
Right Hand Elevator	D55280001003
Right Hand Elevator	D55280001005
Right Hand Elevator	D55280001009
Right Hand Elevator	D55280001011
Right Hand Elevator	D55280001013

TABLE 1 TO PARAGRAPH (g) OF THIS AD—AFFECTED PART NUMBERS (P/N)—Continued

Part name	P/N (first 12 digits only)
Right Hand Elevator	D55280002001

(1) A review of the airplane maintenance records is acceptable in lieu of the weight check required by the introductory text of paragraph (g) of this AD, provided the elevator weight can be conclusively determined from that review.

(2) The use of elevator weight data from production, as specified in Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011, is acceptable in lieu of the weight check required by the introductory text of paragraph (g) of this AD, provided that the affected elevator has not been subjected to any maintenance action that could have modified the weight.

(3) Airplanes on which Airbus Modification 150390 has been embodied in production are not required to do the actions specified in the introductory text of paragraph (g) of this AD, provided that no elevator having a part number specified in table 1 to paragraph (g) of this AD has been installed on that airplane since the airplane's first flight.

(h) Compliance Time for the Actions Specified in Paragraphs (g) and (i) of This AD

(1) For an elevator for which, as of the effective date of this AD, the records show that no maintenance actions have been performed since first installation of the elevator on an airplane, which might have increased its weight: Within 72 months after the effective date of this AD.

(2) For elevators other than those identified in paragraph (h)(1) of this AD: Within 48 months after the effective date of this AD.

(i) Corrective Actions

If the elevator weight, determined as required by paragraph (g) of this AD, exceeds the weight limit specified in the Accomplishment Instructions of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011: Within the applicable time specified in paragraph (h)(1) or (h)(2) of this AD, do the applicable corrective actions followed by a new weight check of the elevator, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011. If the elevator weight, determined as required by the new weight check, exceeds the weight limit specified in the Accomplishment Instructions of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011: Before further flight with an elevator that exceeds the weight limits established in Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011, repair the elevator using a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA) (or its delegated agent).

(j) Elevator Re-Identification

If the elevator weight, determined by the weight check specified in paragraph (g) or (i) of this AD, does not exceed the weight limit specified in the Accomplishment Instructions of Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011: Within 72 months after the effective date of this AD, record the elevator weight and re-identify the elevator, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–55–1042, Revision 01, dated June 29, 2012.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (j) of this AD, if those actions were performed before the effective date of this AD using Airbus Service Bulletin A320–55–1042, dated August 19, 2011, which is not incorporated by reference in this AD.

(l) Parts Installation Limitation

As of the effective date of this AD, no person may install on any airplane an elevator with a part number listed in table 1 to paragraph (g) of this AD, unless that elevator is in compliance with the requirements of this AD.

(m) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(n) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2012–0221, dated

October 23, 2012, for related information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0208-0002.*

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

(o) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–55–1034, including Appendices 1 and 2, dated August 19, 2011.

(ii) Airbus Service Bulletin A320–55–1042, Revision 01, dated June 29, 2012.

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

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

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

Issued in Renton, Washington, on December 4, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–31527 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0540; Directorate Identifier 2012–NM–185–AD; Amendment 39–17721; AD 2013–26–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2009–14–02 for certain The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes. AD 2009–14–02 required repetitive inspections for wear damage and cracks of the fuselage skin in the interface area of the vertical stabilizer seal and fuselage skin, a detailed inspection for wear damage and cracks of the surface of any skin repair doubler in the area, and corrective actions if necessary. For airplanes on which the fuselage skin has been blended to remove wear damage, AD 2009–14–02 also required repetitive external detailed inspections or high frequency eddy current inspections for cracks of the blended area of the fuselage skin, and corrective actions if necessary. This new AD reduces the repetitive inspection interval, changes certain corrective actions, and expands the applicability. This AD was prompted by a report of wear through the fuselage skin that occurred sooner than the previous repetitive inspection interval. We are issuing this AD to detect and correct wear damage and cracks of the fuselage skin in the interface area of the vertical stabilizer seal and fuselage skin in sections 46 and 48, which could cause in-flight depressurization of the airplane.

DATES: This AD is effective February 10, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 10, 2014.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0540; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *Bill.Ashforth@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009). AD 2009–14–02 applied to the specified products. The NPRM published in the **Federal Register** on July 3, 2013 (78 FR 40050). The NPRM proposed to continue to require repetitive inspections for wear damage and cracks of the fuselage skin in the interface area of the vertical stabilizer seal and fuselage skin, a detailed inspection for wear damage and cracks of the surface of any skin repair doubler in the area, and corrective actions if necessary. For airplanes on which the fuselage skin has been blended to remove wear damage, AD 2009–14–02 also required repetitive external detailed inspections or high frequency eddy current inspections for cracks of the blended area of the fuselage skin, and corrective actions if necessary. That NPRM also proposed to reduce the repetitive inspection interval, change certain corrective actions, and expand the applicability.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (78 FR 40050, July 3, 2013) and the FAA's response to each comment.

Request To Modify Paragraph Title

Boeing requested we revise the terminating action title of paragraph (i) of the NPRM (78 FR 40050, July 3, 2013) by removing the word ''Optional.'' Boeing stated that Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, specifies that if any crack is found or if wear damage is greater than the limit allowed, rub strips must be installed in accordance with Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011. Boeing commented that in this case, the terminating action is not optional.

We do not agree with the commenter's request. We agree that in cases where any damage is found outside the limits allowed by Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, rub strips are required to be installed as described in that service bulletin.

We disagree with removing the word ''optional'' in the title of paragraph (i) of this final rule, because the current wording in paragraphs (g) and (h) of this final rule requires the operators to do all applicable corrective actions in accordance with, and at the compliance times specified in, Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. This wording in paragraphs (g) and (h) of this final rule requires installing rub strips as described in Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, before further flight if the damage is found to be outside the limits permitted as described in the service repair manual (SRM). Paragraph (i) of this final rule is provided to give the operators the option to install the rub strips as described in Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, at any time. Doing the installation of the rub strips in accordance with Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, is a terminating action for the work given in Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, at the locations of the rub strip installation only. We have not changed this final rule in this regard.

Requests To Reference Revised Service Information and Add Credit for Previous Actions

Boeing and All Nippon Airways (ANA) requested we revise paragraphs (i) and (j)(3) of the NPRM (78 FR 40050, July 3, 2013) to reference the latest revision level of the referenced service information, which is Boeing Service Bulletin 747–53–2721, Revision 3, dated June 25, 2013.

Boeing requested we revise paragraph (k)(2) of the NPRM (78 FR 40050, July 3, 2013) to give credit for actions done prior to the effective date of this AD using Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011.

We agree with the commenters' requests. Boeing Service Bulletin 747–53–2721, Revision 3, dated June 25, 2013, clarifies the post-modification and post-repair inspection requirements and transfers post-repair inspection instructions from the SRM and repair assessment guidelines to this service bulletin for airplanes that have the zone 1 full length repair installed. We have changed paragraphs (i) and (j)(3) of this final rule to reference Boeing Service Bulletin 747–53–2721, Revision 3, dated June 25, 2013.

We also have added Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, to paragraph (k) of this final rule to provide credit for the actions specified in paragraph (i) of this final rule, if the corresponding actions were performed before the effective date of this final rule using this service bulletin. We revised paragraph (k) by adding subparagraphs (k)(2)(i) through (iii).

Request To Withdraw the NPRM (78 FR 40050, July 3, 2013)

Qantas Airways Limited (QAN) requested that we allow it to continue with the inspection program mandated in AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), as an alternative method of compliance (AMOC) to the actions specified in the NPRM (78 FR 40050, July 3, 2013). The FAA interprets this as a request to withdraw the NPRM and not supersede AD 2009–14–02. QAN commented that it understands the FAA's concern over the report of wear damage at earlier times than the AD 2009–14–02 inspection mandates. QAN stated that its fleet utilization and related extensive service experience with robust data collection on repetitive inspection results since the AD 2009–14–02 compliance period commenced support the adequacy of the repetitive inspection interval of 7,500 flight hours in AD 2009–14–02. QAN also stated that minor wear damage in its fleet remains under SRM-allowable rework limits.

We do not agree with the commenter's request. The service and analytical data from the airplane manufacturer do not support the request to keep the current mandated repetitive inspection thresholds required by AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009). An operator has reported wear through the fuselage skin between body station (STA) 2598 and STA 2638, stringers S–2L to S–3L. The wear developed in less than 3,657 flight hours since the previous inspection, which was less than the repetitive inspection interval given in Boeing Alert Service Bulletin 747–53A2478, Revision 2, dated July 15, 2010. The wear occurred through both the Teflon-filled coating and the full thickness of the 0.050-inch-thick skin to create a hole approximately 16 inches in length.

In developing the compliance times for this final rule, we considered not only the safety implications of the identified unsafe condition, but the average utilization rate of the affected fleet and the practical aspects of an orderly inspection, repair, and modification of the fleet during regular maintenance periods. We have considered the commenter's request, and we have concluded that the proposed repetitive compliance times remain appropriate. However, under the provisions of paragraph (l) of this AD, we may consider requests for approval of an AMOC if sufficient data are submitted to substantiate that an alternative inspection plan would provide an acceptable level of safety. We have not changed this final rule in this regard.

Request for Clarification of Compliance Time

QAN requested clarification on the rate of wear damage and the compliance times specified in the NPRM (78 FR 40050, July 3, 2013). QAN noted that on the airplanes that have not started the inspections described in Boeing Alert Service Bulletin 747–53A2478, Revision 2, dated July 15, 2010, the compliance time for the initial inspection is 20,000 total flight hours. QAN also noted that, on the airplanes that have started the inspections described in Boeing Alert Service Bulletin 747–53A2478, Revision 2, dated July 15, 2010, the initial inspection compliance time is reduced to 2,000 or 3,000 flight hours, depending on the condition. QAN stated that, based on the inspection program in AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), it understands that the rate at which the wear damage develops is a primary concern to the FAA.

We agree to clarify. We agree with QAN that the AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), inspection program rate at which the wear damage developed is a primary concern because at least one operator has reported wear through the fuselage skin in less than 3,657 flight hours after a mandatory inspection, but before the specified repetitive inspection interval of 7,500 flight hours or 6,000 flight hours. However, we do not agree with the commenter that the 20,000-total-flight-hour threshold is reduced. Rather, the initial inspection threshold of 2,000 flight hours is not a reduced threshold as the commenter implied, but is instead a required time by which additional inspections must resume if any inspection has already been accomplished. With the service and analytical data from the airplane manufacturer, a new repetitive inspection program is required, as specified in Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. The compliance

time depends on when operators have previously inspected their airplanes and the condition of the fuselage skin.

We disagree with QAN that AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), has an adequate mandated repetitive interval because service history has shown defects reported before the AD 2009–14–02 mandatory repetitive inspection interval. We have not changed this final rule in this regard.

Additional Change to This AD

We have revised the Exceptions to Service Information, paragraph (j)(3) of this final rule, to include Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 40050, July 3, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 40050, July 3, 2013).

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

Costs of Compliance

We estimate that this AD affects 917 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection [actions retained from AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009)].	12 work-hours × $85 per hour = $1,020.	$0	$1,020	$935,340.
Inspection and application of BMS 10–86 Teflon-filled coating [actions retained from AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009)].	8 work-hours × $85 per hour = $680 per inspection cycle.	$0	$680 per inspection cycle.	$623,560 per inspection cycles.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), and adding the following new AD:

2013–26–12 The Boeing Company: Amendment 39–17721; Docket No. FAA–2013–0540; Directorate Identifier 2012–NM–185–AD.

(a) Effective Date

This AD is effective February 10, 2014.

(b) Affected ADs

This AD supersedes AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009).

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP series airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of wear through the fuselage skin that occurred sooner than the previous repetitive inspection interval. We are issuing this AD

to detect and correct wear damage and cracks of the fuselage skin in the interface area of the vertical stabilizer seal and fuselage skin in sections 46 and 48, which could cause in-flight depressurization of the airplane.

(f) Compliance

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

(g) Repetitive Detailed Inspection

At the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, except as specified in paragraph (j)(1) of this AD: Do a detailed inspection of the fuselage skin and any skin repair doubler surface for wear damage and cracking at the vertical stabilizer seal interface, apply Boeing Material Specifications (BMS) 10–86 Teflon-filled coating, and do all applicable corrective actions, except as specified in paragraph (j)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. Do all applicable corrective actions at the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. Repeat the detailed inspection thereafter at intervals not to exceed the applicable repetitive interval specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, except as specified in paragraph (j)(2) of this AD. The effective date of AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), is August 3, 2009. Doing the installation of the rub strips in accordance with Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, is a terminating action for the work given in Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, at the locations of the rub strip installation only.

(h) Repetitive High Frequency Eddy Current (HFEC) Inspections

For airplanes on which the skin is blended forward of station 2360 without external reinforcement: At the applicable compliance time specified in Table 4 in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, do an external surface HFEC inspection of the blended area of the fuselage skin and the surface of any repair doubler for cracks, apply BMS 10–86 Teflon-filled coating, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. Do all applicable corrective actions at the applicable compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. Repeat the HFEC inspection thereafter at intervals not to exceed the compliance time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011. The effective date of AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009) is August 3, 2009. Doing the installation of the rub strips in accordance with Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, is a terminating action for the work given in Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, at the locations of the rub strip installation only.

(i) Optional Terminating Action

Installation of corrosion resistant steel (CRES) rub strips in accordance with Boeing Service Bulletin 747–53–2721, Revision 3, dated June 25, 2013, except as specified in paragraph (j)(3) of this AD, is terminating action for the inspections specified in paragraphs (g) and (h) of this AD at the locations of the CRES rub strip installations only.

(j) Exceptions to Service Information

(1) Where Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, specifies a compliance time after the ''Revision 3 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, is not a requirement of this AD.

(3) Where Boeing Service Bulletin 747–53–2721, Revision 3, dated June 25, 2013, and Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011, specify to contact Boeing for a modification or for instructions: Before further flight, contact the FAA for instructions using a method approved in accordance with the procedures specified in paragraph (l) of this AD, and accomplish those instructions.

(k) Credit for Previous Actions

(1) This paragraph provides credit for the actions specified in paragraph (g) of this AD, if the corresponding actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 747–53A2478, Revision 1, dated March 27, 2008; or Boeing Service Bulletin 747–53A2478, Revision 2, dated July 15, 2010. This service information is not incorporated by reference in this AD.

(2) This paragraph provides credit for the actions specified in paragraph (i) of this AD, if the corresponding actions were performed before the effective date of this AD using the service bulletins specified in paragraph (k)(2)(i), (k)(2)(ii), or (k)(2)(iii) of this AD.

(i) Boeing Service Bulletin 747–53–2721, dated May 28, 2009, which is not incorporated by reference in this AD.

(ii) Boeing Service Bulletin 747–53–2721, Revision 1, dated June 24, 2010, which is not incorporated by reference in this AD.

(iii) Boeing Service Bulletin 747–53–2721, Revision 2, dated March 17, 2011, which is not incorporated by reference in this AD.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) Installation of CRES rub strips approved as AMOCs for AD 2009–14–02, Amendment 39–15951 (74 FR 30919, June 29, 2009), are approved as AMOCs for this AD.

(m) Related Information

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *Bill.Ashforth@faa.gov.*

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

(n) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–53A2478, Revision 3, dated October 17, 2011.

(ii) Boeing Service Bulletin 747–53–2721, Revision 3, dated June 25, 2013.

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

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

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

Issued in Renton, Washington, on December 20, 2013.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–31312 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–1108; Directorate Identifier 2011–NM–283–AD; Amendment 39–17700; AD 2013–25–04]

RIN 2120–AA64

Airworthiness Directives; Embraer S.A. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Embraer S.A. Model ERJ 170 and ERJ 190 airplanes. This AD was prompted by reports of failures of the emergency slide on the forward passenger door, which prevented the door from opening. This AD requires repetitive re-packing of certain forward door escape slides. We are issuing this AD to prevent failure of the emergency slide, which can prevent the forward passenger door from opening, and which could result in impeded emergency evacuation and possible subsequent injury to passengers and flightcrew.

DATES: This AD becomes effective February 10, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 10, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2012-1108;* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For Embraer service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com*. For Goodrich service information identified in this AD, contact Goodrich Corporation, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, Arizona 85040; telephone 602–243–2270; email *george.yribarren@goodrich.com;* Internet *http://www.goodrich.com/TechPubs*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2768; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on October 25, 2012 (77 FR 65144). The NPRM proposed to correct an unsafe condition for the specified products. The Agência Nacional de Aviação Civil (ANAC), which is the aviation authority for Brazil, has issued Brazilian Airworthiness Directives 2011–12–01 and 2011–12–02, both effective December 27, 2011 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. MCAI Brazilian Airworthiness Directive 2011–12–01 states:

> During operational checks of escape slide P/N [part number] 4A4030–5, some operators have reported failure in the escape slide preventing the forward passenger door opening. This [Brazilian] AD is being issued to prevent failure of this system which could impede an emergency evacuation and increase the chance of injury to passengers and flight crew.

* * * * *

MCAI Brazilian Airworthiness Directive 2011–12–02 states:

> During scheduled deployment tests of escape slide P/N 104003–2, some operators have reported failure in the escape slide preventing the forward passenger door opening. This [Brazilian] AD is being issued to prevent failure of this system which could impede an emergency evacuation and increase the chance of injury to passengers and flight crew.

* * * * *

The required action is repetitive re-packing of certain forward door escape slides. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2012-1108-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comments received.

Request to Reference Newer Revisions of Service Information

Embraer requested that paragraphs (h), (j)(1)(i), and (j)(1)(ii) of the NPRM (77 FR 65144, October 25, 2012) reference newer revisions of the maintenance review board reports. These new revisions are EMBRAER 170/175 Maintenance Review Board Report, MRB–1621, Revision 8, dated August 20, 2012; and EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 6, dated August 20, 2012.

We agree to revise paragraph (h) of this final rule to also reference the newer revisions. However, paragraphs (j)(1)(i) and (j)(1)(ii), along with paragraphs (j)(1)(iii), (j)(1)(iv), and (j)(2) of the NPRM (77 FR 65144, October 25, 2012), were removed from this final rule and are identified in the Incorporation by Reference section (paragraph (k) of this final rule).

Request To Add Alternative Maintenance Instructions for Model ERJ 190–100 ECJ Airplanes

Embraer requested that the NPRM (77 FR 65144, October 25, 2012) reference Task 25–65–01–001, Emergency Evacuation Slide Assembly, in EMBRAER Lineage 1000 Maintenance Planning Guide, MPG–2928, Revision 3, dated September 28, 2012 (for Model ERJ 190–100 ECJ airplanes), instead of Section 1, ''System and Powerplant Maintenance Requirements,'' of EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010. Task 25–65–01–001 of the EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 6, dated August 20, 2012; and Task 25–65–01–001 of Section 1, ''System and Powerplant Maintenance Requirements,'' of EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010; are not applicable to the ERJ 190–100 ECJ model.

We agree. Since operators of Model ERJ 190–100 ECJ airplanes are not able to comply with the requirements of this final rule using EMBRAER 190/195 Maintenance Review Board Reports, we have added paragraph (h)(2) to this final

rule to allow those operators to use the EMBRAER Lineage 1000 (ERJ 190–100 ECJ) Maintenance Planning Guide instead. This change does not expand the scope of the NPRM (77 FR 65144, October 25, 2012).

Request To Extend Repetitive Re-packing Interval

US Airways requested that the repetitive re-packing interval in its current slide maintenance program be left at 36 months instead changing it to the 18 months proposed in the NPRM (77 FR 65144, October 25, 2012). US Airways suggested a one-time re-pack interval of 18 months and a repetitive re-pack interval of 36 months; otherwise, the reduced interval would add extensive work-hours and cost to change to and maintain an 18-month repetitive re-pack interval.

We disagree with the requested change. To allow a 36-month repetitive re-pack interval instead of an 18-month re-pack interval would defeat/counteract the intent of this AD. Over time, the slide can develop a ''set'' position, which prevents the slide from properly deploying in an emergency. Re-packing at the reduced interval of 18 months is intended to prevent the ''set'' and improves reliability of the slide in an emergency. We have not changed this final rule in this regard.

Request To Allow Credit for Previously Re-packed Slides

US Airways requested a time allowance for slides that have been previously re-packed using the Goodrich service information. US Airways stated that regardless if its slides have been re-packed, the 18-month requirement is enforced. US Airways requested that those slides that have been previously re-packed using the applicable Goodrich service information be exempt from the 18-month re-packing requirement and be allowed to enter the repetitive maintenance schedule at the 36-month overhaul interval.

We disagree. As explained in the comment response to ''Request to Extend Repetitive Re-packing Interval,'' the intent of this AD is to prevent ''set'' by re-packing the slide at 18-month intervals instead of only at the 36-month maintenance overhaul. Paragraphs (g) and (h) of this AD specify that re-packing must be done at least every 18 months, but accomplishing an overhaul instead is also acceptable since the overhaul process includes re-packing the slide. An operator could choose to re-pack the slide at 18 months, overhaul the slide at 36 months, re-pack at 54 months, overhaul at 72 months, and so on. However, operators should note that once the slide is 15 years old, the task specified in paragraph (h) of this final rule currently requires that the slides be overhauled at intervals not to exceed 12 months. We have not changed this final rule in this regard.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (77 FR 65144, October 25, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 65144, October 25, 2012).

Costs of Compliance

We estimate that this AD affects 235 products of U.S. registry. We also estimate that it will take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost between $435 and $542 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to U.S. operators to be between $153,065 and $180,136, or $605 and $712 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 regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2012-1108;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–25–04 Embraer S.A.: Amendment 39–17700. Docket No. FAA–2012–1108; Directorate Identifier 2011–NM–283–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 10, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the airplanes identified in paragraphs (c)(1) and (c)(2) of this AD, certificated in any category.

(1) Embraer S.A. Model ERJ 170–100 LR, –100 STD, –100 SE., and –100 SU airplanes; and Model ERJ 170–200 LR, –200 SU, and -200 STD airplanes; equipped with Goodrich escape slides having part number (P/N) 4A4030–5.

(2) Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; equipped with Goodrich escape slides having P/N 104003–2.

(d) Subject

Air Transport Association (ATA) of America Code 25; Equipment/Furnishings.

(e) Reason

This AD was prompted by reports of failures of the emergency slide on the forward passenger door, which prevented the door from opening. We are issuing this AD to prevent failure of the emergency slide, which can prevent the forward passenger door from opening, and which could result in impeded emergency evacuation and possible subsequent injury to passengers and flightcrew.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Repetitive Re-Packing of the Escape Slide

At the applicable compliance times identified in paragraphs (g)(1) and (g)(2) of this AD, re-pack the forward door escape slide in accordance with the Accomplishment Instructions of Goodrich Alert Service Bulletin 4A4030–25A402, dated June 30, 2011 (for Model ERJ 170 airplanes); or Goodrich Alert Service Bulletin 104003–25A403, dated June 30, 2011 (for Model ERJ 190 airplanes). Repeat the re-packing thereafter at intervals not to exceed 18 months.

(1) For escape slides that have not been repacked as of the effective date of this AD: Within 18 months after date of manufacture of the escape slide or within 6 months after the effective date of this AD, whichever occurs later.

(2) For escape slides that have been repacked as of the effective date of this AD: Within 18 months after the last re-pack of the escape slide or within 6 months after the effective date of this AD, whichever occurs later.

(h) Method of Compliance

Accomplishing an overhaul of the escape slide as specified in Task 25–65–01–001, ''Emergency Evacuation Slide Assembly,'' of the applicable maintenance document identified in paragraphs (h)(1), (h)(2), and (h)(3) of this AD, is acceptable for compliance with any re-pack required by paragraph (g) of this AD.

(1) For Model ERJ 170 airplanes: EMBRAER 170/175 Maintenance Review Board Report, MRB–1621, Revision 8, dated August 20, 2012; or Section 1, ''System and Powerplant Maintenance Requirements,'' of EMBRAER 170 Maintenance Review Board Report, MRB–1621, Revision 7, dated November 11, 2010.

(2) For Model ERJ 190–100 ECJ airplanes: EMBRAER Lineage 1000 Maintenance Planning Guide, MPG–2928, Revision 3, dated September 28, 2012.

(3) For Model ERJ 190–100 STD, –100 LR, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes: EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 6, dated August 20, 2012; or Section 1, ''System and Powerplant Maintenance Requirements,'' of EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Cindy Ashforth, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–2768; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov*. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(j) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Brazilian Airworthiness Directives 2011–12–01 and 2011–12–02, both effective December 27, 2011, for related information. The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2012-1108-0002*.

(k) Material Incorporated by Reference

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

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

(i) Goodrich Alert Service Bulletin 104003–25A403, dated June 30, 2011.

(ii) Goodrich Alert Service Bulletin 4A4030–25A402, dated June 30, 2011.

(iii) Task 25–65–01–001, ''Emergency Evacuation Slide Assembly,'' of Section 1, ''System and Powerplant Maintenance Requirements,'' of EMBRAER 170 Maintenance Review Board Report, MRB–1621, Revision 7, dated November 11, 2010.

(iv) Task 25–65–01–001, ''Emergency Evacuation Slide Assembly,'' of EMBRAER 170/175 Maintenance Review Board Report, MRB–1621, Revision 8, dated August 20, 2012.

(v) Task 25–65–01–001, ''Emergency Evacuation Slide Assembly,'' of Section 1, ''System and Powerplant Maintenance Requirements,'' of EMBRAER 190 Maintenance Review Board Report, MRB–1928, Revision 5, dated November 11, 2010.

(vi) Task 25–65–01–001, ''Emergency Evacuation Slide Assembly,'' of EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 6, dated August 20, 2012.

(vii) Task 25–65–01–001, ''Emergency Evacuation Slide Assembly,'' of EMBRAER Lineage 1000 Maintenance Planning Guide, MPG–2928, Revision 3, dated September 28, 2012.

(3) For Embraer service information identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São Jose dos Campos—SP—BRASIL; telephone +55 12 3927–5852 or +55 12 3309–0732; fax +55 12 3927–7546; email *distrib@embraer.com.br;* Internet *http://www.flyembraer.com*.

(4) For Goodrich service information identified in this AD, contact Goodrich Corporation, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, Arizona 85040; telephone 602–243–2270; email *george.yribarren@goodrich.com;* Internet *http://www.goodrich.com/TechPubs*.

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

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

Issued in Renton, Washington, on December 4, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–31450 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0467; Directorate Identifier 2013–NM–023–AD; Amendment 39–17716; AD 2013–26–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A318, A319, A320, and A321 series airplanes. This AD was prompted by reports of certain sliding windows that were difficult to operate after landing. This AD requires a detailed inspection to identify part numbers of sliding windows and sliding window seals, and modification if necessary. This AD also includes an optional replacement. We are issuing this AD to detect and correct incorrect seals, which could lead to the functional loss of the sliding window as an exit, possibly preventing the flightcrew from safely evacuating the airplane during an emergency.

DATES: This AD becomes effective February 10, 2014.

The Director of the **Federal Register** approved the incorporation by reference of certain publications listed in this AD as of February 10, 2014.

ADDRESSES: You may examine the AD on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0467;* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For Airbus service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* For PPG Aerospace service information identified in this AD, contact PPG Aerospace, 12780 San Fernando Road, Sylmar, CA 91342; telephone 818–362–6711; fax 818–362–0603; Internet *http://corporateportal.ppg.com/na/aerospace.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. The NPRM published in the **Federal Register** on July 3, 2013 (78 FR 40057). The NPRM proposed to correct an unsafe condition for the specified products.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0011, dated January 15, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Several occurrences have been reported on A320 family aeroplanes of PPG sliding windows that were difficult to operate after landing.
>
> The investigation results revealed that when a seal having Part Number (P/N) 22–17–7640–1 or P/N 22–17–7640–2 is installed on a sliding window, closure of the window can create a vacuum between the 2 tubes of the pressure seal, leading to the window remaining stuck to the frame on the fuselage side, due to suction effect.
>
> This condition, if not detected and corrected, could lead to the functional loss of the sliding window as an exit, possibly preventing the flight crew from safely evacuating the aeroplane during an emergency.
>
> For the reasons described above, this [EASA] AD requires a one-time detailed inspection (DI) of the sliding windows and its seal to identify the affected sliding window seals and, depending on findings, accomplishment of the applicable corrective actions [corrective action includes a modification or replacement].

The subject area on certain Airbus Model A318, A319, and A321 series airplanes is almost identical to that on the affected Model A320 series airplanes. Therefore, those Model A318, A319, and A321 series airplanes may be subject to the unsafe condition revealed on the Model A320 series airplanes. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0467-0002.*

Comments

We gave the public the opportunity to participate in developing this AD. We considered the comment received.

Request for Identification Change

United Airlines (UAL) requested that the modification be recorded at the part number level, instead of the serial number level. UAL explained that re-identifying the post-modification window at the serial number level only will potentially lead to de-modification of the window, which could result in the unsafe condition identified in the NPRM (78 FR 40057, July 3, 2013). UAL reasoned that re-identifying the window at the part number level would better allow operators to manage the post-AD configuration.

UAL provided further substantiation to add the ''M'' to the part number instead of the serial number during a teleconference with us during the week of September 23, 2013. UAL's reason for adding the ''M'' to the part number is related to the convenience/preference of UAL maintenance practices.

We disagree with the request to require recording the modification at the part number level. After coordinating with Airbus, we have determined that adding ''M'' to the serial number will prevent installation of unsafe sliding window part numbers without changing the part number configuration and associated administrative processes to change part numbers. However, we have revised paragraph (h) of this final rule to include phrasing to clarify and to allow for modification to be recorded at the serial number level of the affected part number.

Conclusion

We reviewed the available data, including the comment received, and determined that air safety and the public interest require adopting this AD with the change described previously and minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 40057, July 3, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 40057, July 3, 2013).

Costs of Compliance

Based on the service information, we estimate that this AD affects about 851 products of U.S. registry. We also estimate that it will take about 3 work-

hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $217,005, or $255 per product.

In addition, we estimate that any necessary follow-on actions will take about 1 work-hour and require parts costing $0, for a cost of $85 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Examining the AD Docket

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0467-0002;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–26–07 Airbus: Amendment 39–17716. Docket No. FAA–2013–0467; Directorate Identifier 2013–NM–023–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective February 10, 2014.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

Air Transport Association (ATA) of America Code 56, Windows.

(e) Reason

This AD was prompted by reports of certain sliding windows that were difficult to operate after landing. We are issuing this AD to detect and correct incorrect seals, which could lead to the functional loss of the sliding window as an exit, possibly preventing the flightcrew from safely evacuating the airplane during an emergency.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Inspection

Within 750 flight cycles or 750 flight hours or 4 months after the effective date of this AD, whichever occurs first: Do a detailed inspection to identify part numbers (P/Ns) of each window and seal of the left-hand (LH) and right-hand (RH) sliding windows and sliding window seals, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–56–1016, including Appendices 01 and 02, dated September 14, 2012. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the window and seal of the LH and RH sliding windows and sliding window seals can be conclusively determined from that review.

(h) Modification

If a sliding window part number identified in table 1 to paragraph (h) of this AD is found during the inspection required by paragraph (g) of this AD; and the serial number of the part does not have the modification amendment letter ''M,'' and does have sliding window seals having P/N 22–17–7640–1 or P/N 22–17–7640–2 installed: Within the compliance time specified in paragraph (g) of this AD, modify the sliding window seal (which includes adding the letter ''M'' to serial number of the affected part), in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–56–1015, dated September 14, 2012.

TABLE 1 TO PARAGRAPH (h) OF THIS AD—AFFECTED PPG AEROSPACE SLIDING WINDOW PART NUMBERS

Left-hand	Right-hand
NP165312–1	NP165312–2
NP165312–3	NP165312–4
NP165312–5	NP165312–6
NP165312–7	NP165312–8
NP165312–9	NP165312–10
NP165312–11	NP165312–12

(i) Optional Replacement

For sliding windows identified as affected in paragraph (h) of this AD, replacement of a sliding window seal having P/N 22–17–7640–1 L/H or P/N 22–17–7640–2 R/H with a seal having P/N 22–17–7640–3 L/H or P/N 22–17–7640–4 R/H, respectively, in accordance with a method approved by either the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent), is an acceptable alternative method of compliance with the modification required by paragraph (h) of this AD.

Note 1 to paragraph (i) of this AD: Guidance for replacement of a sliding window seal can be found in Page Block 401 of Sub-section 56–12–11 of the Airbus A318/A319/A320/A321 Aircraft Maintenance Manual.

(j) Exceptions to Requirements of Paragraphs (g) and (h) of This AD

(1) Airplanes on which Airbus Modification 153512 (installation of sliding

window with P/N NP165312–13 and P/N NP165312–14 with improved seal) or Modification 153534 (installation of sliding window with P/N NP165312–11 and P/N NP165312–12 with amendment M) has been embodied in production are not affected by the requirements of paragraphs (g) and (h) of this AD, provided that no sliding window or sliding window seal has been replaced since first flight.

(2) Airplanes on which Airbus Modification 39587 (installation of affected seal on PPG Aerospace sliding windows) has not been embodied in production are not affected by the requirements of paragraphs (g) and (h) of this AD, provided that no sliding window or sliding window seal has been replaced since first flight.

(k) Parts Installation Limitation

As of the effective date of this AD, no person may install on any airplane any PPG Aerospace sliding window with a part number listed in table 1 to paragraph (h) of this AD with a seal having P/N 22–17–7640–1 or P/N 22–17–7640–2, unless the seal has been modified in accordance with the Accomplishment Instructions of Airbus Service Bulletin A320–56–1015, dated September 14, 2012; or PPG Aerospace Service Bulletin 165312–56–001, dated February 29, 2012.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1405; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(m) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2013–0011, dated January 15, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0467-0002.*

(n) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A320–56–1015, dated September 14, 2012.

(ii) Airbus Service Bulletin A320–56–1016, including Appendices 01 and 02, dated September 14, 2012.

(iii) PPG Aerospace Service Bulletin 165312–56–001, dated February 29, 2012.

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

(4) For PPG Aerospace service information identified in this AD, contact PPG Aerospace, 12780 San Fernando Road, Sylmar, CA 91342; telephone 818–362–6711; fax 818–362–0603; Internet *http://corporateportal.ppg.com/na/aerospace.*

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

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

Issued in Renton, Washington, on December 20, 2013.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–31313 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0032; Directorate Identifier 2010–NM–236–AD; Amendment 39–17717; AD 2013–26–08]

RIN 2120–AA64

Airworthiness Directives; the Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD was prompted by reports of arcing and smoke at the left number 2 window in the flight deck. This AD requires inspecting the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck; re-clocking the connector keyways, if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

DATES: This AD is effective February 10, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 10, 2014.

ADDRESSES: For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–0032; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6478; fax: 425–917–6590; email: *Elias.Natsiopoulos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a supplemental notice of proposed rulemaking (SNPRM) to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The SNPRM published in the **Federal Register** on July 17, 2012 (77 FR 41931). We preceded the SNPRM with a notice of proposed rulemaking (NPRM), which published in the **Federal Register** January 26, 2011 (76 FR 4567). The NPRM (76 FR 4567, January 26, 2011) proposed to require inspecting the orientation of both sides of the coil cord connector keyways of the number 2 windows on the flight deck; re-clocking the connector keyways to 12 o'clock, if necessary; and replacing the coil cord assemblies on both number 2 windows on the flight deck. The SNPRM proposed to require changing the keyway position of certain receptacle connectors and adding airplanes to the applicability.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the proposal (77 FR 41931, July 17, 2012) and the FAA's response to each comment.

Request To Expand Applicability

Boeing requested that we revise the applicability of the SNPRM (77 FR 41931, July 17, 2012) to include the airplanes specified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013. Boeing stated that the effectivity of this service bulletin includes 75 airplanes that were delivered with the identified unsafe condition.

We agree that the 75 airplanes were delivered with the identified unsafe condition. However, we disagree with expanding the applicability of this final rule, because that would necessitate (under the provisions of the Administrative Procedure Act) reissuing the notice, reopening the period for public comment, considering additional comments subsequently received, and eventually issuing a final rule. We have determined that further delay of this final rule is not appropriate in light of the identified unsafe condition that exists in the airplanes specified in the applicability of the SNPRM (77 FR 41931, July 17, 2012). However, we might consider additional rulemaking in the future. We have not changed this final rule in this regard.

Request To Allow a Power Removal Procedure

American Airlines (AAL) stated that it has no objections to the SNPRM (77 FR 41931, July 17, 2012), but requested that we allow the removal of power by opening circuit breakers in Step B.1., of Part 1, of the Work Instructions in Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011. AAL stated that removal of power by opening circuit breakers is allowed in Step B.1.(b)., of Part 2, of the Work Instructions in Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011. AAL explained that removal of power by opening circuit breakers would greatly reduce the disruption to airplane maintenance being accomplished concurrently.

We agree with AAL's request. The requested procedure is included in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013. We have changed paragraphs (g), (h), and (k) of this final rule (paragraph (k) in this final rule was identified as paragraph (i) in the SNPRM (77 FR 41931, July 17, 2012)) to refer to Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, as the appropriate source of service information.

Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, specifies an additional inspection that is not included in Revision 4 of Boeing Special Attention Service Bulletin, dated November 3, 2011. For Group 1, Configuration 3, and Group 2, Configuration 2, airplanes, Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, specifies a general visual inspection for rubbing damage on the coil cords, and replacement of the coil cord with a new coil cord if rubbing damage is found. Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, describes the labor hours required for the inspection as less than one hour for each coil cord. We have determined that this minor change in inspection procedures will not impose an additional burden on any operator; further, because it is a logical outgrowth of the notice, an additional opportunity for public comment will not be necessary. We have added the costs for this inspection to the Costs of Compliance section of this final rule, added new paragraph (i) to this final rule to require the coil cord inspection, and re-designated subsequent paragraphs accordingly.

Revision 5 of Boeing Special Attention Service Bulletin 737–30–1058, dated April 24, 2013, also describes changes to a wire diagram reference and adds improved figure work instructions.

Request To Allow Re-installation of Coil Cords

AAL requested that we allow retention and re-installation of coil cords if they are the new part number and no damage is found on them during the inspections proposed in the SNPRM (77 FR 41931, July 17, 2012). AAL stated that since the new coil cord has been available for several years, it is possible that some airplanes may already have the new coil cord installed.

We disagree with revising this final rule because this final rule and the referenced service information, Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, specify further actions beyond simply installing a new coil cord. Figures 12 and 14 in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, provide procedures for installation of receptacle connectors on the cover as part of the coil cord replacement for certain airplanes. Operators must ensure that all applicable actions specified in the service information have been done in addition to the installation of the new coil cord. However, under the provisions of paragraph (l) of this final rule, we will consider requests for approval of an alternative method of compliance (AMOC) to allow retaining and reinstalling the coil cord on airplanes after the effective date of this final rule, providing sufficient data is submitted to address the identified unsafe condition. We have not changed this final rule in this regard.

Request To Clarify Certain Work Instructions

AAL requested that we clarify the work instructions for reinstallation of connector receptacle D10572 for Group 1, Configuration 1, airplanes as identified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011. AAL stated that Figures 12 and 14 of this service bulletin have steps to reinstall the connector receptacle, but the work instructions and figures for Group 1, Configuration 1 airplanes do not include steps that remove the connector receptacle.

We agree to clarify. The removal of the receptacle connector D10572 was addressed in Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010. The instructions were inadvertently omitted in Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011. Boeing has added the requested

clarification to Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013. As referenced previously, we have specified Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, as the appropriate source of service information in this final rule.

Additional Change to This Final Rule

We have added new paragraph (j) to this final rule to specify exceptions to Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, and redesignated the subsequent paragraphs accordingly.

Conclusion

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

- Are consistent with the intent that was proposed in the SNPRM (77 FR 41931, July 17, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the SNPRM (77 FR 41931, July 17, 2012).

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

Costs of Compliance

We estimate that this AD affects 712 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Number of airplanes	Cost on U.S. operators
Keyway inspection and installation of new cord assemblies on both sides of the flight deck (Group 1, Configuration 1 airplanes).	6 work-hours × $85 per hour = $510.	$1,608	$2,118	712	$1,508,016.
Adjustment of receptacles on both sides of the flight deck (Group 1, Configuration 2, and Group 2 airplanes).	4 work-hours × $85 per hour = $340.	0	340	404	137,360.
Coil cord inspection (Group 1, Configuration 3, and Group 2 airplanes).	1 work-hour × $85 per hour = $85 per coil cord.	0	85 per coil cord	404	34,240 per coil cord.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	3 work-hours × $85 per hour = $255 per coil cord assembly	$1,735 per coil cord assembly	$1,990 per coil cord assembly.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–26–08 The Boeing Company: Amendment 39–17717 ; Docket No. FAA–2011–0032; Directorate Identifier 2010–NM–236–AD.

(a) Effective Date

This AD is effective February 10, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes, certificated in any category, as identified in Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Unsafe Condition

This AD was prompted by reports of arcing and smoke at the left number 2 window in the flight deck. We are issuing this AD to prevent arcing, smoke, and fire in the flight deck, which could lead to injuries to or incapacitation of the flightcrew.

(f) Compliance

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

(g) Inspection and Replacement for Group 1, Configuration 1, Airplanes

For airplanes identified as Group 1, Configuration 1, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after the effective date of this AD, do the actions in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a general visual inspection of the orientation of the coil cord connector keyways on the captain's and first officer's sides of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (j) of this AD. If the orientation is not at the specified position, before further flight, turn the receptacle connector to the correct position, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (j) of this AD.

(2) Replace the coil cords with new coil cords on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (j) of this AD.

(h) Receptacle Replacement for Group 1, Configuration 2, and Group 2, Configuration 1 Airplanes

For airplanes identified as Group 1, Configuration 2, and Group 2, Configuration 1, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after the effective date of this AD, install the receptacle connector with changed keyway position on both sides of the flight deck, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (j) of this AD.

(i) Coil Cord Inspection and Corrective Action

For airplanes identified as Group 1, Configuration 3, and Group 2, Configuration 2, in Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013: Within 48 months after the effective date of this AD, do a general visual inspection for rubbing damage of the coil cord on the captain's and first officer's sides of the flight compartment, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (j) of this AD. If any rubbing damage is found: Before further flight, replace the coil cord with a new coil cord, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, except as specified in paragraph (j) of this AD.

(j) Exceptions to Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, Dated April 24, 2013

(1) In the circuit breaker tables of the Work Instructions of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the panel number for circuit breaker C00393 is incorrectly identified as ''P6–12.'' The correct panel number reference for circuit breaker C00393, ''WINDOW HEAT POWER RIGHT SIDE,'' is P6–11.

(2) In paragraph 3.B Work Instructions, of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, the description for Part 3 work instructions as PART 3: RECEPTACLE CONNECTOR POSITION CHANGE is incorrect. The correct description for Part 3 work instructions is PART 3: COIL CORD INSPECTION AND REPLACEMENT IF DAMAGE IS FOUND.

(3) In Figures 13 and 14, in paragraph 3.B Work Instructions, of Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013, before the step tables, the note misidentified certain parts and airplane groups. The note should read:

NOTE: Group 1 and Group 2 airplanes have the connector receptacle identified as D10572. Group 3 airplanes have the connector receptacle identified as D10560. Except for Group 1 airplanes, a wire diagram change is not necessary and not shown in this service bulletin.

(k) Credit for Previous Actions

This paragraph provides credit for the replacement required by paragraph (g)(2) of this AD, if the replacement was performed before the effective date of this AD using the service information specified in paragraph (k)(1), (k)(2), (k)(3), (k)(4), or (k)(5) of this AD, provided that the actions required by paragraph (h) of this AD are done in accordance with Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011; or Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013; for Group 1, Configuration 2, and Group 2 airplanes.

(1) Boeing Service Bulletin 737–30–1058, dated July 27, 2006, which is not incorporated by reference in this AD.

(2) Boeing Service Bulletin 737–30–1058, Revision 1, dated June 18, 2007, which is not incorporated by reference in this AD.

(3) Boeing Service Bulletin 737–30–1058, Revision 2, dated February 13, 2009, which is not incorporated by reference in this AD.

(4) Boeing Special Attention Service Bulletin 737–30–1058, Revision 3, dated July 7, 2010, which is not incorporated by reference in this AD.

(5) Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011.

(l) Alternative Methods of Compliance (AMOCs)

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

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

(m) Related Information

(1) For more information about this AD, contact Louis Natsiopoulos, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6478; fax: 425–917–6590; email: *Elias.Natsiopoulos@faa.gov.*

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

(n) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 737–30–1058, Revision 4, dated November 3, 2011.

(ii) Boeing Special Attention Service Bulletin 737–30–1058, Revision 5, dated April 24, 2013.

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

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

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

Issued in Renton, Washington, on December 20, 2013.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–31307 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0945; Directorate Identifier 2010–SW–110–AD; Amendment 39–17722; AD 2013–26–13]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation (Sikorsky) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Sikorsky Model S–70, S–70A, S–70C, S–70C (M), and S–70C (M1) helicopters with General Electric (GE) T700–GE–401C or T700–GE–701C engines installed. This AD requires establishing new fatigue life limits for certain GE engine gas generator turbine (GGT) rotor parts. This AD was prompted by a reevaluation of the method for determining the life limit for certain GE engine GGT rotor parts and the determination that these life limits should be based on low cycle fatigue (LCF) events instead of hours time-in-service (TIS). The actions are intended to prevent fatigue failure of a GGT rotor part, engine failure, and subsequent loss of control of the helicopter.

DATES: This AD is effective February 10, 2014.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of February 10, 2014.

ADDRESSES: For service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (800) 562–4409, email address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.* You may review a copy of the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Michael Davison, Flight Test Engineer, New England Regional Office, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238–7156; fax: (781) 238–7170; email: *michael.davison@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

On September 7, 2012, at 77 FR 55166, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Sikorsky Model S–70, S–70A, S–70C, S–70C (M), and S–70C (M1) helicopters with GE T700–GE–401C or T700–GE–701C engines installed. The NPRM proposed establishing new fatigue life limits for certain GE engine GGT rotor parts, based upon a formula in GE's service information. The NPRM was prompted by the determination that the affected engines could fail due to fatigue unless the life limits of certain GE engine rotor parts are changed from hours TIS to LCF events.

On July 23, 2013, at 78 FR 44052, the **Federal Register** published our supplemental notice of proposed rulemaking (SNPRM), which proposed to revise the formula in the NPRM for establishing the new fatigue life limits by using the correct formula in a newer revision of GE's service information. Also, the SNPRM corrected a typographical error made in the preamble of the previous NPRM in the ''Related Service Information,'' which referenced the service bulletin number as 72–041 rather than the correct service bulletin number 72–0041.

The proposed actions in the SNPRM were intended to prevent failure of a GGT rotor part, engine failure, and subsequent loss of control of the helicopter.

Comments

We gave the public the opportunity to comment on the NPRM (77 FR 55166, September 7, 2012), and the SNPRM (78 FR 44052, July 23, 2013), but we did not receive any comments.

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other products of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed in the SNPRM (78 FR 44052, July 23, 2013).

Costs of Compliance

We estimate that this AD will affect 9 helicopters of U.S. registry. We estimate that operators may incur the following costs in order to comply with this AD: A minimal amount for work hours and labor costs because these parts are replaced as part of the periodic maintenance on the helicopter; a minimal amount of time to calculate the new retirement life; $360,000 to replace the GGT rotor parts per helicopter; and $3,240,000 to replace the GGT rotor parts for the entire U.S. operator fleet.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2013–26–13 Sikorsky Aircraft Corporation: Amendment 39–17722; Docket No. FAA–2012–0945; Directorate Identifier 2010–SW–110–AD.

(a) Applicability

This AD applies to Model S–70, S–70A, S–70C, S–70C (M), and S–70C (M1) helicopters with General Electric (GE) T700–GE–401C or T700–GE–701C part-numbered engines, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a critical engine part remaining in service beyond its fatigue life because the current life limit is based on hours time-in-service (TIS) instead of fatigue cycles. This condition could result in fatigue failure of an engine rotor part, engine failure, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective February 10, 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) Before further flight, insert into the airworthiness limitations section of the maintenance manual or instructions for continued airworthiness the low cycle fatigue (LCF) limit diagrams shown in Figures 2 through 7 (pages 9 through 14) of GE T700 Turboshaft Engine Service Bulletin T700 S/B 72–0041, Revision 1, dated March 12, 2010, for helicopters with the GE T700–GE–401C engine, or Figures 2 through 4 (pages 10 through 12) of GE T700 Turboshaft Engine Service Bulletin T700 S/B 72–0038, dated October 1, 2008, for helicopters with the GE T700–GE–701C engine. The diagonal line on each diagram represents the new cycle life limit (a combination of *full* low cycle fatigue events (LCF1) and *partial* low cycle fatigue events (LCF2) as those terms are defined in the Accomplishment Instructions, paragraphs 3.A.(1) and 3.A.(2) of each service bulletin) for each gas generator turbine (GGT) rotor part. A combination of LCF1 and LCF2, which results in a number below the diagonal line of the applicable diagram for each engine, indicates that the part has not reached its fatigue life limit.

(2) Before further flight:

(i) Obtain the actual LCF1 and LCF2 count from the engine ''history recorder'' (HR);

(ii) Calculate the LCF1 and LCF2 fatigue retirement life for each GGT rotor part as follows:

(A) Determine the *actual LCF ratio* by dividing the total actual LCF2 cycle count obtained from the HR by the total actual LCF1 cycle count obtained from the HR. Add to the actual counts from the HR any actual additional fatigue cycle incurred during any period in which the HR was inoperative.

(B) Determine the *LCF1 retirement life* by dividing the maximum number of LCF2 events obtained from the applicable diagram for each engine by the sum of the actual LCF ratio obtained by following paragraph (e)(2)(ii)(A) of this AD plus the quotient of the maximum number of LCF2 events from the applicable diagram for each engine divided by the maximum number of LCF1 events from the applicable diagram for each engine.

(C) Determine the *LCF2 retirement life* by multiplying the actual LCF ratio obtained by following paragraph (e)(2)(ii)(A) of this AD times the LCF1 retirement life determined by following paragraph (e)(2)(ii)(B) of this AD.

(iii) Replace each GGT rotor part that has reached the new fatigue cycle life limit with an airworthy rotor part.

(3) For helicopters with the GE T700–GE–401C engine, if you cannot determine the number of low cycle fatigue events manually from the HR or by combining both manual and HR counts, then the life limit for the GGT rotor part is the hours TIS for the part as shown in Table 1 of GE T700 Turboshaft Engine Service Bulletin T700 S/B 72–0041, dated August 21, 2009.

(4) Before further flight, begin or continue to count the full and partial low fatigue cycle events and record on the component card or equivalent record that count at the end of each day for which the HR is inoperative.

(f) Special Flight Permit

Special flight permits will not be issued to allow flight in excess of life limits.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Send your proposal to: Michael Davison, Flight Test Engineer, New England Regional Office, FAA, 12 New England Executive Park, Burlington, MA 01803; phone: (781) 238–7156; fax: (781) 238–7170; email: *michael.davison@faa.gov.*

(2) For operations conducted under 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) Subject

Joint Aircraft Service Component (JASC) Code: 7250: Turbine Section.

(i) Material Incorporated by Reference

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

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

(i) General Electric (GE) T700 Turboshaft Engine Service Bulletin T700 S/B 72–0038, dated October 1, 2008.

(ii) GE T700 Turboshaft Engine Service Bulletin T700 S/B 72–0041, dated August 21, 2009.

(iii) GE T700 Turboshaft Engine Service Bulletin T700 S/B 72–0041, Revision 1, dated March 12, 2010.

(3) For GE service information identified in this AD, contact Sikorsky Aircraft Corporation, Attn: Manager, Commercial Technical Support, mailstop s581a, 6900 Main Street, Stratford, CT, telephone (800) 562–4409, email address *tsslibrary@sikorsky.com,* or at *http://www.sikorsky.com.*

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

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

Issued in Fort Worth, Texas, on December 24, 2013.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2013–31525 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0593; FRL–9905–07–Region–6]

Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution by Permits for New Construction or Modification; Permits for Specific Designated Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: On November 21, 2013, the Environmental Protection Agency (EPA) published a direct final rule approving portions of two revisions to the Texas State Implementation Plan (SIP) concerning the Permits for Specific Designated Facilities Program, also referred to as the FutureGen 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 December 23, 2013, EPA would publish a timely withdrawal in the **Federal Register**. EPA received a letter dated December 19, 2013, from the Texas Commission on Environmental Quality stating that the March 9, 2006, and July 2, 2010, SIP revisions specific to the FutureGen program have been withdrawn from our consideration as revisions to the Texas SIP. Accordingly, EPA is withdrawing our direct final approval and in a separate rulemaking in today's **Federal Register** we are also withdrawing the corresponding proposed approval. We find that no further action is necessary on the Texas FutureGen Program March 9, 2006 and July 2, 2010 SIP revisions. The State's action also withdraws from EPA's review the FutureGen Program component of the January 22, 2010 Consent Decree between EPA and the BCCA Appeal Group, Texas Association of Business, and Texas Oil and Gas Association. This withdrawal is being taken under section 110 and parts C and D of the Federal Clean Air Act.

DATES: The direct final rule published on November 21, 2013 (78 FR 69773), is withdrawn effective January 6, 2014.

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: December 20, 2013.

Samuel Coleman,

Acting Regional Administrator, Region 6.

Accordingly, the amendments to 40 CFR 52.2270 published in the **Federal Register** on November 21, 2013 (78 FR 69773), which were to become effective on January 21, 2014, are withdrawn.

[FR Doc. 2013–31437 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2010–0612; FRL–9904–03–Region–6]

Approval and Promulgation of Implementation Plans; Texas; Public Participation for Air Quality Permit Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Texas State Implementation Plan (SIP) that establish the public participation requirements for air quality permits. EPA finds that these revisions to the Texas SIP comply with the Federal Clean Air Act (the Act or CAA) and EPA regulations and are consistent with EPA policies. Texas submitted the public participation provisions in four separate revisions to the SIP on July 22, 1998; October 25, 1999; July 2, 2010; and March 11, 2011. EPA is finalizing this action under section 110 and parts C and D of the Clean Air Act (the Act).

DATES: This final rule will be effective on February 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2010–0612. 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., Confidential Business Information or other information the disclosure of which 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 Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment with the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214–665–7253.

FOR FURTHER INFORMATION CONTACT: Ms. Adina Wiley, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone 214–665–2115; fax number 214–665–6762; email address *wiley.adina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

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I. Background for this Final Action

On December 13, 2012, EPA proposed approval of the July 22, 1998; October 25, 1999; July 2, 2010; and March 11, 2011, revisions to the Texas SIP that establish the public participation requirements for air quality permits. See 77 FR 74129. In this proposed action we explained that the Clean Air Act at section 110(a)(2)(C) requires states to develop and implement permitting programs for attainment and nonattainment areas that cover both construction and modification of stationary sources. EPA codified minimum requirements for these State permitting programs including public participation and notification requirements at 40 CFR 51.160–51.164. There are additional detailed public participation requirements in 40 CFR 51.166(q) for the Prevention of Significant Deterioration (PSD) major permitting program.

Our December 13, 2012, proposed approval and the accompanying Technical Support Document provided the history of the Texas Public Participation provisions in the Texas SIP and a summary of each of the submitted revisions to the Texas SIP. The proposal identifies the specific sections that were proposed for approval from the July 22, 1998; October 25, 1999; July 2, 2010; and March 11, 2011 SIP submittals. Note that while we are acting on revisions to the Texas SIP that were submitted in four separate packages, we collectively refer to these rules as the Texas Public Participation SIP submittal from July 2, 2010 since the majority of the revisions were submitted on that date.

II. Response to Comments

EPA accepted comments on our proposed approval of the Texas public participation SIP revisions for 60 days, through February 11, 2013. We received comments from 7 organizations—the Texas Commission on Environmental Quality (TCEQ), the Gulf Coast Lignite Coalition (GCLC), the Association of Electric Companies of Texas (AECT), the Texas Industry Project (TIP), the BCCA Appeal Group (BCCAAG), Luminant, and the University of Texas Law Clinic on behalf of Air Alliance Houston, Citizens for Environmental Justice, Texas Environmental Justice Advocacy Services, Public Citizen and Environmental Integrity Project. All comment letters can be found in their entirety in the docket for this rulemaking. The following section summarizes the comments received and provides responses to each. Note that comments are grouped together into categories to assist the reader.

General Comments in Support of the Proposed Approval

Comment 1: AECT stated that EPA's December 13, 2012, proposed approval of the Texas Public Participation Rules as revisions to the Texas SIP were adequately supported. As a result, the AECT requested that EPA issue final approval of the Texas Public Participation submittals as revisions to the Texas SIP.

Response 1: EPA appreciates the support for our proposed approval. No changes were made to the final rule as a result of this comment.

Comment 2: GCLC and Luminant support EPA's December 13, 2012, proposed approval of the Texas Public Participation rules as revisions to the Texas SIP. The GCLC states that the submitted public participation requirements are fully protective of Texans' ability to thoroughly and adequately comment on air permit applications in the state and meet and exceed federal public participation requirements. Luminant states that the TCEQ has a robust regulatory program to ensure the protection of human health and the environment in Texas, including opportunity for public participation regarding issues before the Commission.

Response 2: EPA appreciates the support for our proposed approval. Our December 13, 2012, proposal and the accompanying Technical Support Document identified the manner in which the submitted rules satisfy all necessary requirements for public participation under the CAA and EPA's regulations. No changes were made to the final rule as a result of these comments.

Comment 3: GCLC believes that existing public participation requirements and previous SIP submittals were more than adequate to comply with the CAA, particularly with regard to Texas' contested-case hearing process which is far more than required by federal law.

Response 3: EPA appreciates GCLC taking the opportunity to comment on our December 13, 2012, proposed approval of the Texas Public Participation rules. However, we disagree with the commenter's statement that the previous public participation requirements were adequate under federal law. EPA believes the previous public participation requirements were inadequate to implement the requirements of the CAA and EPA's regulations, thus we proposed limited approval/limited disapproval on November 26, 2008. See 73 FR 72003. EPA withdrew our proposed limited approval/limited disapproval on November 5, 2010, only after the TCEQ had adopted and submitted revised public participation rules that replaced the previous SIP submissions and addressed our concerns identified in the proposed limited approval/limited disapproval. See 75 FR 68291. TCEQ's own comment letter acknowledges that the ''new and amended rules submitted to EPA in July 2010 were adopted in response to EPA's notice proposing limited approval and limited disapproval of TCEQ's outstanding SIP revisions regarding public participation.'' See February 11, 2013 letter from TCEQ to EPA in the docket for this rulemaking.

Regardless, our December 13, 2012, proposed action evaluated the revised public participation rules submitted as revisions to the Texas SIP on July 2, 2010, by the TCEQ and found the submitted rules to be adequate under federal law as described in our proposal and accompanying TSD. We note that contested case hearings were not submitted for EPA's review and therefore the contested case hearing process is outside the scope of this final rule action.

Comment 4: The BCCAAG and TIP supports EPA's December 13, 2012, proposed approvals of each applicable Texas regulation in EPA's proposed notice at 77 FR 74129. The BCCAAG and TIP state that these regulations comply with the FCAA and are an important part of the Texas air quality permitting program.

Response 4: EPA appreciates the support for our proposed approval. No changes were made to the final rule as a result of this comment.

Comment 5: The TCEQ commented that the new and amended rules submitted to EPA in July 2010 were adopted in response to EPA's proposed limited approval and limited disapproval. The TCEQ recognizes that EPA has reviewed and proposed approval of most of the rules submitted in 2010, as well as in earlier submittals, stating that all outstanding issues were adequately addressed.

Response 5: EPA appreciates the support of the TCEQ for our proposed rulemaking. We note that the TCEQ's cooperation and willingness to collaborate with the Region 6 office has enabled us to propose full approval of the revised public participation rules, as submitted July 2, 2010. No changes were made to the final rule as a result of this comment.

Comment 6: The TCEQ supports EPA's determination that TCEQ meets, and in some cases exceeds, the minimum federal requirements and therefore has proposed full approval of public participation rules submitted in 1998, 1999, 2010 and 2011. The TCEQ noted that the EPA correctly observes that the Notice of Receipt of Application and Intent to Obtain Permit (NORI) is a unique element to the Texas permit program that is not federally required. TCEQ also commented that it is important to acknowledge that TCEQ's comment period exceeds federal requirements. Comments are considered timely if filed any time after the NORI is published and through the end of the comment period. This timeline encompasses the administrative completeness determination, the NORI publication period, the technical review period, as well as the comment period associated with the Notice of Application and Preliminary Decision (NAPD), which may be more than 30 days if alternate language publication is required and that publication is after the English language publication. Therefore, the state comment period greatly exceeds the federal requirement in length of time, thus affording greater opportunity for public participation.

Response 6: EPA appreciates the support for our proposed approval. As detailed in our proposal and accompanying TSD, EPA finds that the public participation provisions as submitted in four separate revisions to the SIP satisfy the minimum federal requirements for public participation consistent with the CAA and EPA regulations. We agree with the TCEQ that our analysis has identified some provisions of the Texas public participation process that go beyond the minimum requirements—such as the requirement to publish notice of the application (first notice, or NORI) or to require sign-posting. No changes were made to the final rule as a result of this comment.

Comment 7: The TCEQ notes that EPA correctly observes that the comment period runs for 30 days after last publication of the NAPD, and, by proposing approval of these rules, acknowledges that the TCEQ's comment period for minor and major NSR permit applications that are subject to the requirements of Chapters 39, 55, and 116 meets the minimum federal requirements for a 30 day period after the draft permit is made available for review.

Response 7: EPA appreciates the support for our proposed approval. We agree with the TCEQ that the comment requirement for the comment period to run 30 days after last publication of the NAPD meets the minimum federal requirements for a 30-day comment period after the draft permit is available for review. No changes were made to the final rule as a result of this comment.

Comment 8: UT Law Clinic commented that the proposed rules do correct some clear legal shortcomings in Texas' public participation requirements for the Major permitting programs, the Nonattainment New Source Review (NNSR) and Prevention of Significant Deterioration (PSD) applications.

Response 8: EPA appreciates the support. No revisions were made to the final rule as a result of this comment.

Comments Regarding Severability

Comment 9: EPA received several comments on our approach of taking no action for the public participation provisions at 30 TAC 116.111(a)(2)(K) and 30 TAC 116.116(b)(3), relating to HAPs permitting under CAA 112(g) and 40 CFR Part 63. The BCCAAG and TIP concur with EPA's analysis that 30 TAC 116.116(b)(3) should not be part of the Texas SIP. The TCEQ understands that EPA is taking no action on the October 25, 1999 submittal of 30 TAC 116.111(a)(2)(K) and 116.116(b)(3). The TCEQ further notes that EPA returned 30 TAC 116.111(a)(2)(K) and 116.116(b)(3) by letter on June 29, 2011.

Response 9: EPA agrees with TCEQ's assessment of the scope of this approval action. No changes were made to the final rule as a result of this comment.

Comment 10: EPA received several comments on our decision to take no action on the public participation provisions for new flexible permits and flexible permit amendments at 30 TAC 39.402(a)(4) and (a)(5). The TCEQ recognizes that the EPA is taking no action on the public participation rules for new flexible permits and flexible permit amendment applications (adopted June 2, 2010). The BCCAAG and TIP request that EPA approve 30 TAC 39.402(a)(4) and (5) rather than take no action, as proposed. The BCCAAG and TIP identified the following reasons EPA should act on the public participation provisions for Flexible Permits:

1. EPA has a statutory obligation to act on these SIP submittals for public participation for flexible permits.

2. EPA's prior disapproval of the Flexible Permit program does not provide a basis to delay action on the submitted sections.

3. Analysis of the 402(a)(4) and (a)(5) provisions does not reveal any concerns since the provisions require Flexible Permit holders to follow procedures that EPA is otherwise proposing to approve.

Response 10: EPA agrees that we have a statutory obligation to act on the SIP submittal for public participation for flexible permits; however we have chosen to sever the flexible permit public participation provisions per our SIP approval authority and discretion under the CAA and address those public participation provisions in the future with the flexible permit program as a whole in a separate SIP action. This approach will prevent any misunderstanding among the regulated community that would arise if a public participation pathway was approved for a permitting program that is not currently approved into the Texas SIP. Additionally, EPA has not finished its review of the flexible permitting program and how its public participation process is intertwined. Further, there is nothing in the Act that prohibits the bifurcation of our action. Finally, this approach was anticipated and supported by the TCEQ as explained in the final Texas Register. See 35 TexReg 5223, June 18, 2010. No revisions were made to this final rule as a result of this comment.

Comment 11: EPA received several comments on our decision to take no action on the public participation provisions for portable facilities at 30 TAC 39.402(a)(12). The TCEQ recognizes that EPA is taking no action on the public participation rules for portable facilities (adopted February 10, 2010) because these provisions are associated with rules for permitting programs which have not yet been reviewed by EPA. The BCCAAG and TIP request that EPA approve 30 TAC 39.402(a)(12) and 30 TAC 116.20 and 30 TAC 116.178 as submitted March 19, 2010. The BCCAAG and TIP note that EPA has a statutory obligation to act on the portable facility rules and public participation requirements.

Response 11: EPA has a statutory obligation to act on the SIP submittal for public participation for portable facilities; however we have chosen to sever the portable facility public participation provisions per our SIP approval authority and discretion under the CAA. As explained in our December 13, 2012, proposal, EPA has not evaluated the public participation provisions for portable facilities at 30 TAC 39.402(a)(12) for inclusion in the Texas SIP because we have not yet acted on the underlying definitions and permitting rules for portable facilities at 30 TAC 116.20 and 116.178, respectively. EPA will address the definitions and permitting provisions for the Relocations and Changes of

Location of Portable Facilities at a separate time and in a separate action. We will address the public participation requirements for portable facilities at that time. This approach will prevent any misunderstanding among the regulated community that would arise if a public participation pathway was approved for a permitting program that is not currently approved into the Texas SIP. Additionally, EPA has not finished its review of the portable facility rules and how the public participation process for portable facilities is intertwined. Further, there is nothing in the Act that prohibits the bifurcation of our action. No revisions were made to this final rule as a result of this comment.

Comment 12: TCEQ recognizes that EPA is taking no action on the public participation rules for FutureGen (adopted February 22, 2006), which is associated with rulemakings for permitting programs which have not yet been reviewed by EPA.

Response 12: EPA has a statutory obligation to act on the SIP submittal for public participation for FutureGen applications; however we have chosen to sever the FutureGen public participation provisions per our SIP approval authority and discretion under the CAA. As explained in our December 13, 2012, proposal, EPA had not evaluated the public participation provisions for applications for permits, registrations, licenses, or other type of authorization required to construct, operate, or authorize a component of the FutureGen project at 30 TAC 39.402(a)(10) for inclusion in the Texas SIP because we had not yet acted on the underlying definitions and permitting rules for the FutureGen project at 30 TAC Chapter 91. Since the time of our proposal on public participation, EPA has separately completed our review of the FutureGen program, including the public participation requirements. EPA signed a direct final approval of the FutureGen program rules on November 1, 2013. Information regarding this separate rulemaking can be found in the FutureGen docket, EPA–R06–OAR–2006–0593. No revisions were made to this final rule as a result of this comment.

Comment 13: TCEQ agrees with EPA's decision to take no action on 30 TAC 39.405(h)(1)(B). EPA inadvertently included this provision in the proposed SIP analysis because TCEQ did not include this rule as part of its submittal.

Response 13: EPA appreciates the comment. We agree with the TCEQ that we erred in our proposal when we identified 30 TAC 39.405(h)(1)(B) as submitted as a SIP revision on July 2, 2010. Today's final action corrects this error.

Comment 14: UT Law Clinic commented that to the extent EPA finds other provisions of the Texas submittal separable, EPA should require Texas to commit to correcting the additional deficiencies identified in order to obtain a conditional approval of those provisions.

Response 14: Our proposed rulemaking identified the reasons for severing and taking no action on the portions of the submittal relevant to public participation for Flexible Permits, FutureGen permitting, and Portable Facilities. EPA has not yet evaluated these programs; therefore, there are no identified deficiencies in the programs to be corrected. However, in this action, we are finalizing our proposed approval of the Texas public participation program. As explained in this response to comments, for those portions of the July 2, 2010, SIP submittal for public participation we are taking action on, we do not find any deficiencies in Texas's public participation program as it is currently submitted to EPA for review. So, further severing of provisions from this action in order to resolve deficiencies is unnecessary. No revisions have been made to the final rule as a result of this comment.

Comments Regarding Environmental Justice

Comment 15: UT Law clinic commented that EPA has a mandate to provide members of Environmental Justice communities with the ''opportunity to participate in decisions about activities that may affect their environment and/or health''.

Response 15: EPA aims to provide meaningful involvement in the decision-making process to all people, regardless of race, color, national origin, or income. Our December 13, 2012, proposal and today's final action have been closely analyzed to ensure federal requirements have been satisfied for public participation under the CAA and EPA's regulations. For more discussion on how our proposal and final action on the Texas public participation rules meet or satisfy minimum federal requirements please see comment and response 22. EPA believes it is important to recognize and work with Environmental Justice communities to assure their full participation in permitting activities; however, we note that there are no specific statutes or regulations giving EPA authority to require a state's SIP to address public participation opportunities for Environmental Justice communities. Rather, EPA is subject to Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. (59 FR 7629, February 16, 1994). Through our compliance with EO 12898 we work to identify minority communities and low-income communities that may be disproportionately impacted by a specific rulemaking. EPA endeavors in every rulemaking to ensure each member of the public has an equal opportunity for public participation. The public participation provisions are designed to apply consistently statewide and provide every member of the public the opportunity to review and submit comments on a proposed permit application. These public participation provisions meet the federal requirements for public participation. The TCEQ also requires additional notice and opportunity through the NORI publication. Further, the sign postings and alternate language publication provisions of the Texas rules are specifically targeted to ensuring environmental justice communities receive fair notice and opportunity to comment. No changes were made to our final rule as a result of this comment.

Comment 16: UT Law Clinic also commented that the approval of the proposed public participation rules would exacerbate public participation inadequacies that Texas communities have complained about for years.

Response 16: The commenter did not provide specific examples of the ''public participation inadequacies that Texas communities have complained about for years''; however, the comment letter discusses a variety of specific issues throughout and had attached several petitions that environmental groups have previously submitted to EPA under the Administrative Procedures Act.[1] These petitions discuss various issues regarding Texas's air permitting program, including some of the specific issues that are also noted in the comment letter. Where the UT Law Clinic submitted specific issues, we have addressed those comments below with respect to our proposed approval of the July 2, 2010 public participation submittal. We note that, insofar as where Texas's public participation program as submitted meets the public participation requirements in Title I of the CAA and the applicable federal

[1] ''Petition for EPA Action Addressing Texas' Air Permitting Program Deficiencies, Environmental Integrity Project (August 28, 2008); and First Supplement to Petition for EPA Action Addressing Texas' Air Permitting Program Deficiencies, Environmental Integrity Project (January 5, 2009).''

requirements, EPA must approve the submittals. EPA's proposed limited approval limited disapproval noted several deficiencies in Texas's prior public participation program. For reasons explained throughout this document, we find that the State's revised July 2, 2010 submittal cures these deficiencies. No changes were made to our final rule as a result of this comment.

Comments Regarding the Requirements of the Existing SIP-Approved Public Participation Rules

Comment 17: UT Law Clinic commented that the EPA misrepresented the public participation requirements of the current Texas SIP. UT Law Clinic commented that EPA's proposed approval states that the current SIP only requires public notice of amendments at the discretion of the TCEQ Executive Director. But, contrary to EPA's assertions, the UT Law Clinic comments that the current Texas SIP requires public participation for all permit applications, including applications for any modifications.

Response 17: EPA disagrees with the commenter's interpretation of the current public participation requirements in the existing Texas SIP. The current SIP-approved requirements for public participation are found at 30 TAC 116.130–116.137. The applicability of these requirements is found at 30 TAC 116.130(a) as follows: ''Any person who applies for a new permit or permit renewal shall be required to publish notice of the intent to construct a new facility or modify an existing facility or renew a permit. The notice shall be published in a newspaper in general circulation in the municipality where the facility is located or to be located. Any person who applies for a *permit amendment* shall provide public notification as required by the executive director'' (emphasis added).[2]

The applicability statement at 30 TAC 116.130(a) creates three categories of permit actions: (1) New permits, (2) permit renewals and (3) permit amendments. This subdivision of the types of permit actions is consistent with an analysis of the Texas SIP permitting provisions at 30 TAC Chapter 116, Subchapter B, Sections 116.110 and 116.111. The Applicability of the Permit Application Requirements at 30 TAC 116.110(a) requires a construction permit for any new facility or modification of any existing facility. This construction permit will be issued under the General Application provisions at 30 TAC 116.111. Note that if the construction permit is for a new major stationary source or a major modification, then the General Applicability provisions at 30 TAC 116.111 direct the applicant to the SIP-approved permitting provisions for PSD and NNSR. If the construction permit is for a minor NSR permit or a minor permit modification, the permit will be issued pursuant to the case-by-case minor permit provisions of 30 TAC 116.116 or will satisfy the conditions of a Standard Permit or a Permit by Rule. The General Applicability provisions at 30 TAC 116.110(b) further state that minor modifications to existing permitted facilities may be handled through the amendment of an existing permit. Thus the SIP-approved Texas permit program designates a permit amendment as one type of permitting action that can be used to authorize a modification to an existing facility. Other types of permitting actions that could be used for modifications at existing facilities would include standard permits, permits by rule, and permit alterations.

EPA believes that the commenter misinterpreted the Texas permitting program such that a minor permit modification is a specific type of permit application that would have its own public notice requirements. As presented previously, minor modification of an existing source is accomplished through a permit amendment, standard permit, permit by rule, or permit alteration. Because the SIP approved permitting program recognizes new permits, permit renewal and permit amendments, EPA's proposed approval is correct in its characterization of the SIP-approved public notice requirements for minor permit amendments. Pursuant to the SIP-approved language at 30 TAC 116.130(a), minor permit amendments only go through public notice to the extent required by the TCEQ Executive Director. The July 2, 2010 public notice SIP submittal improves upon the public notice requirements for minor permit amendments. The new rules retain and refine the TCEQ's Executive Director's discretion provisions to apply to only two specific types of minor permit amendments—only those minor permit amendments that are below the ''de minimis'' and ''insignificant'' thresholds. No changes were made to the final rule as a result of this comment.

Comment 18: UT Law Clinic commented that under the revised rules, public participation would be required only for modifications that meet the definition of ''amendment'' and that meet one of the criteria in 30 TAC 39.402(a)(3)(B) or (a)(3)(C). This narrowing of the universe of modifications subject to public participation weakens the existing SIP-approved public participation requirements.

Response 18: As discussed in Comment/Response 17, the commenter has misunderstood the current SIP-approved public notice and permitting provisions in the Texas Program for minor modifications. A minor modification of an existing facility is not a specific permit action that goes through public notice. Rather, when a facility will be modified (pursuant to the SIP-approved definition of modification at 30 TAC 116.10) and the modification is below the major NSR thresholds, the source owner or operator must apply for a permit amendment or permit alteration or for other applicable permit actions such as a standard permit or permit by rule to address the minor modification.

Under the current SIP, any minor modification that is permitted as a permit amendment will only go to public notice at the discretion of the Executive Director. In contrast, the revised public participation rules submitted July 2, 2010, require minor NSR permit amendments to go through public notice if the emission rates exceed the ''de minimis'' and ''insignificant'' thresholds. Further, the Executive Director has the discretion to require notice for any minor permit amendments that fall below the ''de minimis'' and ''insignificant'' thresholds if the Executive Director determines these permit amendments to have a reasonable likelihood for significant public interest in a proposed activity, emissions to impact a nearby sensitive receptor, a high nuisance potential from the operation of the facilities, or the application involves a facility in the lowest classification under Texas Water Code, § 5.753 and § 5.754 and 30 TAC Chapter 60. In contrast to the SIP-approved Executive Director discretion for minor permit amendments, which essentially provides the Executive Director with the authority to exempt all minor permit amendments from public notice, the revised rules submitted July

[2] Public notice for permit amendments at the discretion of the TCEQ Executive Director is only applicable to minor permit amendments. 30 TAC 116.131(a) requires that ''for any permit subject to the FCAA, Title I, Part C or D, or to Title 40 Code of Federal Regulations (CFR), Part 51.165(b), the executive director shall state a preliminary determination to issue or deny the permit and require the applicant to conduct public notice of the proposed construction.'' Therefore, a permit application for a new major source or major modification subject to PSD/NNSR permitting requirements is required to go through public notice.

2, 2010, that are being approved today only provide for the Executive Director to exercise discretion in requiring additional notice if the criteria presented above are satisfied. Therefore, the revised rules expand the public notice requirements to cover the majority of minor permit amendment applications. EPA views this expansion of public notice requirements for minor modifications to be an improvement of the SIP instead of the weakening purported by the commenter. No changes were made to the final rule as a result of this comment.

Comment 19: UT Law Clinic commented that, although the current SIP does include provisions regarding alterations, it does not exempt modifications authorized by alterations from public participation requirements, including notice and the opportunity for public comment. The commenter also submitted several examples of alterations being used in permits.

Response 19: Minor modifications to an existing facility are not a specific type of permit action under the SIP-approved Texas permit program. Rather, when a facility chooses to make a minor modification at an existing major or minor facility, the source owner or operator will choose to get authorizations for that minor modification through a permit amendment, permit alteration, standard permit or permit by rule. Therefore, the commenter is incorrect when stating that the current SIP requires public participation for minor modifications authorized by alterations. The existing SIP requirements for permit alterations, which are outside the scope of today's rulemaking, exempt permit alterations from public notice as explained at 67 FR 58697, September 18, 2002.

Comments Regarding the Proposed Rules Weaken the Existing SIP-Approved Public Participation Requirements

Comment 20: UT Law Clinic commented that EPA proposes to approve rules that weaken existing public participation requirements and that create new loopholes that eliminate all public participation for many minor new source review applications, including those at major sources in nonattainment areas.

Response 20: EPA disagrees with the commenter. As our proposal explained, the revised public participation rules submitted on July 2, 2010, either improve upon the existing SIP-approved public participation requirements or maintain the status quo for all types of permit applications subject to the Chapter 39 public participation requirements.

- For permit applications for major new sources and major modifications subject to PSD or NNSR permit requirements the revised rules represent no substantive change in the existing SIP-approved requirements. Permit applications for new major sources or major modifications subject to PSD and NNSR permit requirements must go through NORI and NAPD notice.
- Public notice requirements for PAL permit applications are not explicitly provided for in the current SIP-approved public notice requirements. However, as discussed in the proposal and TSD, the public notice requirements for PAL permit applications are consistent with federal requirements and require NAPD notice.
- Public notice requirements for renewal permit applications are consistent with the current SIP-approved requirements. As noted in the proposal, there is no federal requirement for a Title I permit renewal, therefore EPA views any renewal permit and the subsequent public notice to enhance Texas's SIP-approved permit renewals program.
- TCEQ's revised regulations for public participation increase opportunities for public involvement in Minor NSR permitting decisions compared to the current SIP-approved requirements. For permit applications for new minor sources the revised July 2, 2010, public notice rules maintain the status quo and require NORI and NAPD notice. However, as explained in Comment/Response 17 the current SIP-approved public notice requirements for minor permit amendment applications is at the discretion of the Executive Director. This means that under the current SIP, many minor permit amendment applications may receive no notice at all. In response to our proposed limited approval/limited disapproval, the July 2, 2010, public participation SIP submittal expanded the publication of the NAPD to cover Minor NSR permit applications and specified Minor NSR permit amendment applications. The new rules also require permit amendment applications to go through NORI and NAPD if the amendment is for a change in the character of emissions or the release of an air contaminant not previously authorized. Further, the revised rules require NORI and NAPD public notice for all new minor sources and all permit amendments above identified ''de minimis'' and ''insignificant'' thresholds. For permit amendment applications with emissions less than these thresholds, the TCEQ justified its approach using *de minimis* principles like those established in *Ala. Power Co.* v. *Costle,* 636 F.2d 323, at 360–361 (D.C. Cir. 1979) [hereinafter *Alabama Power*]. See the June 18, 2010 Texas Register, pages 5224–5230. Requiring NORI and NAPD notice for amendments above a specified emissions threshold is more stringent than the existing SIP; which only requires public notice of minor amendments at the discretion of the Executive Director.

EPA's proposal and our analysis of the July 2, 2010, public notice submittal did not identify any public notice loop holes that violate the relevant requirements in the CAA or federal regulations. Rather, we have identified an expansion of public notice requirements for minor permit amendments above certain thresholds. For the minor permit amendment applications below the thresholds, there is either no public notice (which maintains the status quo of the current SIP requirements) or the Executive Director can exercise the provided discretion to require public notice if there is reasonable likelihood for significant public interest in a proposed activity, there is reasonable likelihood for emissions to impact a nearby sensitive receptor, there is reasonable likelihood for a high nuisance potential from the operation of the facilities, or the application involves a facility in the lowest classification under Texas Water Code, § 5.753 and § 5.754 and 30 TAC Chapter 60. No changes were made to the final rule as a result of this comment.

Comment 21: UT Law Clinic commented that the Texas rules at 30 TAC 39.402 create new exemptions from public participation requirements. Specifically, the Texas rules at 30 TAC 39.402 limit public participation to only certain types of modifications, those that are defined as ''amendments'' and that meet the one or more of the conditions in 30 TAC sections 39.402(a)(3)(A), (B), (C), or (D), or 30 TAC 39.402(a)(6). Unlike the existing SIP rules, the rules proposed for approval exempt large classes of modifications from all public participation. Their approval would, therefore, weaken the existing SIP.

Response 21: EPA disagrees with the commenter that the existing SIP requires public participation for all minor modifications. The existing SIP only requires public participation for new minor permit applications or renewal applications. Applications for minor permit amendments are only required to go through notice to the extent determined by the Executive Director. Therefore, the commenter is inaccurate

in the assertion that the existing SIP requires public participation for all minor modifications.

EPA also disagrees that the new rules submitted July 2, 2010, at 30 TAC 39.402 create new exemptions from public participation requirements and limit public participation to only certain types of minor modifications. The revised public participation rules maintain the existing stringency of the SIP requirements for major NSR and new minor stationary sources and provide more opportunities for public participation for minor modifications to existing facilities. In the following paragraphs we will address each portion of the applicability provisions of the July 2, 2010 rules as requested by the commenter.

• The public notice requirements at 30 TAC 39.402(a)(3)(A) do not limit public notice. Section 39.402(a)(3)(A) requires public notice for any minor permit amendment application where there is a change in character of emissions or release of an air contaminant not previously authorized under the permit, regardless of whether the emissions are below the ''de minimis'' and ''insignificant'' thresholds. The current SIP only requires minor permit amendments to go to notice at the discretion of the Executive Director, so even if a minor permit amendment was for an air contaminant not previously emitted there was no requirement for public notice unless the increase in emissions triggered NNSR or PSD.

• With respect to the requirements at 30 TAC 39.402(a)(3)(B) and 39.402(a)(3)(C) as submitted on July 2, 2010, for minor modifications public notice is expanded to cover minor permit amendments that exceed the specified ''de minimis'' and ''insignificant'' thresholds. While 30 TAC Sections 39.402(a)(3)(B) and 39.402(a)(3)(C) do establish two thresholds below which public participation is not required, the establishment of these two thresholds actually represent an expansion over the existing SIP-approved public notice requirements for minor permit amendments. Under the current SIP, minor permit amendment applications regardless of permitted emission rate do not go to notice unless required by the Executive Director. EPA maintains that the establishment of the ''de minimis'' and ''insignificant'' thresholds provide opportunities for more minor permit amendments to go through public notice compared to the existing SIP requirements. As explained in previous Comment/Response 20, these two categories of thresholds are narrower than the existing SIP requirements and cannot be considered a weakening. With the addition of these two thresholds, the TCEQ is now requiring public notice for all minor permit amendment applications above either of the thresholds, which is a significant expansion of the minor NSR SIP requirements for public participation. The TCEQ submitted an explanation of how the thresholds were established that demonstrated the thresholds do not impact air quality in Texas. Further, EPA finds that Texas's ''de minimis'' and ''insignificant'' thresholds do not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA, as required by section 110(l).

• The requirements at 30 TAC 39.402(a)(3)(D) establish the criteria that the TCEQ Executive Director will use to require public notice for minor permit amendment applications that would not otherwise go through the public notice process because the minor permit amendments are below either of the two thresholds. This use of Executive Director Discretion is in direct contrast to the discretion currently provided for in the Texas SIP. In the SIP-approved public notice rules the Executive Director has the discretion to exempt every minor permit amendment application from public notice. The rules submitted on July 2, 2010, at 30 TAC 39.402(a)(3)(D) do not allow for the Executive Director to remove a requirement, rather these rules provide a set of criteria for the Executive Director to require additional public notice not already required by the rules. This type of director discretion does not limit public notice and does not violate the relevant requirements in the CAA and federal regulations. Further, EPA views the criteria under which the Executive Director can require additional notice for minor permit amendments as creating a consistent mechanism that will improve implementation of the Texas minor NSR permit program.

• The requirements at 30 TAC 39.402(a)(6) require public notice for permit renewals. There is no federal requirement for a title I permit renewal, so any requirement for public notice of such a renewal enhances the Texas air permitting program and provides opportunity for public notice beyond federal requirements.

For the reasons stated above, EPA disagrees that the revised public participation rules submitted July 2, 2010 create new exemptions from public notice requirements. No changes have been made to the final rule as a result of this comment.

Comments Regarding the Minor NSR Public Notice Requirements Specific to Two Types of Minor NSR Permit Amendment Applications

Comment 22: UT Law Clinic commented that ''public participation is necessary to maintain air quality under the CAA.'' See 77 FR 74129, 74130 (Dec. 13, 2012); 60 FR 45530, 45548 (citing 38 FR 15834, 15836 (1973) and *NRDC* v. *EPA,* No. 72–1522 (D.C. Cir.) See also 61 FR 38250, 38276 and 38320.

Response 22: We agree with the commenter. In fact, TCEQ's revised regulations for public participation that we are approving today increase opportunities for public involvement in Minor NSR permitting decisions. TCEQ's revised rules require that all applications for new Minor NSR sources go through full public notice with the NORI and NAPD, improve the public notice opportunities for permit amendments, and define and limit conditions for use of the Executive Director's discretion. All permit amendment applications now are subject to public notice if changes to the permits authorize a change in the character of emissions or a release of an air contaminant not previously authorized. Permit amendment applications that increase emissions above either of the two thresholds now are subject to public notice. TCEQ's revised rules enhance public participation by creating tiered, public notice requirements for permit amendments. Unlike the existing SIP regulations, the revised rules now require that most permit amendments go through full public notice with the NORI and NAPD. But, the new rules retain and refine the TCEQ's director's discretion provisions for minor permit amendments below the ''de minimis'' and ''insignificant'' thresholds. For these amendments, TCEQ will not automatically require an opportunity for public participation. TCEQ justified its approach for permit amendment applications with emissions less than these thresholds using *de minimis* principles like those established in *Alabama Power.*

As we explain in Comments/Responses 39–40, Texas tailored the scope of its Minor NSR permit program. Specifically, Texas identified ''de minimis'' and ''insignificant'' thresholds for which review with public participation may or may not be necessary depending on whether the amendment triggers public review under the specified Executive Director's criteria. TCEQ has made an adequate

justification that the Texas tiered public participation program satisfies the provisions of 40 CFR 51.160(e) and 51.161. No changes were made to the final rule as a result of this comment.

Comment 23: UT Law Clinic commented that even if *Alabama Power* could be read to give agencies the authority to create *de minimis* exceptions to their regulations, the exceptions created by the Texas rules do not qualify as *de minimis.* The actual modifications that Texas has entirely exempted from public participation are not *de minimis* or environmentally insignificant.

Response 23: EPA disagrees with the commenter. EPA recognizes a state's ability to tailor the scope of its Minor NSR program as necessary to achieve and maintain the NAAQS in accordance with CAA 110(a)(2)(C). EPA has reviewed the TCEQ's analysis and determined that the state established ''de minimis'' and ''insignificant'' thresholds meet federal requirements. EPA's evaluation of the adequacy of the State's demonstration is in our proposal at 77 FR 74129, at 74136–74140 and Comments/Responses 39–40 =. The commenter did not provide any specific evidence that disputes the demonstration provided by Texas, nor did the commenter provide any alternative metrics the EPA should consider when evaluating the scope of the applicability of the ''de minimis'' or ''insignificant'' thresholds submitted by TCEQ. The minor permit amendments are still processed pursuant to the SIP-approved Minor NSR permitting program and will only be issued by the TCEQ if demonstrated to be protective of the NAAQS and increment. We note that the ''de minimis'' and ''insignificant'' thresholds are only used to distinguish those minor permit amendment applications that require full review, including public notice, from those that may not. See 77 FR 74138–74139. But the thresholds do not affect any part of the technical review of these minor permit amendment applications or the requirement to comply with other requirements such as application of required control technology, reporting when required to the emissions inventory, and analysis of monitoring data. No revisions were made as a result of this comment.

Comment 24: The EPA has repeatedly refused to fully approve programs that provide a ''blanket exemption'' from one or more public notice requirements of Part 51. The commenter referenced EPA actions at 73 FR 20536, at 20545–46 on April 16, 2008, and at 73 FR 72001, at 72008 on November 26, 2008.

Response 24: The commenter has not shown that the state established ''de minimis'' and ''insignificant'' thresholds under the Texas program are not approvable. The commenter cites two **Federal Register** notices regarding ''blanket exemptions'' from public notice requirements, but does not explain how the disapproved exemptions worked or compare the disapproved exemptions to the Texas ''de minimis'' or ''insignificant'' thresholds. In sum, the commenter did not demonstrate that any previous EPA action provides a basis for disapproving the submitted revisions to the Texas public participation requirements.

Despite the commenter's failure to describe or explain the relevance of the **Federal Register** citations, EPA has reviewed the April 16, 2008, final partial approval and partial disapproval action for Nevada referenced by the commenter, and confirmed that it provides no basis for disapproving the Texas program because Nevada's SIP submittal is distinguished from the Texas public participation rules at issue here. In the April 16, 2008 final rule, EPA disapproved Nevada's blanket exemption from public notice for sources below 100 tons per year (tpy) because the State had not provided any demonstration to justify its limitation on the scope of its Minor NSR permitting requirements. Thus, EPA suggested that the State consider ''lowering the mandatory public notice thresholds from 100 tons per year.'' 73 FR 20536, at 20546. Contrary to the situation in Nevada, the TCEQ has submitted a demonstration for both the ''de minimis'' and ''insignificant'' thresholds. For the small subset of minor permit amendment applications that are below the ''de minimis'' and ''insignificant'' thresholds and are not subject to full review, as discussed more fully in Comment/Response 39–40, the TCEQ has demonstrated this tailoring of the Minor NSR program is consistent with the CAA and EPA's regulations. Additionally, the Texas rules provide for public notice below these thresholds at the discretion of the TCEQ Executive Director—which is one of the suggested remedies provided by EPA for Nevada to consider in a subsequent rule change. *See id.*

EPA also reviewed the other **Federal Register** notice cited by the commenter, the November 26, 2008, proposed limited approval and limited disapproval in Texas. The section of that proposal referenced by the commenter generally highlights the need for public participation programs to comply with 40 CFR Part 51, and describes previous EPA rulemakings concerning such programs. The cited proposed rule notes that EPA ''approved Oregon's Minor NSR program establishing categories of Minor NSR permit actions,'' with differing levels of public review. See 73 FR 72008. The cited proposed rule also indicates that EPA ''disapproved or gave partial approval to Minor NSR public participation requirements'' that did not allow a 30-day comment period. See 73 FR 72008. The commenter does not specifically discuss the proposed approval of the Texas public notice provisions or any of the specific program approval decisions mentioned in that notice. And the commenter has not shown how or why any of the cited EPA actions provide any basis for questioning EPA's approval of the Texas ''de minimis'' and ''insignificant'' thresholds.

EPA finds that the commenter failed to demonstrate relevancy of the cited EPA actions (73 FR 20536, at 20545–46 on April 16, 2008, and at 73 FR 72001, at 72008 on November 26, 2008) to our proposed approval of the Texas public participation program. However to be clear and transparent in our rulemaking, we have reviewed the above cited actions, and the additional actions internally referenced within the April 16, 2008 and November 26, 2008 actions, and present the following discussion of each referenced rulemaking and how that rulemaking is either relevant or not relevant to the Texas rule at hand.

- 68 FR 2891, January 22, 2003—EPA's direct final approval of the Oregon Minor NSR program. In that final rule, EPA approved Oregon's tailoring of public participation requirements, in which the State created four categories of permit actions and established public participation criteria for each category. Similar to EPA's evaluation of the Oregon public participation rules, our analysis of the Texas public participation rules has demonstrated that Texas has tailored its public participation process in a manner that is consistent with the requirements for public participation set forth in 40 CFR 51.161 for minor source permits. EPA finds that our basis for this referenced rule is relevant to support our final rulemaking. Furthermore, Texas has demonstrated that using the ''de minimis'' and ''insignificant'' thresholds will have no adverse impact upon the existing air quality in the State of Texas.
- 65 FR 2042, January 13, 2000—EPA's final partial approval and partial disapproval of the West Virginia Minor NSR program. In that final action EPA disapproved a 15-day public comment

period for some Minor NSR actions because the State did not submit a demonstration. This disapproval is not applicable to the Texas public participation rules. As discussed in our December 13, 2012 proposal and Comments/Responses 39–40, EPA has received and evaluated the Texas demonstration for the ''de minimis'' and ''insignificant'' thresholds and determined that the state's demonstration is consistent with the Minor NSR requirements and ability to tailor a Minor NSR program under the CAA and EPA's regulations. Texas has demonstrated that using the two thresholds will have no adverse impact upon the existing air quality in the State of Texas.

• 65 FR 2048, January 13, 2000—EPA's limited approval of the Delaware Minor NSR program. In that action, EPA granted limited approval of the Delaware Minor NSR public notice provisions because these rules were a strengthening of the SIP-approved public notice requirements. However, EPA did not grant a full approval because Delaware's submittal provided a 15-day period to request a public hearing for all permitting actions, which conflicts with the 30-day requirement in 40 CFR 51.161(b)(2). See 63 FR 16751, at 16753. Such a blanket exemption applied to all permitting actions with no demonstration submitted by the state. But, as discussed in Comments/Responses 39–40, the TCEQ has made a demonstration consistent with the requirements for public participation set forth in 40 CFR 51.161 for minor source permits that provides for Texas to tailor its public participation process for the subset of minor permit amendment applications below the ''de minimis'' and ''insignificant'' thresholds. Texas has demonstrated that using the two thresholds will have no adverse impact upon the existing air quality in the State of Texas. Moreover, these thresholds do not affect any part of the technical review of these minor permit amendment applications; or the requirements to continue to comply with other requirements such as application of appropriate control technology, reporting when required to the emissions inventory, and analysis of monitoring data. Further, the discretionary public notice for minor permit amendments below the ''de minimis'' and ''insignificant'' thresholds does not override any notice or technical requirements for PSD, NNSR, or new Minor NSR permit applications.

• 71 FR 48696, August 21, 2006. This is a proposal for EPA's Tribal NSR Rule, which was finalized several years later. See 76 FR 38748 on July 1, 2011. The rule promulgated a Federal Implementation Plan (FIP) for tribes in Indian country. In part, the FIP exempted from Minor NSR review sources with emissions below certain permitting levels based on a demonstration that ''sources with emissions below the thresholds will be inconsequential to attainment or maintenance of the NAAQS.'' 76 FR 38758. Under the approved Texas permitting program, new Minor NSR sources and minor modifications will go through the SIP-approved permit process and be evaluated by the TCEQ with respect to impact on the NAAQS and increment. For the subset of Minor NSR permit amendment applications that are below the ''de minimis'' and ''insignificant'' thresholds as discussed more fully in Comments/Responses 39–40, the TCEQ has demonstrated that using the ''de minimis'' and ''insignificant'' thresholds is still protective of NAAQS attainment and maintenance.

• 72 FR 45378, August 14, 2007—EPA's final rule on revisions to the Alaska NSR program. In that notice, EPA approved revisions to the public notice provisions for minor permitting which, for certain types of permits that meet specific requirements, gives the public 15 days to request a full 30-day public comment period on the draft permit. Otherwise the state will issue the permit based on the application without any opportunity for review and comment. See 72 FR 5232, at 5235. This Alaska program is not the same as the Texas program, and therefore not relevant to our rulemaking on Texas public participation. Under the approved Texas permitting program, new Minor NSR sources or minor modifications will go through the SIP-approved permit process and be evaluated by the TCEQ with respect to impact on the NAAQS and increment. Under the submitted public participation rules, all applications for new minor sources and the majority of minor permit amendment applications go through full notice and the public is given the opportunity to review the draft permit and the TCEQ's technical analysis. There is no separate requirement on the public to request this draft permit like there is in the approved Alaska program. For the subset of minor permit amendment applications that are below the ''de minimis'' and ''insignificant'' thresholds as discussed more fully in Comments/Responses 39–40, the TCEQ has demonstrated that it has tailored its public participation process in a manner that is consistent with the requirements for public participation set forth in 40 CFR 51.161 for minor source permits. Texas has demonstrated that using the two thresholds will have no adverse impact upon the existing air quality in the State of Texas. No revisions were made to the final rule as a result of this comment.

Comment 25: UT Law Clinic commented that Texas's justification for its *de minimis* levels in 30 TAC 39.402(a)(3)(B) is that they referenced the EPA SILs and/or a percentage of the NAAQS. This is not an adequate demonstration for purposes of showing that the exempted permitting changes will have a *de minimis* impact in terms of ambient air quality in their location. There is no specific analysis or modeling of how these emissions increases might impact maintenance of the NAAQS or the increments, particularly in areas that already exceed or are close to exceeding those limits.

Response 25: EPA disagrees with the commenter. The TCEQ submitted a sufficient demonstration that using the ''de minimis'' threshold will be protective of the NAAQS, as required by CAA 110(a)(2)(C). The comment does not add any specific analysis or details to the record to establish a basis for disapproval, and the commenter provided no alternative metric EPA should consider when evaluating the ''de minimis'' threshold. No revisions were made to the final rule as a result of this comment.

Comment 26: UT Law Clinic commented that Texas's proffered justification for the ''insignificant'' levels in 30 TAC 39.402(a)(3)(C) is also lacking. It is based on unenforceable assumptions about where agricultural sources covered by the rule will locate in the future and fails to provide an adequate demonstration that such emissions will not contribute to exceedances of the PM NAAQS in El Paso.

Response 26: EPA disagrees with the commenter. The TCEQ submitted a sufficient demonstration in support of the criteria established for applicability of the ''insignificant'' threshold, including an analysis of the effect on the PM NAAQS in El Paso. See 77 FR 74139. The comment does not add any specific analysis or details to the record to establish a basis for disapproval, and the commenter provided no alternative metric EPA should consider when evaluating the applicability of the ''insignificant'' threshold. TCEQ's submittal explains that the ''insignificant threshold'' is ''intended to focus the attention of the public and the commission on emission increases that could have a greater potential for

public interest and questions regarding impacts to public health and welfare.'' The submittal also demonstrates that the ''insignificant'' threshold applies to a limited number of minor amendments at facilities (approximately 10% of total amendment applications) dispersed across the State in 88 counties, many of them in rural areas of west Texas. Due to the nature and location of the activities at the relevant agricultural facilities, we anticipate that using the ''insignificant'' threshold will not impact nonattainment anywhere in or out of the State. Nevertheless, the Texas rules do provide for public notice for these amendments at the discretion of the TCEQ Executive Director under specified criteria that are consistent with the goal and purposes of the Act to provide an adequate opportunity for informed public participation. Further, under the approved Texas permitting program, all Minor NSR sources and modifications will go through the SIP-approved permit process and be evaluated by the TCEQ with respect to impact on the NAAQS and increment. Therefore the NAAQS and increment will continue to be protected. No revisions were made to the final rule as a result of this comment.

Comment 27: UT Law Clinic commented that in the past EPA has disapproved amendments to states' SIPs that attempted to relax the public participation standards for the minor stationary sources to the significance level, as Texas does here for certain agricultural sources. See 75 FR 51188 on August 19, 2010.

Response 27: EPA has reviewed the referenced August 19, 2010, proposed disapproval notice for Indiana. In the referenced Indiana rule, EPA proposed to disapprove a submittal from Indiana that would allow pollution prevention projects for sources that are not subject to title V and that do not result in a net increase in potential emissions above the PSD/NNSR significance levels to be processed as minor permit revisions under the Indiana minor operating permit provisions; meaning these revisions would be permitted without public notice. EPA proposed disapproval of the submitted rules because they weakened the SIP-approved requirements without adequate support for the SIP relaxation and because the state did not provide a 110(l) demonstration for the additional modifications to be exempted from notice. The existing Indiana SIP-approved Minor NSR rules required public notice for modifications with emission increases of greater than 25 tpy; the proposed rule would have exempted modifications from public participation up to the PSD/NNSR thresholds.

The August 19, 2010, proposed disapproval notice for Indiana is not analogous to the July 2, 2010, Texas public participation submittal. Contrary to the Indiana notice, the July 2, 2010, Texas submittal enhances the SIP by expanding the universe of minor permit amendments subject to public participation. See Comments/Response 20 and 21. Additionally, the TCEQ provided a demonstration for the establishment of the ''insignificant'' thresholds and EPA finds that the State's demonstration is adequate. Please see our proposal and Comment/Response 39–40 for further discussion about this demonstration from Texas. Finally, the Executive Director has discretion to require public notice for any minor permit amendment at agricultural facilities that are below the ''insignificant'' threshold. EPA therefore finds that the Indiana rule is not relevant to our rulemaking on the Texas public participation program. No revisions were made to the final rule as a result of this comment.

Comment 28: UT Law Clinic commented that the thresholds in 30 TAC 39.402(a)(3)(B) exceed those previously rejected by EPA as too high. See 77 FR 7531, 7532 on February 13, 2012. ''EPA never before denoted emissions increases as high as 15 tons per year as ''de minimis''.''

Response 28: EPA has reviewed the February 13, 2012, final notice to partially approve and partially disapprove revisions to the Montana permitting program. We disagree with the commenter that this notice is relevant to today's rulemaking on Texas Public Participation. In the Montana partial approval and partial disapproval, EPA disapproved the revisions to the de minimis permitting thresholds for asphalt concrete plants and mineral crushers where the de minimis permitting threshold for those sources was increased from five tpy to 15 tpy. EPA based our disapproval of the de minimis permitting threshold increase on lack of a 110(l) demonstration justifying the SIP relaxation. See 77 FR 7531, 7532. Texas has not relaxed its requirements, and has made an adequate demonstration to justify the scope of its minor NSR provisions. No revisions were made to the final rule as a result of this comment.

Comment 29: UT Law Clinic commented that the Texas rules fail to require public participation for amendments that exceed the significance level for fluorides and for emissions up to the significance level for lead.

Response 29: The Texas rules require minor permit amendments for non-agricultural facilities that are not subject to THSC § 382.020 to provide public notice if the state-established ''de minimis'' thresholds are exceeded (0.6 tpy of lead or 5 tpy of fluorides) and for agricultural facilities subject to THSC § 382.020, if the state-established ''insignificant'' thresholds are exceeded (25 tpy of fluorides). As explained previously, the State adequately justified the scope of its Minor NSR requirements. Moreover, a Minor NSR permit amendment for a change in character of emissions or release of an air contaminant not previously authorized under these new rules must go through notice. So if the facility, either subject to THSC § 382.020 or not, submitted a minor permit amendment application to add emissions of lead or fluorides that were not already authorized, that amendment now would be required to go through notice. Additionally, the Executive Director has discretion to require notice for any permit amendment that falls below the ''de minimis'' or ''insignificant'' thresholds. Furthermore, no modification that is major under the PSD or NNSR requirements is exempt from public participation. UT Law Clinic, in referencing ''significance'' levels, is referring to the levels at which projected emission increases to an existing major stationary source exceed the level and therefore must undergo PSD/NNSR Major permitting requirements. The Texas public participation rules are clear that the ''de minimis'' and ''insignificant'' thresholds apply only to Minor NSR permit amendments. No revisions were made to our final rule as a result of this comment.

Comment 30: UT Law Clinic commented that the proposed rules allow increases to occur with no public oversight even at major sources and synthetic minor sources that are already emitting high levels of emissions and adversely impacting surrounding communities. See 77 FR 38557, 38563 (synthetic minor sources ''should be treated for public participation purposes as major sources.''). Further, the commenter states that EPA proposed to approve Texas' exemption from all public participation for modifications, including those at major and synthetic minor sources; at major sources of HAPs; at sources in nonattainment areas that proposed to increase emissions of nonattainment pollutants; that alter the terms and conditions of Major NSR and PSD permits, and that allow increases in emissions that are not actually *de*

minimis. UT Law Clinic further states that the above identified modifications exempt from public participation are clearly not de minimis or insignificant modifications and Texas has not attempted to demonstrate, nor could it, that these modifications could be excluded entirely from its Minor NSR permitting program pursuant to 40 CFR 51.160(b).

Response 30: We disagree with the commenter's characterization of the submitted thresholds for certain minor permit amendments. The submitted ''de minimis'' and ''insignificant'' thresholds cannot be used for new major sources or major modifications subject to PSD or NNSR requirements. Additionally, section 112(g) of the CAA regulates HAPs and this program is not under the auspices of a CAA section 110 SIP; therefore, regulation of HAPs is outside the scope of today's rulemaking. 77 FR 74133. We believe that the commenter is indirectly challenging the federal rules for determining whether minor or major NSR SIP requirements apply to a proposed change. Under the CAA and federal regulations, PSD and Nonattainment NSR (NNSR) SIP requirements do not apply to minor modifications at major stationary sources or to minor modifications at minor sources (including synthetic minor stationary sources [3]). As such, EPA's authority to evaluate Texas's submitted Minor NSR program requirements for approval into the SIP is limited to the applicable Minor NSR requirements. By definition, the Texas ''de minimis'' and ''insignificant'' thresholds can only apply to minor modifications at existing minor and major stationary sources, i.e., Minor NSR requirements.

EPA has reviewed the referenced June 28, 2012, proposed limited approval and limited disapproval to the Nevada SIP and disagrees that the cited statement regarding synthetic minor sources is relevant to the proposed Texas rule. The referenced comment about synthetic minor sources being treated as major sources for purposes of public participation was specifically regarding the method in which the public notice is made available for the public—newspaper notice versus electronic notice. In this proposed LA/LD for Nevada, EPA stated that ''notice of permitting actions may be made by means other than traditional newspaper notice for most types of minor sources, EPA also believes that, with respect to synthetic minor sources, an exception should be made to the use of electronic means as the sole means to notify the general public of proposed permitting actions. For synthetic minor sources . . . we believe that the traditional means of notification (i.e., newspaper notice) should be included as one of the means for notifying the general public of proposed permit actions on the grounds that such sources should be treated for public participation purposes as major sources for which such notice is required.'' But EPA did not find the Nevada program's failure to provide newspaper ''notice with respect to synthetic minor sources to be significant,'' and did not propose disapproval on this basis. The July 2, 2010, Texas public notice submittal requires newspaper notice for all new major and minor stationary sources, major modifications, and minor permit amendments above the ''de minimis'' and ''insignificant'' thresholds. So, from that respect, construction of synthetic minor sources and minor modifications above the ''de minimis'' and ''insignificant'' thresholds will be required to provide newspaper notice consistent with the statements provided in our Nevada proposed LA/LD.

As discussed in Comment/Response 39–40, for the small subset of minor permit amendment applications that are below the ''de minimis'' and ''insignificant'' thresholds, the TCEQ has demonstrated that this tailoring of the scope of the Minor NSR requirements is consistent with the CAA and EPA's regulations and is protective of the NAAQS and maintenance. EPA notes that Texas has not proposed to exclude entirely from its SIP-approved Minor NSR permitting program those minor permit amendments that fall below the ''de minimis'' and ''insignificant'' thresholds. Moreover, although the commenter has asserted that the Texas thresholds ''exempt from public participation [modifications that] are clearly not de minimis or insignificant,'' it offers no evidence to support that assertion. In sum, the commenter has failed to show that EPA erred in determining that TCEQ adequately ''justified its approach for permit amendment applications with emissions less than'' the ''de minimis'' and ''insignificant'' thresholds. 77 FR 74137. No changes were made to our final rule in response to this comment.

Comment 31: UT Law Clinic commented that the rules do not require public participation for increases of emissions, such as NO_X or VOCs that are nonattainment pollutants in nonattainment areas and that may cause violations of the NAAQS, increments, or other control strategy requirements.

Response 31: This characterization of the rules is incorrect. Any new major stationary source or major modification subject to the requirements of NNSR permitting must go through public notice using the NORI and NAPD. The new rules also require minor permit amendment applications to go through NORI and NAPD if the amendment is for a change in the character of emissions or the release of an air contaminant not previously authorized. Further, the revised rules require NORI and NAPD public notice for all new minor sources and all minor permit amendments above identified ''de minimis'' and ''insignificant'' thresholds. Moreover, consistent with the provisions of 51.160(b), the Texas Minor NSR permitting provisions provide that the Executive Director may not issue a permit to any source that would cause or contribute to a NAAQS violation. (30 TAC 116.111(a)(2)(A).) The July 2, 2010, public participation rules do provide that applications for certain minor permit amendments that are below the ''de minimis'' and ''insignificant'' thresholds do not go through notice, except at the discretion of the TCEQ Executive Director. However, under the approved Texas permitting program, new Minor NSR sources and minor modifications will go through the SIP-approved permit process and be evaluated by the TCEQ with respect to impact on the NAAQS and increment. Therefore, pursuant to the Texas SIP at 30 TAC 116.111(a)(2)(A), the minor permit amendment will only be issued by the TCEQ if the applicant is able to demonstrate that the amendment will not cause violations of the NAAQS, increment or other provisions of the control strategy. The TCEQ will continue to use the permit review and approval process to protect the NAAQS, increment and applicable control strategy. No revisions were made to the final rule as a result of this comment.

Comment 32: UT Law Clinic commented that EPA Region 6 informed Texas in 2006 that the agency [EPA Region 6] had identified categories of Minor NSR permitting actions that are not *de minimis,* including any change where prospective emission increases by themselves would be a significant increase of any pollutant and any emission increases that involve netting out of major NSR or synthetic minor certifications. See Attachment A (Attachment 3—EPA Letter to Steve Hagle Regarding Comments on SIP revisions for Public Participation,

[3] A synthetic minor source is an air pollution source that has the potential to emit air pollutants in quantities at or above the major source permitting threshold levels, but has accepted federally enforceable limitations (such as permit restrictions) to keep the emissions below such major source levels.

August 14, 2006). Texas proposed exemptions from public participation include modifications that fall within the categories EPA has expressly identified as not *de minimis.*

Response 32: The commenter references the August 14, 2006, comment letter from Mr. David Neleigh, EPA Region 6 Air Permits Section Chief, to Mr. Steve Hagle of the TCEQ on the proposed public participation rules at that time [the rules upon which EPA initially proposed LA/LD in 2008 and withdrew after TCEQ adopted and submitted revised rules in July 2010]. This letter identifies previous rulemakings and interprets those rulemakings to portray the position noted by the commenter. However, that position is not actually articulated in the rulemakings that the letter cites. See Comment/Response 24. Consequently, the letter fails to accurately represent EPA's official position. EPA's official position is reflected in today's final action.

Under the Texas program, all construction of major stationary sources must go through full major NSR review including public participation. All major modifications to existing major or minor stationary sources must go through full major NSR review including public participation. All construction of new minor stationary sources must go through full Minor NSR review including public participation. All minor modifications to existing major or minor stationary sources must go through full Minor NSR review, and include public participation unless they meet either the ''de minimis'' or ''insignificant'' thresholds. There is a slim chance under the ''insignificant'' threshold that a minor modification approaching the synthetic minor limit may not require public participation. Nevertheless, the state has demonstrated that using the ''insignificant'' threshold will not allow interference with the NAAQS. Besides demonstrating that using the two thresholds will not result in any violation of the NAAQS or any control strategy, the State has included a consistent mechanism that gives constrained authority to the Executive Director to require public participation for minor permit amendments that would otherwise be below one of the two thresholds.

As explained in Comments/Responses 39–40, permitting authorities have the discretion to tailor the Minor NSR permit program. The TCEQ has developed the ''de minimis'' and ''insignificant'' thresholds, and for minor permit amendment applications with emissions less than these thresholds, the TCEQ justified its approach using the *de minimis* principles like those established in *Alabama Power.* See the June 18, 2010 Texas Register, pages 5224–5230. Therefore, we are approving the Minor NSR ''de minimis'' and ''insignificant'' thresholds. The commenter has failed to dispute the demonstration provided by Texas. EPA believes that the NAAQS and increment will continue to be protected because the TCEQ still must follow the SIP-approved permitting process. If EPA discovers evidence to support the determination that the TCEQ were found to be misapplying the Minor NSR SIP permit rules or an applicant is found to be using the public notice ''de minimis'' and ''insignificant'' thresholds in an attempt to circumvent any NSR requirements, then EPA or the public could address this implementation failure on a permit specific basis or other CAA remedy mechanism such as a failure to implement action. No revisions were made to the final rule as a result of this comment.

Comment 33: UT Law Clinic commented that the Texas rules allow sources to use a netting process to determine their total emission increases without any public oversight and allow them to calculate those emissions increases taking into consideration voluntary, unenforceable control technologies.

Response 33: EPA believes that the commenter may be misconstruing/misunderstanding the EPA NSR SIP rules. The federal Major NSR SIP requirements allow a state to provide for a netting process to determine if a proposed modification to an existing major stationary source is major or minor. First, this netting process takes into consideration the control technologies that will be applied to the proposed change. (The control technology assumption must be made enforceable through the issuance of the permit for the netting process to meet the NSR SIP requirements.) Next, one looks to what are the emission increases of the proposed modification by itself. If the emission increases of the proposed modification by itself are above the significance level, then the contemporaneous window is evaluated to see if there is a net increase of emissions considering all other increases and decreases. If the calculation of the netting is above the significance levels, then the proposed modification to the existing major stationary source is major and is subject to full public participation. Therefore, the public can comment upon the netting calculations if they so choose. If the calculation of the netting is below the significance level/rate, then the proposed modification to the existing major stationary source is minor. Under the Texas NSR SIP, this minor modification can be authorized by a minor permit amendment or another SIP-approved minor NSR mechanism such as a PBR or SP. Under the rules approved today, full public participation for a minor permit amendment is required unless the change is below either the ''de minimis'' or ''insignificant'' thresholds. Therefore, the public now will have an opportunity to review the netting calculations and comment upon them in the Texas public participation process for all amendments resulting in emissions increases above the two thresholds and for amendments below the thresholds if the Executive Director so requires.

Under the federal NSR SIP rules, the requirements for a modification to a minor existing stationary source are very different from those described above for a modification to a major existing stationary source. The proposed change can be above the major NSR significance levels but regardless still is defined under the federal SIP rules, as a minor modification. This proposed change would only be required to be permitted under the major NSR SIP requirements if the proposed increase in emissions is the same as the emission rate for a major stationary source.

EPA recognizes the public's role in a viable major NSR SIP permitting program is to review and comment on the netting calculations to hold the permitting authority accountable. For instance, project netting—wherein a source calculates the projected increases for the project simultaneously with decreases from other projects—before determining if the project itself is significant, is a circumvention of NSR SIP requirements. Project netting is not provided for in the approved Texas NSR SIP permitting program, nor is it provided for in the Texas public notice rules acted upon today. If EPA discovers evidence to support the determination that the TCEQ were found to be misapplying the NSR SIP permit rules or an applicant to be using the ''de minimis'' and ''insignificant'' thresholds in an attempt to circumvent major NSR applicability, then EPA or the public could address this implementation failure on a permit specific basis or other CAA remedy mechanism such as a failure to implement action. No revisions were made to the final rule as a result of this comment.

Comment 34: UT Law Clinic commented that Texas facilities are already using the rules, as adopted in Texas, to avoid public participation for

changes such as authorizing maintenance, startup, and shutdown emissions, which are clearly not *de minimis.*

Response 34: Under the rules being approved today, where the inclusion of MSS emissions constitutes a major modification subject to PSD or NNSR permitting then the facility must go through full public notice with the NORI and NAPD. Under the rules being approved today, MSS emissions that constitute a minor modification can be included in a minor permit amendment that must go through full public notice unless the change is below either the ''de minimis'' or ''insignificant'' thresholds. There are other SIP-approved permit mechanisms available for including minor MSS emissions; these include permit alterations, permits by rule, and standard permits. Each of these three permitting mechanisms is outside the scope of this public participation rulemaking action. In the event the facility chooses to use a minor permit amendment, then the minor permit amendment will be subject to notice if the emission increases associated with the minor permit amendment exceed the ''de minimis'' or ''insignificant'' thresholds. The TCEQ Executive Director also has discretionary authority to require public notice for those minor permit amendment applications that are below the ''de minimis'' and ''insignificant'' thresholds and would not otherwise receive full notice. Again, this process is an improvement over the existing SIP-approved process that requires no public notice for minor permit amendments. It also does not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. CAA 110(l). Also, the permit process itself ensures that the emissions are permitted and enforceable. No revisions were made to the final rule as a result of this comment.

Comment 35: UT Law Clinic commented that the provisions submitted by Texas at 30 TAC 39.402 exempt large categories of modifications that have the potential to violate the SIP and interfere with attainment or maintenance.

Response 35: EPA disagrees with the commenter. The TCEQ did not submit and EPA did not evaluate any provisions to exempt new sources or modifications (whether major or minor) from permit requirements. Our action is solely regarding the public notification process in the Texas air permitting program. As explained previously, the submitted rules do not require public participation for certain Minor NSR permit amendment applications with emissions below the ''de minimis'' or ''insignificant'' thresholds. However, because these Minor NSR permit amendment applications must continue to be reviewed and processed through the SIP-approved permit process, the TCEQ will continue to issue permits protective of the NAAQS. If EPA discovers evidence to support the determination that the TCEQ were found to be misapplying the Minor NSR SIP permit rules or an applicant using the ''de minimis'' and ''insignificant'' thresholds in an attempt to circumvent any NSR requirements, then EPA or the public could address this implementation failure on a permit specific basis or other CAA remedy mechanism such as a failure to implement action. No revisions were made to the final rule as a result of this comment.

Comment 36: UT Law Clinic commented that EPA proposes to approve rules that allow significant increases in emissions and changes to terms and conditions of NSR and PSD permits without any public participation.

Response 36: EPA disagrees with the commenter. Construction of any new major stationary source must go through public notice. Any major modification must go through public notice. Construction of any new minor stationary source must go through public notice. Minor modifications to minor or major stationary sources must go through public notice except for those below the ''de minimis'' or ''insignificant'' thresholds. And the state has demonstrated that minor permit amendment applications using the established ''de minimis'' or ''insignificant'' thresholds will not affect NAAQS attainment or maintenance. The rules address public participation only and do not address increases in permitted emissions. Under the federal NSR SIP program, there can be what is defined as ''significant emission increases'' that fall under the Minor NSR SIP requirements, not the Major NSR SIP requirements. It is only when there is a ''significant emission increase'' to an existing *major* stationary source that this increase falls under the Major NSR SIP requirements. If the increase is to a minor stationary source and yet is above the ''significant emission increase,'' the federal rules allow this change to be authorized through the Minor NSR SIP program. Therefore, under the action taken today, under the Texas SIP, minor modifications to major or minor stationary sources must go through public notice unless the change is below either the ''de minimis'' or ''insignificant'' thresholds. The commenter appears to be indirectly challenging the federal SIP rules for how one determines applicability for major and Minor NSR; concerns regarding major and minor NSR applicability are outside the scope of this rulemaking. Our action taken today approving the ''de minimis'' and ''insignificant'' thresholds, does not prohibit all public participation for all modifications. We are approving an exemption from public participation only for certain minor permit amendments that meet either of the two thresholds; TCEQ has demonstrated that use of either of these two thresholds will not affect attainment or maintenance of the NAAQS. By definition, the Texas public notice exemptions for minor permit amendments below the public notice ''de minimis'' and ''insignificant'' thresholds can only apply to minor modifications at existing minor and major stationary sources. Under the CAA and federal regulations, PSD and NNSR SIP requirements do not apply to minor modifications at major stationary sources or to minor modifications at minor sources. As such, EPA's authority to evaluate Texas's submitted Minor NSR exemptions for approval into the SIP is limited to the applicable Minor NSR requirements. No revisions were made to the final rule in response to this comment.

Comment 37: UT Law Clinic commented that EPA's approval of the Texas rules in 30 TAC 39.402(a)(3), would exempt permits by rule (PBRs) from SIP public participation requirements. By utilizing a PBR to authorize increases in emissions, sources thereby avoid public participation for Minor NSR changes that should be subject to at least 30-day notice and comment. If EPA finalizes its proposed approval, there would not appear to be any provisions in the SIP governing public participation for PBRs. Commenter also submitted information about how the PBR program works.

Response 37: The Permit by Rule program at 30 TAC Chapter 106 is outside the scope of today's rulemaking. EPA approved the PBR program into the SIP such that the initial development and adoption of a PBR goes to public notice, but the individual issuance or authorization of a PBR to a facility is exempt from public notice. *See* 68 FR 64543. The July 2, 2010 submittal does not change our SIP-approval of the PBR program.

Comment 38: UT Law Clinic requested that EPA disapprove the provisions at 30 TAC 39.402.

Response 38: As explained in previous Comments/Responses we do not agree that the provisions at 30 TAC 39.402 are inconsistent with federal requirements or represent a weakening of the existing SIP-approved requirements. No changes have been made to the final rule as a result of this comment.

Comments Regarding the Minimum Federal Requirements for Public Participation and EPA's Use of Alabama Power de minimis Principles

Comment 39: UT Law Clinic commented that the regulations at 40 CFR 51.161(a) and (b) plainly set minimum public participation requirements. These regulations state that the SIP ''must'' require the opportunity for public comment and that ''as a minimum'' the comment period must last 30 days. The commenter also provided the regulatory language and history of 40 CFR 51.161 to support the statement that rules regarding notice and public participation apply to all permitting actions.

1. In 1983, EPA proposed to restructure and revise the SIP preparation regulations. *See* Restructuring SIP Preparation Regulations, 48 FR 46152 (Oct. 11, 1983).

a. Among other things, the proposed rule moved the regulations for notice and public participation from 40 CFR 51.18 to §§ 51.160 and 51.161.

b. Additionally, EPA proposed to narrow the scope of the requirement (then contained in 40 CFR 51.18(h)(4)) that forced ''States to notify EPA of all air permitting actions pertaining to new sources or modification to existing sources'' to only apply to ''major sources in nonattainment areas, . . . or for lead, those sources covered under § 5l.l(k)(2).'' 48 FR at 46156.

c. In the proposal, EPA explained that the change was due to the fact that it ''primarily needs permitting information from only major new sources or major modifications of existing sources in nonattainment areas.''

2. In 1986, EPA finalized the restructuring and revision of the SIP preparation regulations. 51 FR 40656.

a. In response to comments in opposition to the proposal to narrow the scope of the notice standard, EPA dropped the proposal and kept the original language largely in place when it moved 40 CFR 51.18(h)(4) to § 51.16l(d).

b. The final rule explained:

i. A commenter opposed the proposal to drop requirements for States to notify EPA of permitting actions for all minor sources and for all sources outside nonattainment areas [§ 51.161(d)] on the grounds that new source review is a central part of the prevention of significant deterioration (PSD) and the air quality maintenance plan process and that notification is needed for EPA oversight. The provisions governing PSD procedures, § 51.24, require States to notify EPA of permitting actions for major sources outside nonattainment areas. The deletion from § 51.161(d) did not affect those requirements, only the notification requirements for minor sources.

ii. However, EPA agrees that where State or local agency review of new or modified minor sources is required, it should be notified of permitting action for such sources.

iii. The very fact that such sources are subject to review indicates that it would be appropriate to require that EPA be notified of permitting actions on such sources for oversight purposes.

iv. Moreover, a large number of minor sources could have a significant cumulative effect on air quality.

v. Thus, under the authority of sections 110 and 301 of the Act, the proposed § 51.16l(d) has been modified so that it now is essentially identical to existing § 51.18(h)(4). Hence, EPA will require reporting of all State permitting actions, as required in the existing SIP regulations.

The commenter states that EPA's prior interpretation [the 1983–1986 rulemaking history of 40 CFR 51.161 cited above] makes clear that the regulations apply to ''all State permitting actions.'' If the EPA wants to omit minor sources from the notice and public participation requirements, it must go through the notice and comment process. Finally, the commenter states that the narrowing of the universe of permit modifications that go through public notice is inconsistent with 40 CFR 51.160–51.161.

Response 39: EPA does not find this comment on the 1986 rulemaking relevant. In the quoted language in the 1986 final rulemaking, EPA focused on the requirement in 40 CFR 51.161(d) to notify EPA of minor permitting actions. As the commenter indicates, EPA ultimately decided to retain that notification to EPA requirement for Minor NSR state permitting actions requiring public notice. Secondly, EPA received no specific comments during our rulemaking on the Texas Public Participation program as to whether Texas's public participation program meets 40 CFR 51.161(d).

For the second comment that the regulations at 40 CFR 51.161(a) and (b) plainly set minimum public participation requirements, EPA reviewed the submitted rules against all the requirements of 40 CFR 51.160 and 51.161. They cannot be read in isolation but in conjunction with each other.

The Federal requirements for Minor NSR permit applications and public notice requirements at 40 CFR 51.160 and 161 generally require 30 days public review for all sources subject to Minor NSR; however, these requirements also allow a state to identify the types and sizes of facilities, buildings, structures, or installations, which will require full preconstruction review by justifying the basis for the state's determination of the proper scope of its program.[4] Importantly, our decision to approve a state's scope of its Minor NSR program must consider the individual air quality concerns of each jurisdiction, and therefore will vary from state to state.

EPA recognizes a state's ability to tailor the scope of its Minor NSR program as necessary to achieve and maintain the NAAQS. *See* 76 FR at 38756 (EPA regulation creating minor source program for Indian country, recognizing that CAA 110(a)(2)(c) provides discretion in developing a minor source program ''so long as the NAAQS are protected.''). As explained in our proposal at 77 FR 74129, at 74136–74140 and Comment/Response 40, TCEQ's submittal appropriately tailored application of the Minor NSR permitting requirements. TCEQ explained its approach of setting the two thresholds using *de minimis* principles like those established in *Alabama Power.* Under TCEQ's tiered program, all new Minor NSR construction permits and the majority of Minor NSR permit amendments go through full public notice.

Finally, there is no narrowing of the universe of permit modifications that go through public notice; rather there is an expansion for minor modifications. Please see Comments/Responses 20 and 21. No changes were made to the final rule as a result of this comment.

Comment 40: UT Law Clinic commented that EPA cannot use *Alabama Power* to justify creating exemptions from its own regulations.

[4] For example, under the federal Tribal NSR regulations, EPA did not require permits for sources with emissions below *de minimis* levels, and for sources in ''insignificant source categories''. 76 FR 38748, at 38755. In sum, under these Tribal NSR regulations, some sources are not required to obtain permits, and have no public notice requirements.

Response 40: Consistent with the requirement for ''determining which facilities will be subject to review'' under a minor source SIP at 40 CFR 51.160, EPA has recognized that states may tailor their Minor NSR permitting requirements. EPA is not relying on *Alabama Power* to ''creat[e] exemptions from its own regulations.'' Instead, EPA is using an inquiry similar to that used in *Alabama Power*—whether there is a ''de minimis'' impact—in applying its SIP regulations and regulating permit amendments to determine whether the submitted Texas rules meet the Act and EPA regulations. Texas established a ''de minimis'' threshold based on its ''insignificant emissions rates and insignificant emissions impact.'' See 77 FR at 74138. Similarly, Texas established an ''insignificant'' threshold for agricultural sources based on their limited effects. See 77 FR 74139.

As explained in our proposal at 77 FR 74129, at 74136–74140, the submitted Texas public participation provisions create a tiered program, wherein two narrow types of Minor NSR amendment applications that have been defined by TCEQ as ''de minimis'' or ''insignificant'' will not automatically be required to go through the public notice process. As noted, the State justified the scope of its regulatory program using *de minimis* principles like those established in *Alabama Power.* Moreover, Texas limits the effects of applying the two thresholds by providing for public notice for minor permit amendments that would otherwise be exempt at the discretion of the TCEQ Executive Director based on the objective criteria established in 30 TAC 39.402(a)(3)(D). For EPA's full analysis of Texas's demonstration for the ''de minimis'' and ''insignificant'' thresholds, please see our proposal at 77 FR 74129, at 74136–74140. There is a full discussion of the two thresholds in the proposal and how Texas analyzed their impacts; how the ''de minimis'' threshold is based on EPA's significant emission rates and significant impact levels that together are used to determine whether a proposed minor source or minor modification will have a significant permitting impact; and how the ''insignificant'' threshold applies to a limited subcategory of sources, is limited in scope, represents a small subset of the permit amendment universe, and is consistent with the requirement to ensure the NAAQS are achieved.

Note that applicability of the ''de minimis'' and ''insignificant'' thresholds in no way relieve the applicant or the TCEQ of the technical burden to demonstrate that the proposed minor change will assure noninterference with attainment and maintenance of the NAAQS and that the proposed minor modification will comply with all CAA and Minor NSR requirements. Further, neither of Texas's thresholds affects any part of the technical review of these minor permit amendment applications, and they do not override any notice or technical requirements for PSD, NNSR or new Minor NSR permit applications.

In this instance, we find that the Texas ''de minimis'' and ''insignificant'' thresholds are approvable. However, we note that our approval is limited to the specific record before us and in the context of the Texas air permitting program as a whole. No changes were made to the final rule as a result of this comment.

Comment 41: UT Law Clinic commented that the D.C. Circuit recently affirmed that implied authority is not available for a situation ''where the regulatory function does provide benefits, in the sense of furthering the regulatory objectives, but the agency concludes that the acknowledged benefits are exceeded by the costs.''

Response 41: We agree that *Alabama Power* does not confer the administrative authority to create exemptions to requirements based on a cost-benefit analysis. *Alabama Power,* 636 F.2d at 357 and 361. However, EPA's approval of Texas's ''de minimis'' and ''insignificant'' thresholds is not based on a cost-benefit analysis, but rather based on Texas's demonstration that using either of the thresholds will not have an adverse impact on the existing air quality in the State of Texas. See our proposal at 77 FR 74129, at 74136–74140 and Comments/Responses 39 and 40 for additional information on the adequacy of Texas's demonstration. No changes were made to the final rule as a result of this comment.

Comments Regarding Confidential Information

Comment 42: UT Law Clinic commented that EPA should require Texas to amend its rules as necessary to ensure that all emissions data that is included with permit applications is made available for the entire public comment period.

Response 42: As explained in our proposal FRN, the accompanying TSD and in today's final rule, the Texas rules for public participation for air quality permit applications are consistent with the federal requirement at 40 CFR 51.161 that the information submitted by the applicant be made available for public review and inspection during the applicable public comment period. While the federal government has long recognized the right of businesses to make claims of confidentiality in submitting information to its agencies (*see, e.g.,* FOIA, 5 U.S.C. 552(b)(4) [5]; *see also* 18 U.S.C. 1805 [6]; *see also* 40 CFR 2.203 [7]), the Clean Air Act has made clear that ''emission data'' contained in records held by EPA are not entitled to confidential treatment and shall be publicly available (*see* CAA section 114(c) [8]; *see also* 40 CFR 2.302 [9]). The Texas Open Records Act (adopted 1973, and as amended May 27, 1975) and Texas Attorney General Opinion No. H–539 were submitted by Texas and approved by EPA as part of the Texas SIP on December 15, 1981, at 46 FR 61124–61125 to show that the Texas environmental agency is required to make emissions data available to the public. This Act was repealed in 1993 and replaced by the Public Information Act now codified in the Texas Government Code at Chapter 552. The codification of the Act was a non-substantive revision. If a state agency wishes to withhold information from the public, it must request an opinion from the Texas Attorney General that the requested information falls within one of the enumerated exceptions. This is necessary because the Texas Act presumes that governmental records are open to the public unless the records are within one of the exceptions.[10] The Attorney General is required to construe the Act liberally in favor of open government.[11] The governing Texas law, Texas Attorney General Opinion No. H–539 (dated February 26, 1975) and part of the Texas SIP, held that ''emission data supplied to the Texas Air Control Board may not be treated as confidential under any provision of the Texas Clean Air Act or the Open Records Act, and that the Board is required to release such information upon request.'' Although not believed to be part of the

[5] FOIA's longstanding exemption for ''trade secrets and commercial or financial information obtained from a person and privileged or confidential.''

[6] Making it a crime for federal employees to disclose confidential information ''in any manner or to any extent not authorized by law.''

[7] EPA regulation on the ''method of asserting business confidentiality claim.''

[8] Requiring records to be available to the public, unless they are confidential and not ''emission data.'' Disclosure to the public is similarly mandated for ''emission data'' in the context of automobile manufacturing under Title II. *See* CAA section 208(c).

[9] ''Special rules governing information obtained under the Clean Air Act'' and defining the term emission data.

[10] *See* Attorney General Opinion H–436 (1974); Open Records Decision Nos. 363 (1983), 150 (1977), 91 (1975).

[11] Open Records Decision No. 363 (1983) (information is public unless it falls within specific exception).

SIP, a Texas Attorney General Opinion No. H–836 (dated June 14, 1976) affirms, ''emissions data is clearly public information'' (even in acknowledging that information ''on amount, type and rate of emissions from a particular unit might enable a person to determine how the process itself functions''). There has been continual reaffirmation of the bright-line rule that emission data is non-confidential. See Attorney General Open Record Rulings from 2005 to 2010.

The EPA has therefore determined through our review of the July 2, 2010, submitted public participation rules and the relevant Texas legislative authorities and governing Attorney General Opinion No. H–836, that the Texas rules already require that emissions data be made publicly available. If EPA discovers evidence to support the determination that the TCEQ or permit applicants are misapplying the SIP rules in an attempt to prevent the public from having a meaningful opportunity to comment on emissions data, then EPA could address this issue on a permit by permit basis using its oversight authority in implementation of the Texas air permit program or other CAA remedy mechanism such as a failure to implement action. No revisions were made to the final rule as a result of this comment.

Comment 43: UT Law Clinic commented that current Texas law gives the applicant for an air permit the sole authority to initially determine the confidentiality of materials in its own application and requires TCEQ to seek an opinion from the Texas AG before disclosing any information labeled as confidential by an applicant. As a result, nonconfidential information that is necessary to provide full public participation on an application and that is required to be available in a public location during the full public comment period may be unavailable until after the close of a comment period. Further, Texas' rules do not ensure that emissions data labeled as confidential information will be made available for public comment before the 30-day comment period expires. The withholding of emissions data as confidential also creates a problem with respect to the enforceability of minor NSR limits created through permits by rule. This compounds the public participation issue because, even after the fact, affected communities will not be able to find out what changes were authorized by a minor permit.

Response 43: The concerns raised by the commenter about the application of the Texas CBI laws are outside the scope of today's rulemaking. This concern raises issues regarding the implementation of the Texas SIP and is not relevant to the particular public participation rules being acted upon today. The public participation rules acted upon today maintain the SIP's public participation requirements for major NSR and expand the SIP's public participation requirements for minor NSR. The availability of emissions data is not the subject of these rules. As discussed previously in Comment/Response 42, the Texas NSR public participation SIP rules already require that emissions data be made available for public review during the comment period. The Texas relevant legal authorities in the SIP and later continue to affirm that emissions data is not confidential and must be released to the public. If EPA discovers evidence to support the determination that the TCEQ or permit applicants are misapplying the existing Texas NSR public participation SIP rules in an attempt to prevent the public from having a meaningful opportunity to comment on emissions data, then EPA could address this issue on a permit by permit basis using its oversight authority in implementation of the Texas air permit program or other CAA remedy mechanism such as a failure to implement action. No changes were made to today's final rule as a result of this comment.

Comment 44: The UT Law Clinic also submitted portions of a supplement to a petition filed in 2009 by the commenter and other groups that raises concerns with Texas CBI laws and public participation.

Response 44: EPA disagrees that the submitted portions of the January 5, 2009 Supplement (Supplement to Citizen Petition for Action Pursuant to the Clean Air Act Regarding Inadequacies of the Texas Sip and Federal Operating Permit Program and Failure to Enforce the Plan and State Permitting Programs) relating to confidential document and CBI are relevant to the public participation rulemaking in front of us. EPA reviewed the resubmitted 2009 petition supplement and the associated attachments. We isolated the following discrete comments relating to confidential documents and CBI. We are responding to each of these comments below to demonstrate that the petition, petition supplement and relevant attachments are no longer applicable to the July 2, 2010 public participation SIP submittal that we are approving in today's final action. Further, our responses to the following comments satisfy EPA's obligations to respond on these specific issues from the 2009 petition supplement.

- *Comment 44A:* The Texas Health and Safety Code prohibits the TCEQ from disclosing to the public of any information ''relating to secret processes or methods of manufacture or production that is identified as confidential when submitted.'' TEX.HEALTH & SAFETY CODE § 382.041. It also prohibits TCEQ from disclosing such information to EPA unless EPA has entered into an agreement to treat ''information identified as confidential as though it had been submitted by the originator of the information with an appropriate claim of confidentiality under federal law.'' *Id.* This section unlawfully requires TCEQ to defer to an applicant's or permittee's determination of what constitutes confidential information. It limits public and EPA access to information, such as emissions data, that is public information under the federal Clean Air Act. It also purports to require EPA to agree to limits on public disclosure of information beyond those limits authorized by federal law.
- *Comment 44B:* Further, in practice, this provision results in TCEQ referring any and all requests for information marked by the applicant as confidential to the Texas AG's office. Often a response from the AG's Office as to whether information truly qualifies as confidential cannot be obtained until it is too late to use the information for its intended purpose. It is routine for companies to mark as confidential information regarding their calculations of emission estimates, therefore, preventing the public from determining whether such emissions are realistic.

○ *Response 44A and 44B:* EPA disagrees with the commenter that this issue is relevant to EPA's approval of the public participation rules as submitted July 2, 2010. As outlined in Comment/Response 42 and 43, the EPA considers that ''emissions data'' as defined in 40 CFR 2.302 must be publicly available information pursuant to the Texas SIP and relevant legal authorities. If EPA discovers evidence to support the determination that the TCEQ or permit applicants are misapplying the Texas SIP rules in an attempt to prevent the public from having a meaningful opportunity to comment on emissions data, then EPA could address this issue on a permit by permit basis using its oversight authority in implementation of the Texas air permit program or other CAA remedy mechanism such as a failure to implement action. No revisions were made to the final rule as a result of this comment.

Comment 45: UT Law Clinic commented that the face of Texas'

public notices do not identify the date that the public comment period closes. Instead, the notice normally states that the comment period ends a certain number of days after publication.

Response 45: EPA agrees that having a specific date would assist the public in easily identifying the close of the comment period. However, there is no federal requirement for a date specific end date to be included in the public notice. The Texas public notice requirements specifying a 30-day comment period meets the minimum federal requirements at 40 CFR 51.161 and 51.166 as applicable. No revisions were made to the final rule as a result of this comment.

Comments Regarding Judicial Review

Comment 46: The UT Law Clinic commented that the current requirements to participate in a contested case hearing in Texas are overly burdensome and therefore provide inadequate judicial review of air permitting decisions. Judicial review of the TCEQ's air permitting decisions appears to be limited to persons who participated in a contested case hearing. *Friends of Canyon Lake, Inc.* v. *Guadalupe-Blanco River Auth.,* 96 SW.3d 519, 526–27 (Tex. App.-Austin 2002, pet. denied); *see also, Rawls* v. *TCEQ,* 2007 WL 1849096 (Tex. App.-Eastland 2007). In order to qualify for a contested case hearing, a member of the public must satisfy TCEQ's definition of ''an affected person.'' Since a person must request a contested case hearing before seeking judicial review of an air permitting decision, the availability of judicial review for a large percentage of air permitting actions at TCEQ is limited.

Response 46: The Texas Contested Case Hearing (CCH) process is outside the scope of our proposed rulemaking for the July 2, 2010 public participation submittal. The TCEQ did not submit the CCH process for SIP review and approval, therefore EPA is not taking action on the CCH process in this action. No revisions were made to the final rule as a result of this comment.

Comments Regarding Past Public Notice Inadequacies

Comment 47: UT Law Clinic commented that approval of these rules [July 2, 2010 public participation rules] would exacerbate public participation inadequacies that Texas communities have complained about for years. To illustrate the past inadequacies, the UT Law Clinic also submitted portions of a petition filed in 2008 and a supplement to the petition filed in 2009 by the commenter and other groups that raises problems with the Texas public participation process, some of which will be exacerbated by EPA's approval.

Response 47: EPA disagrees that the submitted portions of the August 28, 2008 petition (Citizen Petition for Action Pursuant to the CAA Regarding Inadequacies of the Texas SIP and Federal Operating Permit Program and Failure to Enforce the Plan and State Permitting Programs) and the January 5, 2009 Supplement (Supplement to Citizen Petition for Action Pursuant to the Clean Air Act Regarding Inadequacies of the Texas Sip and Federal Operating Permit Program and Failure to Enforce the Plan and State Permitting Programs) relating to public participation are relevant to the rulemaking in front of us. EPA reviewed the resubmitted 2008 petition, 2009 petition supplement, and the associated attachments. We isolated the following discrete comments relating to public participation. We are responding to each of these comments below to demonstrate that the petition, petition supplement and relevant attachments are no longer applicable to the July 2, 2010 public participation SIP submittal that we are approving in today's final action. Further, our responses to the following comments satisfies EPA's obligations to respond on these specific issues from the 2008 petition and 2009 petition supplement.

• *Comment 47A:* EPA has informed Texas that its public participation rules are not consistent with Part 51. Deficiencies in the rules include that the notice of the draft permit is not required for many permitting actions involving minor sources or minor modifications at major sources. Texas' rules do not require public notice and comment on the State's preliminary analysis and draft permits for permitting actions involving construction or modification of minor sources, or for minor modifications at major sources if a public hearing is not requested in response to the ''first notice,'' or is withdrawn, or the application involves no increase in allowable (rather than actual) emissions or emissions of new contaminants.

○ *Response 47A:* This comment is no longer relevant. The commenter is referencing EPA's proposed limited approval/limited disapproval of the Texas public participation program published on November 26, 2008. EPA withdrew our proposed LA/LD on November 5, 2010, after the TCEQ adopted and submitted revised public participation rules. The rules submitted as revisions to the Texas SIP on July 2, 2010, require that all permit applications for new minor sources go through the NORI and NAPD, regardless of a public hearing request. This requirement will ensure that the draft minor permit is available for review and comment. The revised rules also require minor permit amendment applications to go through NORI and NAPD if the amendment is for a change in the character of emissions or the release of an air contaminant not previously authorized, or if the amendment exceeds the public notice ''de minimis'' or ''insignificant'' thresholds. No changes were made to the final rule as a result of this comment.

• *Comment 47B:* EPA has informed Texas that its public participation rules are not consistent with Part 51. Deficiencies in the rules include that public notice is not required for all permit amendments, and initial and amended flexible permits. Chapter 116.116(b) amendments and flexible permit issuances and amendments, including those that may alter terms and conditions of existing major NSR authorizations, are not required to meet Part 51 notice requirements unless emissions exceed certain thresholds. These thresholds are not environmentally insignificant.

○ *Response 47B:* The commenter is referencing EPA's proposed limited approval/limited disapproval of the Texas public participation program published on November 26, 2008. EPA withdrew our proposed LA/LD on November 5, 2010, after the TCEQ adopted and submitted revised public participation rules. The July 2, 2010 public participation submittal included revised public participation procedures specific to applications for initial and amended flexible permits. As explained in Comment/Response 6, EPA is taking no action at this time on the public participation rules submitted on July 2, 2010, applicable to Flexible Permit applications. Insofar as this comment concerns permit amendments not related to Flexible Permits, as explained in Comments/Responses 17–19, the revised rules require full public notice for all permit amendments above identified public notice ''de minimis'' and ''insignificant'' thresholds. No changes were made to the final rule as a result of this comment.

• *Comment 47C:* EPA has informed Texas that its public participation rules are not consistent with Part 51. Deficiencies in the rules include the notice of draft permit not required for all Plantwide Applicability Limit (PAL) Permits and agency preliminary determinations. In addition, Texas' rules do not require the agency to respond to comments before taking action on PAL applications.

○ *Response 47C:* This comment is no longer relevant. The commenter is referencing EPA's proposed limited approval/limited disapproval of the Texas public participation program published on November 26, 2008. EPA withdrew our proposed LA/LD on November 5, 2010, after the TCEQ adopted and submitted revised public participation rules. The rules submitted as revisions to the Texas SIP on July 2, 2010, require that all permit applications for PAL permit applications go through NAPD notice. This requirement will ensure that the draft PAL permit is available for review and comment. The revised public participation rules also require that the TCEQ will respond to all comments received before a PAL permit is issued. No changes were made to the final rule as a result of this comment.

• *Comment 47D:* EPA has informed Texas that its public participation rules are not consistent with Part 51. Deficiencies in the rules include that Texas' rules and exhaustion of administrative remedies requirements limit state court judicial appeals.

○ *Response 47D:* This comment is no longer relevant. The commenter is referencing EPA's proposed limited approval/limited disapproval of the Texas public participation program published on November 26, 2008. EPA withdrew our proposed LA/LD on November 5, 2010, after the TCEQ adopted and submitted revised public participation rules on July 2, 2010. See Comment/Response 46 above for a discussion of judicial review. No changes were made to the final rule as a result of this comment.

• *Comment 47E:* EPA has informed Texas that its public participation rules are not consistent with Part 51. Deficiencies in the rules include that the De Minimis Facilities rules at 30 TAC 116.119 allow the agency to exempt categories of sources, as well as individual facilities, from permitting and public participation requirements without first requiring SIP approval of those exemptions.

○ *Response 47E:* The TCEQ has not submitted the provisions for permitting of De Minimis Facilities at 30 TAC 116.119 for SIP review. Therefore, public participation requirements relevant to permitting under 30 TAC 116.119 are outside the scope of today's final action. No changes were made to the final rule as a result of this comment.

• *Comment 47F:* EPA has informed Texas that its public participation rules are not consistent with Part 51. Deficiencies in the rules include that the TCEQ can exempt relocation of a facility from public participation requirements if ''there is no indication that operation of the facility at the proposed new location will significantly affect ambient air quality and no indication that operation of the facility at the proposed new location will cause a condition of air pollution.''

○ *Response 47F:* The commenter is referencing EPA's proposed limited approval/limited disapproval of the Texas public participation program published on November 26, 2008. EPA withdrew our proposed LA/LD on November 5, 2010, after the TCEQ adopted and submitted revised public participation rules. The July 2, 2010 public participation submittal included revised public participation procedures specific to portable facilities and relocation of portable facilities. As explained in Comment/Response 6, EPA is taking no action at this time on the public participation rules submitted on July 2, 2010, applicable to portable facilities. No changes were made to the final rule as a result of this comment.

• *Comment 47G:* Texans are not given notice of the TCEQ's actual decision and the documentation supporting that decision. Without adequate notice of an agency's proposed permitting action, subsequent participation opportunities are often meaningless. An example is Texas' notice for refinery Maintenance, Startup and Shutdown (MSS) permits. At the time of public notice, the TCEQ had not yet decided how to act on the applications, and had not yet even decided the process for determining which applications might trigger federal NSR. Yet despite this lack of information, the public notice period ran and the opportunity for public participation was closed. Clearly, this is not effective notice.

○ *Response 47G:* This comment is no longer relevant. The commenter is referencing provisions of the previous Texas public participation rules that were the subject of EPA's proposed limited approval/limited disapproval on November 26, 2008. Under this previous version of the state public participation rules submitted to EPA for approval as part of the SIP, MSS emissions that were major modifications subject to PSD/NNSR permitting were required to follow the public participation requirements for PSD/NNSR. However, if the MSS emissions were minor, these emissions could be authorized through a minor permit amendment. Under these submitted rules, the applications for minor permit amendments were only required to go through the NORI publication so the public would not have had the opportunity to review a draft permit. The TCEQ adopted revised rules that were submitted on July 2, 2010. These rules, which are the subject of today's final action, require most minor permit amendment applications go through full public notice with both a NORI and NAPD publication. Under this current scenario, the public would have the opportunity to review a draft permit. No changes were made to the final rule as a result of this comment.

• *Comment 47H:* EPA should take the following action on the Texas SIP submittals for Public Participation: (1) Concurrently propose disapproval of Texas' current SIP submittal and disapproval, pursuant to § 7410(k)(5), of Texas' SIP approved public participation rule. Both disapprovals are necessary to start the sanctions clock and ensure that Texas complies with 40 CFR Part 51; and (2) in the alternative, concurrently propose limited approval and disapproval of Texas SIP submittal. The limited approval should require Texas to use authority under Tex. Health and Safety Code § 382.056(p) to provide 30 days notice and opportunity to comment on all draft permits; and should specify rule changes required to assure Part 51 notice for all permitting actions. Final action on the limited approval and limited disapproval should occur at the same time to ensure that the sanctions clock is started.

○ *Response 47H:* This comment is no longer relevant. The commenter requested these actions in August 28, 2008, as remedies for perceived inadequacies in the Texas public participation provisions that were in effect at the time. Since the August 28, 2008, petition EPA has proposed limited approval/limited disapproval of the state rules in question. As a result of the proposed limited approval/limited disapproval, the TCEQ adopted revised public participation rules and submitted those for SIP review and approval on July 2, 2010. The previous version of the rules was withdrawn from our consideration and is no longer in effect. The analysis in our proposed approval of the July 2, 2010, public notice submittal and the accompanying TSD provides our rationale for full approval of the revised public participation rules as consistent with minimum federal requirements of the CAA and 40 CFR 51.160—51.166. No changes were made as a result of this comment.

Comment 48: UT Law Clinic also resubmitted comments it provided on January 26, 2009 regarding EPA's proposed limited approval/limited disapproval of the Texas Public Participation program.

Response 48: EPA disagrees that the submitted portions of the January 5, 2009 Supplement (Supplement to

Citizen Petition for Action Pursuant to the Clean Air Act Regarding Inadequacies of the Texas Sip and Federal Operating Permit Program and Failure to Enforce the Plan and State Permitting Programs) relating to public participation are relevant to the rulemaking in front of us. EPA reviewed the resubmitted 2009 petition supplement and isolated the following discrete comments relating to public participation. We are responding to each of these comments below to demonstrate that the petition supplement is no longer applicable to the July 2, 2010 public participation SIP submittal that we are approving in today's final action. Further, our responses to the following comments satisfy EPA's obligations to respond on these specific issues from the 2009 petition supplement.

• *Comment 48A:* UT Law Clinic commented that EPA's recent public participation proposal [November 26, 2008 proposed LA/LD] provides an example of the difficulty in dealing with one piece of the Texas program without a comprehensive evaluation of the entire program. UT Law Clinic noted that, while they largely agree with EPA's assessment of the public participation rules it analyzed, the proposal fails to comprehensively evaluate whether Texas' whole program meets federal public participation requirements. There are a number of Texas rules that allow sources to authorize new emissions and emission increases without meeting minimum federal public participation requirements of Part 51. 40 CFR Part 51. These include: de minimis air contaminants, permits by rule, alterations, qualified facilities and standard permits. Some of these rules, such as those regarding alterations, have already been approved into the SIP despite their suffering from the same illegalities identified by EPA in the current SIP public participation proposal. These provisions should be removed from the SIP. Others, such as those regarding de minimis emissions, have never been submitted for SIP approval, yet are currently implemented by TCEQ. A true evaluation of whether Texas public participation requirements meet federal standards necessitates a review of the public participation requirements applicable to all minor and major permitting actions.

○ *Response 48A:* This comment is not relevant to today's final rulemaking. The commenter provided these comments based on EPA's November 26, 2008, proposed limited approval/limited disapproval, which was subsequently withdrawn on November 5, 2010 after the TCEQ adopted and submitted revised public participation rules. However it is important to note that EPA can only evaluate for SIP approval those provisions that are submitted for review and approval by the state and our evaluation is limited to whether the state's submittal complies with the relevant requirements in the CAA and federal regulations. CAA 110(k)(3). The commenter is correct that there are several avenues in the Texas NSR SIP through which a permit can be modified—for minor sources and minor modifications, they are minor permit amendments, standard permits, permits by rule and permit alterations. The commenter is also correct that only a minor permit amendment application goes through public notice and comment on an individual case-by-case permit basis, if the minor modification is above either of the ''de minimis'' or ''insignificant'' thresholds or is for a change in character of emissions or release of an air contaminant not previously authorized under the permit. EPA has previously evaluated and SIP-approved the Texas Standard Permit (SP) program at 30 TAC Chapter 116, Subchapter F and the Texas Permit by Rule (PBR) program at 30 TAC Chapter 106 as consistent with minimum federal requirements, including public participation at 40 CFR 51.160–51.161, for minor NSR. The minor NSR SP and PBR SIP programs require the TCEQ to develop the base SP or PBR through a public notice and comment procedure, but the individual uses of the SP or PBR do not go through notice. We note that even though the commenter has concerns about the application of the minor NSR SP or PBR SIP programs in Texas, these provisions have not been submitted as part of the July 2, 2010 public participation package and are not before EPA for review. Therefore, the public participation provisions for the minor NSR SP and PBR SIP programs are outside the scope of today's rulemaking, as is the implementation of these two programs.[12] [13] Permit alterations have been SIP-approved at 30 TAC 116.116 as a method to streamline the permit revisions process for specified types of revisions. The permit alteration provisions at 30 TAC 116.116 were not submitted as part of the July 2, 2010 SIP submittal and therefore are outside the scope of today's rulemaking. EPA disapproved the Texas Qualified Facility program on April 14, 2010 (see 75 FR 19468). Texas revised the Qualified Facility program and resubmitted for SIP review and approval on October 5, 2010, and EPA will act on that submittal in a separate rulemaking. The Qualified Facility program was submitted separate from the public participation submittal of July 2, 2010, and is therefore outside the scope of today's rulemaking. The commenter is correct that the de minimis permitting provisions (as previously noted these are in the Texas state rules at 30 TAC 116.119) have never been submitted to EPA for review and approval into the SIP; and are therefore outside the scope of today's rulemaking. The current Texas NSR SIP requires that any increase in emissions requires a permit to construct or modify. No changes were made to the final rule as a result of this comment.

• *Comment 48B:* A thorough review of Texas' statutory and regulatory law affecting public participation is the only way to ensure that Texas actually implements a public participation program that is consistent with the Act. EPA cannot merely assume Texas will implement only those public participation provisions that are SIP approved.

○ *Response 48B:* As discussed previously, EPA's authority to review and approve revisions to SIPs is limited to the provisions that are submitted. CAA 110(k)(3). EPA reviews the TCEQ's statutory authority to ensure TCEQ has the authority to adopt, implement, and enforce the submitted provisions, be they in the form of rules, orders, control measures, etc., and that its authority has been properly exercised. TCEQ also submits a particular statutory provision for inclusion in the SIP if there is no corresponding rule, measure, or order for implementation. In this action, we thoroughly reviewed the rules submitted to us for approval as part of the SIP and their associated statutory provisions. The submitted rules stand on their own and do not require us to include the statutory provisions as part of the Texas NSR SIP. No changes were made to the final rule as a result of this comment.

• *Comment 48C:* TCEQ's mailing lists are inadequate. Texas maintains mailing lists for those persons who wish to receive mailed notice of TCEQ permitting actions. Such lists, however, are inadequate for most purposes. The public can either be placed on a mailing list to receive notice of all permitting actions for all media in a county, or it

[12] EPA SIP-approved the Texas Standard Permit process and public participation process on November 14, 2003, as adopted by the TCEQ on December 16, 1999 (see 68 FR 64543). EPA also SIP-approved revisions to the public participation process for the development of standard permits on September 17, 2008, as adopted by the TCEQ on September 20, 2006 (see 73 FR 53716).

[13] EPA SIP-approved the Texas Permit by Rule process on November 14, 2003 (see 68 64543) as adopted by the TCEQ on August 9, 2000 and March 7, 2001.

can be placed on a mailing list for a particular permit number. TCEQ does not offer the option of being placed on a mailing list for a facility or source, which is what most members of the public would be interested in. Being placed on a list for all applications in a county results in receiving a flood of notices. Being on a list for a specific permit may deprive the public of notice of action on other permits and authorizations related to the facility or of new permits for the facility.

○ *Response 48C:* There are no federal requirements for a permitting authority to maintain mailing lists or to provide targeted mailings with respect to either specific activities or facilities. Therefore, any mailing lists maintained by the TCEQ go beyond minimum federal requirements. However, we continue to encourage the TCEQ to listen to public feedback on the mailing list and revise the procedures and options accordingly to ensure that the mailing lists are serving the public as intended. No changes were made to the final rule as a result of this comment.

III. Final Action

After careful consideration of the comments received and the responses to each comment provided above, and under section 110 and parts C and D of the Act, EPA is approving the following revisions to the Texas SIP:

- 30 TAC Section 116.312 and the repeal of 30 TAC Section 116.124 as submitted on July 22, 1998.
- 30 TAC Sections 39.411(a); 39.418(b)(4); 55.152(b); 116.111(b); 116.114(a)(2), (a)(2)(A), (a)(2)(B), (b)(1), and (c)(1)–(3); 116.116(b)(4); and 116.312 as submitted on October 25, 1999.
- 30 TAC Sections 39.402(a)(1)–(3), (a)(6); 39.405 (f)(3) and (g), (h)(1)(A), (h)(2)–(h)(4), (h)(6), (h)(8)–(h)(11), (i) and (j); 39.407; 39.409; 39.411(e)(1)–(4)(A)(i) and (iii), (4)(B), (5)(A) and (B), (6)–(10), (11)(A)(i), (iii) and (iv), (11)(B)–(F), (13) and (15), and (f)(1)–(8), (g) and (h); 39.418(a), (b)(2)(A), (b)(3) and (c); 39.419(e); 39.420(c)(1)(A)–(D)(i)(I) and (II), (D)(ii), (c)(2), (d)–(e); 39.601; 39.602; 39.603; 39.604; 39.605; 55.150; 55.152(a)(1), (2), (5) and (6); 55.154(a), (b), (c)(1)–(3) and (5), (d)–(g); 55.156(a), (b), (c)(1), (e) and (g); 116.114(a)(2)(B), (a)(2)(C), (c)(2) and (c)(3); and 116.194(a) and (b) as submitted on July 2, 2010.
- 30 TAC Section 116.194 as adopted January 11, 2006 and resubmitted on March 11, 2011.

Note that EPA is approving provisions at 30 TAC 39.411(f)(8)(A) and 39.605(1)(D) that will replace two provisions of the Texas SIP, found in the Texas PSD SIP Supplement at Paragraphs 7(a) and 7(b) of Board Order 87–09. In this final action we are also revising the table at 40 CFR 52.2270(e) to reflect these approvals.

Consistent with the analysis presented in our December 13, 2012, proposed notice and the accompanying TSD, our final action does not include the following provisions submitted on July 2, 2010: 30 TAC Sections 39.402(a)(4), 39.402(a)(5), 39.402(a)(10), 39.402(a)(12), 39.419(e)(3), 39.420(h). These provisions remain before EPA and will be addressed in a separate rulemaking.

Additionally, our final action does not include 30 TAC Sections 116.111(a)(2)(K) and 116.116(b)(3), as submitted on October 25, 1999. These provisions were returned to the TCEQ on June 29, 2011, because they are outside the scope of the Texas SIP.

IV. Statutory and Executive Order Reviews.

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: November 25, 2013.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 1. In § 52.2270:

■ a. Amend the table in paragraph (c) by:

■ i. Adding a new centered heading ''Chapter 39—Public Notice'' followed by a new centered heading ''Subchapter H—Applicability and General Provisions'' followed by new entries for sections 39.402, 39.405, 39.407, 39.409, 39.411, 39.418–39.420 in numerical order; and adding a new centered heading for ''Subchapter K—Public Notice of Air Quality Applications'' followed by entries for sections 39.601–39.605.

■ ii. Immediately following the newly added entry for Section 39.605 by adding a new centered heading ''Chapter 55—Requests for Reconsideration and Contested Case Hearings; Public Comment'' followed by a new centered heading for ''Subchapter E—Public Comment and Public Meetings'' followed by new entries for sections 55.150, 55.152, 55.154, and 55.156;

■ iii. Revising the entries for sections 116.111, 116.114, 116.116, and 116.312; and removing the entry for section 116.124; and adding an entry for 116.194 in numerical order.

■ b. Amend the second table in paragraph (e) by revising the entry for ''Revisions for Prevention of Significant Deterioration and Board Orders No. 85–07, 87–09, and 88–08''.

The revisions and additions read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 39—Public Notice				
Subchapter H—Applicability and General Provisions				
Section 39.402	Applicability to Air Quality Permits and Permit Amendments.	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 39.402(a)(1)–(3), and (a)(6).
Section 39.405	General Notice Provisions	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 39.405(f)(3) and (g), (h)(1)(A), (h)(2)–(h)(4), (h)(6), (h)(8)–(h)(11), (i) and (j).
Section 39.407	Mailing Lists	9/2/1999	1/6/2014 [Insert FR page number where document begins].	
Section 39.409	Deadline for Public Comment, and Requests for Reconsideration, Contested Case Hearing, or Notice and Comment Hearing.	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Section 39.411	Text of Public Notice	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 39.411(a), 39.411(e)(1)–(4)(A)(i) and (iii), (4)(B), (e)(5)(A), (e)(5)(B), (e)(6)–(10), (e)(11)(A)(i), (e)(11)(A)(iii), (e)(11)(A)(iv), (e)(11)(B)–(F), (e)(13), (e)(15), (f)(1)–(8), (g), and (h).
Section 39.418	Notice of Receipt of Application and Intent to Obtain Permit.	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 39.418(a), (b)(2)(A), (b)(3) and (c).
Section 39.419	Notice of Application and Preliminary Determination.	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 39.419(e) (e)(1) and (e)(2).
Section 39.420	Transmittal of the Executive Director's Response to Comments and Decision.	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 39.420(c)(1)(A)–(D)(i)(I) and (D)(i)(II), (D)(ii), (c)(2), and (d)–(e).

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Subchapter K– Public Notice of Air Quality Applications				
Section 39.601	Applicability	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Section 39.602	Mailed Notice	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Section 39.603	Newspaper Notice	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Section 39.604	Sign-Posting	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Section 39.605	Notice to Affected Agencies	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Chapter 55—Requests for Reconsideration and Contested Case Hearings; Public Comment				
Subchapter E—Public Comment and Public Meetings				
Section 55.150	Applicability	6/14/2006	1/6/2014 [Insert FR page number where document begins].	
Section 55.152	Public Comment Period	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 55.152(a)(1), (a)(2), (a)(5), (a)(6), and (b).
Section 55.154	Public Meetings	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 55.154(a), (b), (c)(1)–(3) and (5), and (d)–(g).
Section 55.156	Public Comment Processing	6/2/2010	1/6/2014 [Insert FR page number where document begins].	SIP includes 55.156(a), (b), (c)(1), (e) and (g).
*	*	*	*	*	*	*
Section 116.111	General Application	8/21/2002	1/6/2014 [Insert FR page number where document begins].	The SIP does not include paragraphs (a)(2)(K).
Section 116.114	Application Review Schedule	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
Section 116.116	Changes to Facilities	9/15/2010	1/6/2014 [Insert FR page number where document begins].	The SIP does not include 116.116(b)(3) and 116.116(e).
*	*	*	*	*	*	*
Section 116.194	Public Notification and Comment	6/2/2010	1/6/2014 [Insert FR page number where document begins].	
*	*	*	*	*	*	*
Section 116.312	Public Notification and Comment Procedures.	9/2/1999	1/6/2014 [Insert FR page number where document begins].	

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
*	*	*	*	*

* * * * * (e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Comments
*	*	*	*	*
Revisions for Prevention of Significant Deterioration and Board Orders No. 85–07, 87–09, and 88–08.	Statewide	12/11/85, 10/26/87, 9/29/88	06/4/92, 57 FR 28098	Ref 52.2299(c)(73). For Board Order 87–09, the provisions at paragraphs 7(a) and 7(b) have been replaced by EPA's SIP-approval of 30 TAC 39.411(f)(8)(A) and 39.605(1)(D). See 1/6/14 [Insert FR page number where document begins]
*	*	*	*	*

* * * * *

[FR Doc. 2013–30229 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0564; FRL–9905–09-Region 4]

Approval and Promulgation of Implementation Plans; Florida: Non-Interference Demonstration for Removal of Federal Low-Reid Vapor Pressure Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving the State of Florida's August 15, 2013, State Implementation Plan (SIP) revision to the State's approved maintenance plans addressing the 1997 8-hour ozone national ambient air quality standards (NAAQS). Florida's revision provides updated modeling and demonstrates that the Southeast Florida, Tampa Bay and Jacksonville areas would continue to maintain the 1997 8-hour ozone NAAQS if the currently applicable Federal Reid Vapor Pressure (RVP) standard for gasoline of 7.8 pounds per square inch (psi) was modified to a less stringent standard of 9.0 psi for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties (hereafter also referred to as the ''Maintenance Plan Areas'') during the high-ozone season. The State included a technical demonstration with the August 15, 2013, SIP revision demonstrating that the less-stringent RVP in these Areas would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard. Approval of the State's August 15, 2013, SIP revision is a prerequisite for EPA's consideration of an amendment to the regulations to remove the Maintenance Plan Areas from the list of areas that are currently subject to the Federal 7.8 psi RVP requirements. EPA has determined that Florida's August 15, 2013, SIP revision with respect to the revised modeling and associated technical demonstration, and with respect to the use of updated models, is consistent with the applicable provisions of the Clean Air Act (CAA or Act). Should EPA decide to remove the subject portions of the Maintenance Plan Areas from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a subsequent rulemaking. Also, on November 29, 2012, Florida requested removal of the existing SIP references to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas. Based upon a noninterference demonstration provided by the State, EPA previously approved revisions to remove the emission reduction credits associated with this program from the SIP. Through this action, EPA is now removing the specific SIP references to the defunct inspection and maintenance program based upon the State's earlier demonstration of noninterference.

DATES: This rule is effective February 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2013–0564. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. The

telephone number is (404) 562–9043. Mr. Lakeman can be reached via electronic mail at *lakeman.sean@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background of the Areas
II. What is the history of the gasoline volatility requirement?
III. Background of the Motor Vehicle Inspection Program
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I. Background of the Areas

On November 6, 1991 (56 FR 56694), EPA designated the Southeast Florida area (i.e., Broward, Dade and Palm Beach counties) as Moderate; the Jacksonville area (i.e., Duval County) as Transitional; and the Tampa area (i.e., Hillsborough and Pinellas counties) as Marginal nonattainment areas for the 1-hour ozone NAAQS. Among the requirements applicable to nonattainment areas for the 1-hour ozone NAAQS was the requirement to meet certain volatility standards (known as Reid Vapor Pressure or RVP) for gasoline sold commercially. *See* 55 FR 23658 (June 11, 1990). As discussed in greater detail below, as part of the RVP requirements associated with these nonattainment designations, gasoline sold in the 1-hour ozone nonattainment areas could not exceed 7.8 psi RVP during the high-ozone season months.

Following implementation of the 7.8 psi RVP requirement in the Southeast Florida, Jacksonville and Tampa areas, each area was redesignated to attainment for the 1-hour ozone NAAQS (60 FR 41 (January 3, 1995); 60 FR 10326 (February 24, 1995); and 60 FR 62748 (December 7, 1995), respectively).

Included with Florida's redesignation requests, the State submitted the required 1-hour ozone monitoring data and maintenance plans ensuring that these areas would remain in attainment of the 1-hour ozone standard for at least a period of 10 years (consistent with CAA section 175A(a)). The maintenance plans submitted by Florida followed EPA guidance for maintenance areas subject to section 175A of the CAA. Florida later updated all three maintenance plans in accordance with section 175(A)(b) to extend the maintenance plans to cover additional years such that the entire maintenance period extended at least 20 years after the initial redesignation of these areas to attainment for the 1-hour ozone NAAQS.

These 1-hour ozone maintenance plan requirements remained in place for the Maintenance Plan Areas when they were subsequently designated unclassifiable/attainment for the subsequent 1997 8-hour ozone NAAQS [1] and then designated unclassifiable/attainment for the revised 2008 8-hour ozone NAAQS. *See* 77 FR 30088, May 21, 2012. However, the Maintenance Plan Areas were required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA for the 1997 8-hour ozone NAAQS.[2] As required, these 110(a)(1) maintenance plans provide for continued attainment and maintenance of the 1997 8-hour ozone NAAQS for at least 10 years from the effective date of these areas' designation as attainment for the 1997 8-hour ozone NAAQS. These plans also include components demonstrating how each area will continue to attain the 1997 8-hour ozone NAAQS, and provide contingency measures should the area violate the NAAQS. Florida's ozone redesignation requests and maintenance plans for the Maintenance Plan Areas did not seek removal of the 7.8 psi RVP standard, and as such, these areas remain subject to the 7.8 psi RVP standard per the terms of their approved respective 110(a)(1) maintenance plans.

II. What is the history of the gasoline volatility requirement?

On August 19, 1987 (52 FR 31274), EPA determined that gasoline nationwide had become increasingly volatile, causing an increase in evaporative emissions from gasoline-powered vehicles and equipment. Evaporative emissions from gasoline, referred to as VOC, are precursors to the formation of tropospheric ozone and contribute to the nation's ground-level ozone problem. Exposure to ground-level ozone can reduce lung function (thereby aggravating asthma or other respiratory conditions), increase susceptibility to respiratory infection, and may contribute to premature death in people with heart and lung disease.

The most common measure of fuel volatility that is useful in evaluating gasoline evaporative emissions is RVP. Pursuant to section 211(c) of the CAA, EPA promulgated regulations on March 22, 1989 (54 FR 11868), that set maximum limits for the RVP of gasoline sold during the high-ozone season. These regulations constituted Phase I of a two-phase nationwide program, which was designed to reduce the volatility of commercial gasoline during the high-ozone season. On June 11, 1990 (55 FR 23658), EPA promulgated more stringent volatility controls as Phase II of the volatility control program. These requirements established maximum RVP standards of 9.0 psi or 7.8 psi (depending on the State, the month, and the area's initial ozone attainment designation with respect to the 1-hour ozone NAAQS during the high-ozone season).

The 1990 CAA Amendments established a new section, 211(h), to address fuel volatility. Section 211(h) requires EPA to promulgate regulations making it unlawful to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with an RVP level in excess of 9.0 psi during the high-ozone season. Section 211(h) prohibits EPA from establishing a volatility standard more stringent than 9.0 psi in an attainment area, except that EPA may impose a lower (more stringent) standard in any former ozone nonattainment area redesignated to attainment.

On December 12, 1991 (56 FR 64704), EPA modified the Phase II volatility regulations to be consistent with section 211(h) of the CAA. The modified regulations prohibited the sale of gasoline with an RVP above 9.0 psi in all areas designated attainment for ozone, beginning in 1992. For areas designated as nonattainment, the regulations retained the original Phase II standards published on June 11, 1990 (55 FR 23658).

As stated in the preamble to the Phase II volatility controls and reiterated in the proposed change to the volatility standards published in 1991, EPA will rely on states to initiate changes to EPA's volatility program that they believe will enhance local air quality and/or increase the economic efficiency of the program within the limits of CAA section 211(h).[3] In those rulemakings, EPA explained that the Governor of a State may petition EPA to set a volatility standard less stringent than 7.8 psi for some month or months in a nonattainment area. The petition must demonstrate such a change is appropriate because of a particular local economic impact and that sufficient alternative programs are available to achieve attainment and maintenance of

[1] Effective June 15, 2004, Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties in Florida were designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS. *See* 69 FR 23857. The same counties were designated as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088.

[2] As noted above, maintenance areas for the 1-hour ozone standard designated attainment/unclassifiable for the 1997 8-hour ozone standard are required to submit a maintenance plan under section 110(a)(1) of the CAA demonstrating maintenance out to 10 years after designation. *See* 69 FR 23996 (Apr. 30, 2004).

[3] See 55 FR 23658 (June 11, 1990), 56 FR 24242 (May 29, 1991) and 56 FR 64704 (Dec. 12, 1991).

the 1-hour ozone NAAQS. A current listing of the RVP requirements for states can be found on EPA's Web site at: *http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/standards.htm.*

As explained in the December 12, 1991 (56 FR 64704), Phase II rulemaking, EPA believes that relaxation of an applicable RVP standard in a nonattainment area is best accomplished in conjunction with the redesignation process. In order for an ozone nonattainment area to be redesignated as an attainment area, section 107(d)(3) of the Act requires the state to make a showing, pursuant to section 175A of the Act, that the area is capable of maintaining attainment for the ozone NAAQS for a period of ten years after redesignation. Depending on the Area's circumstances, this maintenance plan will either demonstrate that the area is capable of maintaining attainment for ten years without the more stringent volatility standard or that the more stringent volatility standard may be necessary for the area to maintain its attainment with the ozone NAAQS. Therefore, in the context of a request for redesignation, EPA will not relax the volatility standard unless the state requests a relaxation and the maintenance plan demonstrates, to the satisfaction of EPA, that the area will maintain attainment for ten years without the need for the more stringent volatility standard. As noted above, however, Florida did not request relaxation of the applicable 7.8 psi RVP standard when the Jacksonville, Southeast Florida and Tampa Areas were redesignated to attainment for the 1-hour ozone NAAQS. Rather, Florida is now seeking to relax the 7.8 psi RVP standard after these Areas have been redesignated to attainment for the 1-hour ozone NAAQS. Accordingly, the original modeling and maintenance demonstration supporting the section 110(a)(1) ozone maintenance plans must be revised to reflect continued attainment under the relaxed 9.0 psi RVP standard that the State has requested.

III. Background of the Motor Vehicle Inspection Program

The State of Florida previously implemented a motor vehicle inspection and maintenance program in the Jacksonville, Southeast Florida and Tampa areas as part of the State's strategy to meet the 1-hour ozone NAAQS. This program was referred to as the Motor Vehicle Inspection Program (MVIP). On July 1, 2000, the Florida legislature terminated the MVIP for Jacksonville, Southeast Florida and Tampa, and removed the program's statutory authority. As a consequence of this repeal, FDEP developed and submitted SIP revisions to remove the emissions reductions attributable to this program in the aforementioned areas from the Florida SIP. Specifically, on December 10, 1999, FDEP submitted a revision to the SIP for the ozone air quality maintenance plans for the Jacksonville and Southeast Florida areas, and on August 29, 2000, for the Tampa, Florida area. FDEP's submissions requested the removal of the emission reduction credits attributable to the MVIP from the future year emission projections contained in the maintenance plans and provided a demonstration that removal of the emission reductions associated with the MVIP would not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. At the time, however, Florida did not also explicitly request removal from its SIP of the regulatory references to the MVIP program. Subsequently, in EPA's final rulemakings, published August 2, 2001 (66 FR 40137), and August 15, 2002 (67 FR 53314), the Agency approved the SIP revisions removing the emissions reductions that were attributable to the inspection and maintenance program in the Maintenance Plan Areas, but the regulatory references to the MVIP program remained.

Florida's December 10, 1999, and August 29, 2000, SIP revisions demonstrated that the Maintenance Plan Areas could maintain the ozone NAAQS without the implementation of the MVIP. EPA reviewed the State's emissions inventory and modeling analyses and found that they met the applicable guidance and requirements. Therefore, the State made the necessary demonstration that the MVIP was not necessary to maintain the ozone NAAQS and that attainment of the NAAQS for any other pollutant would not be affected by removing the MVIP from the SIP. However, because EPA did not remove Florida Code Annotated Section 62–242 from the table of EPA-approved rules at 40 CFR 52.520, on November 29, 2012, FDEP submitted a letter to EPA requesting that EPA remove these now-defunct rules from the Florida SIP. In its letter, the State noted that these rules relate to the defunct MVIP, and also noted EPA's previous rulemakings to remove the emissions reductions attributable to this program in its SIP. The portion of today's action related to removal of the MVIP rules from the SIP is being taken in response to the State's November 29, 2012, request, and is based upon the previously approved non-interference demonstration provided by Florida to support the removal of the emission reduction credits associated with the now-defunct inspection and maintenance program in the Southeast Florida, Tampa Bay and Jacksonville areas.

EPA notes that the section 110(l) non-interference demonstration submitted by Florida in support of its requested RVP revisions is also premised upon the continued non-implementation of the now-discontinued MVIP in these areas.

IV. This Action

On November 8, 2013 (78 FR 67090), EPA proposed approval of Florida's August 15, 2013, SIP revision to the State's approved maintenance plans addressing the 1997 8-hour ozone NAAQS in the Southeast Florida, Tampa Bay and Jacksonville areas. Specifically, Florida's revision, including updated modeling, shows that these areas would continue to maintain the 1997 8-hour ozone standard if the currently applicable Federal RVP standard for gasoline of 7.8 psi was modified to a less stringent standard of 9.0 psi for Broward, Dade, Duval, Hillsborough, Palm Beach and Pinellas Counties during the high-ozone season. Florida's August 15, 2013, SIP revision, includes updated mobile source emissions modeling using EPA's approved models—Motor Vehicle Emissions Simulator (MOVES) and NONROAD2008—to support the request to modify the RVP gasoline requirement from 7.8 psi to 9.0 psi.

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. EPA's criterion for determining the approvability of Florida's August 15, 2013, SIP revision is whether the requested action complies with section 110(l) of the CAA. Because the modeling associated with the current maintenance plans for Florida are premised in part upon the 7.8 psi RVP requirement, a request to revise the maintenance plan modeling to no longer rely on the 7.8 psi RVP requirement is subject to the requirements of CAA section 110(l). Therefore, the State must demonstrate that its August 15, 2013, SIP revision will not interfere with the attainment or maintenance of any of the NAAQS or any other applicable requirement of the CAA. EPA also notes that Florida's technical demonstration in its August 15, 2013, SIP revision accounts for the

absence of the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas.

The section 110(l) non-interference demonstration is a case-by-case determination based upon the circumstances of each SIP revision. EPA interprets 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated, but for which the EPA has not yet made designations. The specific elements of the 110(l) analysis contained in the SIP revision depend on the circumstances and emissions analyses associated with that revision. EPA's analysis of Florida's August 15, 2013, SIP revision, including review of section 110(l) requirements, can be found in the proposed rule published on November 8, 2013 (78 FR 67090). The specific revisions to the maintenance plan modeling that EPA is approving are the ozone maintenance plan attainment inventories, emissions projections and air quality monitoring data. The revised modeling also utilizes updated models to calculate the mobile source emissions.

Also, based on a request by the State on November 29, 2012, EPA is removing the existing SIP references related to the previously-implemented inspection and maintenance programs in the Maintenance Plan Areas. As discussed above, Florida discontinued this program and submitted SIP revisions in 1999 and 2000 to remove the emissions reduction credits associated with the MVIP program from its SIP. *See* 66 FR 40137; 67 FR 53314. At the time, Florida demonstrated that removal of these emission credits would not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. In addition, the State's technical demonstration provided with the August 15, 2013, RVP-related SIP revision also demonstrates that the less-stringent RVP standard and the absence of an inspection and maintenance program in these areas would not interfere with continued maintenance of the 1997 8-hour ozone NAAQS or any other applicable standard.

EPA received no adverse comments on its proposed action and is therefore finalizing the proposed action.

V. Final Action

EPA is approving the State of Florida's August 15, 2013, SIP revision to its 1997 8-hour ozone NAAQS 110(a)(1) Maintenance Plans for the Maintenance Plan Areas. Specifically, EPA is approving the State's showing that the Maintenance Plan Areas can continue to maintain the 1997 ozone standard without the emissions reductions associated with both the previously-implemented MVIP, and the use of gasoline with an RVP of 7.8 psi during the high-ozone season—June 1 through September 15 in the Maintenance Plan Areas. Also, EPA is approving the updated attainment inventories, emissions projections and air quality monitoring which are associated with the updated and revised modeling related to the change in the applicable RVP standard, and the absence of the previously-implemented inspection and maintenance programs for the Maintenance Plan Areas. Additionally, EPA is removing Florida Code Annotated Section 62–242, which pertains to the now-defunct MVIP, from the Florida SIP.

EPA has determined that Florida's August 15, 2013 SIP revision, including the technical demonstration associated with the State's request for the removal of the Federal RVP requirements, and the updated attainment inventory, emissions projections and air quality monitoring data, and the removal of the MVIP-related sections of the Florida SIP are consistent with the applicable provisions of the CAA. Should EPA decide to remove the subject portions of the Maintenance Plan Areas from those areas subject to the 7.8 psi Federal RVP requirements, such action will occur in a separate rulemaking.

VI. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, October 7, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition

for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements and Volatile organic compounds.

Dated: December 19, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart K—Florida

■ 2. In § 52.520:

■ a. Amend paragraph (c) by removing the heading and all entries for ''Chapter 62–242 Motor Vehicle Emissions Standards and Test Procedures,''; and

■ b. Amend paragraph (e) by adding a new entry for ''RVP Update for Florida 1997 8-hour Ozone Maintenance Plans'' at the end of the table.

The addition reads as follows:

§ 52.520 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register notice	Explanation
*	*	*	*	*
RVP Update for Florida 1997 8-hour Ozone Maintenance Plans.	8/15/13	1/6/14	[Insert citation of publication].	

[FR Doc. 2013–31557 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2011–0202; FRL–9905–05-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Revisions to Rules and Regulations for Control of Air Pollution; Permitting of Grandfathered Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions of the Texas State Implementation Plan (SIP) submitted by the State of Texas on July 31, 2002; September 4, 2002; and March 1, 2004. These revisions require that all grandfathered facilities obtain specific permits which include emission control methods to achieve mandated emission reductions, as required, or shutdown; and require that emissions from dockside vessels which result from operations at grandfathered land-based facilities be included in specific permits. The revisions also outline additional permitting procedures for certain grandfathered pipeline equipment located in an ozone nonattainment area. EPA is approving the revisions under the Clean Air Act (CAA or Act), and EPA's regulations.

DATES: This final rule is effective on February 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2011–0202. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Barrett (6PD–R), Air Permits Section, telephone (214) 665–7227; email: *barrett.richard@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''our,'' and ''us'' refers to EPA.

Table of Contents

I. Background
II. Response to Comments
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

The background for today's action is discussed in detail in our October 25, 2013 proposal (78 FR 63929). In that notice, we proposed to approve revisions to the Texas SIP regarding 30 TAC Chapter 116, subchapter H: ''Permits for Grandfathered Facilities'' and Subchapter I: ''Electric Generating Facility Permits''.

We received one comment on our proposal. The comment we received can be accessed from the *www.regulations.gov* Web site (Docket No. EPA–R06–OAR–2011–0202). The discussion below addresses the comment we received on our proposed action.

II. Response to Comments

Comment: We received a comment dated November 22, 2013, from the Texas Commission on Environmental Quality (TCEQ) stating that TCEQ does not support the proposed approval of 30 TAC 116.803. TCEQ noted that on September 24, 2013, it withdrew 30 TAC 116.793 through 116.807 from EPA consideration. TCEQ referenced a June 29, 2011 letter from EPA Region 6 to TCEQ. In that letter, EPA returned certain subsections of 30 TAC Chapter 116, subchapter H, specifically 30 TAC 116.779(a)(10), 116.786(c)(2)(B)(ii)(I), 116.794(11), 116.795(f), and 116.799(a). The returned subsections pertain to Texas' implementation of the hazardous air pollution program under section 112(g) of the Clean Air Act, and are not required to be submitted as a revision to the Texas SIP.

Response: EPA agrees with TCEQ. EPA believes that these sections are no longer before EPA as part of Texas' SIP submittal. EPA is taking no action on 30 TAC 116.779(a)(10), 116.786(c)(2)(B)(ii)(I), and 116.793 through 116.807. TCEQ's comment and the documents referenced in the comment are included in the docket.

III. Final Action

We are approving revisions to the Texas SIP regarding 30 TAC Chapter 116, subchapter H: ''Permits for Grandfathered Facilities'' and Subchapter I: ''Electric Generating Facility Permits''. Specifically, we are approving the following revisions to the Texas SIP:

- Addition of 30 TAC Chapter 116, subchapter H, sections 116.770–772, 116.774, 116.775, 116.777, 116.779–781 (except for 116.779(a)(10)), 116.783, 116.785–788 (except for 116.786(c)(2)(B)(ii)(I)), and 116.790, submitted on July 31, 2002.
- Addition of 30 TAC Chapter 116, subchapter H, section 116.778 and Subchapter I, section 116.919, submitted on September 4, 2002.
- Addition of the revisions to 30 TAC Chapter 116, subchapter H sections 116.770 and 116.772, submitted on March 1, 2004.

The revisions require that all grandfathered facilities obtain specific permits which include emission control methods to achieve mandated emission reductions, as required, or shutdown; and require that emissions from dockside vessels which result from operations at grandfathered land-based facilities be included in specific permits. The revisions also outline additional permitting procedures for certain grandfathered pipeline equipment located in an ozone nonattainment area. We are approving the revisions under section 110, part C, and part D of the CAA, and EPA's regulations.

IV. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Nonattainment, Ozone, Volatile organic compounds, Reporting and recordkeeping requirements.

Dated: December 20, 2013.

Samuel Coleman,

Acting Regional Administrator, Region 6.

40 CFR Part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart SS—Texas

■ 2. In § 52.2270, the table in paragraph (c) entitled ''EPA Approved Regulations in the Texas SIP'' is amended under Chapter 116—Control of Air Pollution by Permits for New Construction or Modification, as follows:

■ a. Immediately following the entry for § 116.615, by adding an entry for Subchapter H; and

■ b. Immediately following the entry for § 116.918, by adding an entry for § 116.919.

The additions read as follows:

§ 52.2270 Identification of plan.

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Chapter 116 (Reg 6)—Control of Air Pollution by Permits for New Construction or Modification				
*	*	*	*	*
Subchapter H—Permits for Grandfathered Facilities				
Division 1—General Applicability				
Section 116.770	Requirement to Apply	1/28/04	1/6/14 [Insert *FR* page number where document begins].	
Section 116.771	Implementation Schedule for Additional Controls.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.772	Notice of Shutdown	1/28/04	1/6/14 [Insert *FR* page number where document begins].	
Division 2—Small Business Stationary Source Permits, Pipeline Facilities Permits, and Existing Facility Permits				
Section 116.774	Eligibility for Small Business Stationary Source Permits.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.775	Eligibility for Pipeline Facilities Permits	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.777	Eligibility for Existing Facility Permits	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.778	Additional Requirements for Applications for Small Business Stationary Source Permits, Pipeline Facilities Permits, or Existing Facility Permits.	8/21/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.779	Applications for Small Business Stationary Source Permits, Pipeline Facilities Permits, or Existing Facility Permits.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	116.779(a)(10) is not in the SIP.
Section 116.780	Public Participation for Initial Issuance of Pipeline Facilities Permits and Existing Facility Permits.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.781	Notice and Comment Hearings for Initial Issuance of Pipeline Facilities Permits and Existing Facility Permits.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.783	Notice of Final Action on Pipeline Facilities Permit Applications and Existing Facility Permit Applications.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.785	Permit Fee	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.786	General and Special Conditions	5/22/02	1/6/14 [Insert *FR* page number where document begins].	116.786(c)(2)(B)(ii)(I) is not in the SIP.

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
Section 116.787	Amendments and Alterations of Permits Issued Under this Division.	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.788	Renewal of Permits Issued Under this Division	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
Section 116.790	Delegation	5/22/02	1/6/14 [Insert *FR* page number where document begins].	
*	*	*	*	*
Subchapter I—Electric Generating Facility Permits				
*	*	*	*	*
Section 116.919	Additional Requirements for Grandfathered Electric Generating Facility Permit Applications.	8/21/02	1/6/14 [Insert *FR* page number where document begins].	
*	*	*	*	*

* * * * *

[FR Doc. 2013–31560 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2012–0767; FRL–9905–03–Region 7]

Approval and Promulgation of Air Quality Implementation Plans; Missouri; Reasonably Available Control Technology (RACT) for the 8-Hour Ozone National Ambient Air Quality Standard (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a State Implementation Plan (SIP) revision submitted by the State of Missouri to EPA in a letter dated May 4, 2012. The purpose of the SIP revision is to amend Missouri's regulation for the control of Volatile Organic Compounds (VOC) and meet the requirement to adopt reasonably available control technology (RACT) for sources covered by EPA's Control Technique Guidelines (CTG) for Industrial Cleaning Solvents. We are taking final action to approve this revision because it satisfies the applicable requirements of the Clean Air Act (CAA) with respect to RACT for the Missouri portion of the St. Louis Metropolitan 1997 8-hour ozone nonattainment area.

DATES: This final rule is effective February 5, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R07–OAR–2012–0767. All documents in the docket are listed on the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air Planning and Development Branch, Air and Waste Management Division, U.S. Environmental Protection Agency Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Ms. Lachala Kemp, Air Planning and Development Branch, U.S. Environmental Protection Agency Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7214; email address: *kemp.lachala@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following:

I. What action is EPA taking in this final rule?
II. What is the background for the approvals by EPA in this final rule?
III. EPA's Final Action

I. What action is EPA taking in this final rule?

EPA is taking final action to approve a SIP revision submitted by the State of Missouri to EPA on May 4, 2012. The purpose of this revision is to control the emissions of VOCs, consistent with Control Techniques Guidelines (CTGs) issued by EPA, and to satisfy the RACT requirements of the CAA for the Missouri portion of the St. Louis metropolitan 1997 8-hour ozone nonattainment area. Specifically, the revision incorporates an amendment to

an existing SIP-approved Missouri regulation 10 Code of State Regulations 10–5.455 to control emissions from Industrial Solvent Cleaning Operations in the St. Louis metropolitan area. The revision includes lowering the allowable emissions threshold for VOCs released per day from the use, storage and disposal of industrial cleaning solvents, and adds requirements for facilities that exceed the applicability threshold. EPA is taking final action to approve this revision because the adoption by Missouri of this regulation represents RACT control levels for CTGs issued by EPA after 2006. In addition, EPA is taking final action to approve this revision because it meets the requirements of the conditional approval EPA issued on January 10, 2012. *See* 77 FR 3144 (January 23, 2012).

II. What is the background for the approvals by EPA in this final rule?

This section briefly summarizes the background for today's final action. More detailed discussion of the statutory and regulatory background can be found in the preamble to the proposal for this rulemaking. *See* 78 FR at 45112–45114 (July 26, 2013). No comments were received on the proposed rulemaking.

The St. Louis metropolitan area—which includes the counties of Franklin, Jefferson, St. Charles and St. Louis, and the City of St. Louis in Missouri (as well as four counties in Illinois), is currently designated as a moderate nonattainment area under the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS).[1] For areas in moderate nonattainment with the ozone NAAQS, section 182(b)(2) of the CAA requires states to submit SIP revisions to EPA that require sources of VOCs in the nonattainment area that are subject to a CTG issued by EPA, and all other major stationary sources,[2] to implement RACT.

EPA has defined RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility. 44 FR 53761 (September 17, 1979). EPA provides states with guidance concerning what types of controls could constitute RACT for certain source categories through the issuance of CTGs. *See* 71 FR 58745, 58747 (October 5, 2006).

Section 183(e) of the CAA provides that EPA may issue a CTG in lieu of a national regulation for categories of consumer or commercial products where the Administrator determines that such guidance will be substantially as effective as regulations in reducing VOC emissions in ozone nonattainment areas.

III. EPA's Final Action

In this rulemaking, EPA is taking final action to approve a revision to Missouri's VOC rule 10 CSR 10–5.455 into Missouri's SIP, as EPA believes that this rule satisfies RACT for the Missouri portion of the St. Louis nonattainment area for Industrial Cleaning Solvents. EPA also believes that this rule satisfies the requirements of the conditional approval of Missouri's VOC RACT SIP referenced above. This final action means that the Missouri SIP meets all of the applicable VOC RACT requirements for St. Louis under section 182(b)(2) of the Act, as they relate to the 1997 ozone NAAQS.

Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

[1] The St. Louis metropolitan area was also recently designated as a ''marginal'' nonattainment area for the 2008 ozone NAAQS.

[2] For a moderate nonattainment area, a major stationary source is one which emits, or has the potential to emit, one hundred tons per year or more of VOCs. *See* CAA section 302(j).

reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 12, 2013.

Karl Brooks,

Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. Amend § 52.1320 by:

■ a. Revising in paragraph (c) the entry for ''10–5.455'';

■ b. Revising paragraph (e)(55).

The revisions read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
* *	* *		* *	*
10–5.455	Control of Emissions from Industrial Solvent Cleaning Operations.	08/30/2011	1/6/2014 [*insert Federal Register page number where the document begins*].	
* *	* *		* *	*

* * * * *

(e) * * *

EPA-APPROVED MISSOURI NONREGULATORY SIP PROVISIONS

Name of non-regulatory SIP revision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
* *	* *		* *	*
(55) VOC RACT Requirements for the 8-hour ozone NAAQS.	St. Louis	1/17/2007, 6/01/2011, 8/30/2011	1/23/2012, 77 FR 3144 1/6/2014 [*insert Federal Register page number where the document begins*].	
* *	* *		* *	*

* * * * *

[FR Doc. 2013–31566 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2012–0874; FRL–9904–57]

Dimethyl Esters of Glutaric Acid (i.e., Dimethyl Glutarate), Succinic Acid (i.e., Dimethyl Succinate), and Adipic Acid (i.e., Dimethyl Adipate); Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of dimethyl esters of glutaric acid (i.e., dimethyl glutarate), succinic acid (i.e., dimethyl succinate), and adipic acid (i.e., dimethyl adipate), herein referred to as DMEGSA, when used as inert ingredients (as solvents/co-solvents) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. SciReg, Inc., on behalf of Rhodia, Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of DMEGSA.

DATES: This regulation is effective January 6, 2014. Objections and requests for hearings must be received on or before March 7, 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–2012–0874, 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 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.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

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–2012–0874 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 March 7, 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–2012–0874, 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.htm.*

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

II. Petition for Exemption

In the **Federal Register** of January, 16, 2013 (78 FR 3377) (FRL–9375–4), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (IN–10520) by SciReg Inc. 12733 Director's Loop, Woodbridge, VA 22192, on behalf of Rhodia Inc., CN 7500, 8 Cedar Brook Drive, Cranbury NJ, 08512–7500. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of dimethyl esters of glutaric acid (i.e., dimethyl glutarate, CAS Reg. No. 1119–40–0), succinic acid (i.e., dimethyl succinate, CAS Reg. No. 106–65–0), and adipic acid (i.e., dimethyl adipate, CAS Reg. No. 627–93–0) when used as an inert ingredient as solvents/co-solvents in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. That document referenced a summary of the petition prepared by on SciReg Inc., on behalf of Rhodia, Inc., the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for 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. . . .''

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), 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 DMEGSA including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with DMEGSA follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by DMEGSA as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Acute toxicity studies demonstrate low acute oral and dermal toxicity (Office of Chemical Safety and Pollution Prevention (OCSPP) 870.1100 and 870.1200, respectively) with minimal eye irritation (OCSPP 870.2400) and no dermal irritation (OCSPP 870.2500). Results from a dermal sensitization study were negative (OCSPP 870.2600).

The repeat dose database contains oral, dermal, and inhalation studies. Due to their prevalence in commercial paint strippers, polishes, and lacquer thinners, the majority of the studies were conducted via inhalation, the most expected route of exposure from non-pesticidal uses.

Animals in a 14-day oral dietary study showed reduced weight gain and food consumption at 1,684 mg/kg/day (LOAEL) but showed no adverse effects at 842 mg/kg/day (NOAEL). Animals in a one month oral gavage study showed no adverse effects at the limit dose of 1,000 mg/kg/day. In addition, a 14-day dermal study was conducted and although mild skin irritation was noted in rats at doses equal to and greater than 100 mg/kg/day, the effects were reversible and no systemic effects were observed at any dose tested up to the limit dose of 1,000 mg/kg/day.

To support the safety finding as it relates to oral exposure, oral studies on the metabolites were also evaluated. Available repeat dose oral studies on the metabolites include a 13-week study on succinic acid, two 90-day studies on glutaric acid and a two year study on adipic acid. Succinic acid was shown to cause decreased body weight gain in rats at and above 2,500 mg/kg/day. Glutaric acid also caused a decrease in body weight gain in both rats and dogs at 1,000 and 750 mg/kg/day, respectively. Similarly, adipic acid was seen to cause decreased body weight gain and food consumption in rats at 2,250 mg/kg/day. The results of these studies indicate that the metabolites of DMEGSA are of low toxicity via the oral route of exposure.

The majority of the repeat dose and reproductive/developmental studies conducted on dibasic esters (DBE, CAS Reg. No. 95481–62–2- a chemical mixture of approximately 55–75% dimethyl glutarate, 15–27% dimethyl succinate, and 10–25% dimethyl adipate) and/or the individual chemicals are via the inhalation route of exposure. The available database includes three 90-day inhalation studies in rats, one conducted with DMEGSA and two with DBE. In the first study rats were exposed to DMS and DMA at doses of 0 or 0.4 mg/L and DMG at doses of 0, 0.01, 0.05, or 0.4 mg/L. Degeneration of the olfactory epithelium was observed for all chemicals at and above 0.05 mg/L with the severity of the local effect being dose dependent. Exposed animals also showed microscopic alterations in the liver (males) and lung (females). The hormonal changes observed in these studies with DMS, DMA, and DMG were: An increase in sperm counts (2/3 studies), a decrease in testosterone levels (1/3 studies), and a decrease in leutenizing hormone levels (1/3 studies) in males and a decrease in estradiol levels in females (1/3 studies). The significance of these findings is unclear because the decrease in male hormone levels should result in a decrease in sperm counts, yet the opposite effect was observed. The single study showing changes in estradiol was not observed in the other two studies. Furthermore, there were no functional parameters such as estrous cycle and sperm motility or morphology affected. In addition, a reproductive study was conducted with DBE and there were no effects on fertility, viability of pups at birth, and the ability of the mothers to lactate.

Two other 90-day rat studies (OCSPP 870.3465), tested DBE and again, degeneration of the olfactory epithelium was noted at all doses tested (0.02–1.0 mg/L). In both studies decreases in liver weight were observed but no histopathological findings were evident. Similarly, when rats were exposed to 1 mg/L DBE slight increases in relative heart and testes weights in males and a slight decrease in absolute spleen weight in females were observed. These slight organ weight changes were not accompanied by any histopathological changes and are therefore, considered of minimal biological significance. No other significant effects were observed.

Repeat dose inhalation studies have demonstrated the chemicals potential to affect the olfactory mucosa in the nasal passage of rats. These local effects are believed to be related to the hydrolysis of DMEGSA by carboxylesterases located in the nasal/olfactory epithelium to the dicarboxylic acid metabolites. These effects on the olfactory epithelium are expected to be of much lower impact in humans due to major anatomical and physiological differences between rats and humans. See Unit VI.B for further discussion.

Depressed pup weights were observed in a one-generation reproduction inhalation toxicity study with DBE at 1.0 mg/L but were only seen in the presence of maternal toxicity. Two developmental inhalation toxicity studies (OCSPP 870.3700) were conducted, one testing DBE on rats and with DMG on rabbits. In both studies no developmental effects were observed at doses up to and including 1.0 mg/L. Similarly, no adverse developmental effects were observed in oral studies on the metabolites glutaric acid (rat and rabbit) and adipic acid (rat and mice) at doses up to and including 1,300 mg/kg/day.

An Ames test conducted with DBE was negative; however, a chromosome aberration study conducted with DBE was positive at high concentrations in the presence of S9 metabolic activation (negative without S9 activation) in lymphocytes from female donors. This result is not consistent with what is known about the hydrolysis products of the methyl esters. Methanol is not clastogenic or genotoxic. Glutaric acid, succinic acid, and adipic acid are all endogenous and not considered to be clastogenic or genotoxic; a chromosome aberration study conducted with adipic acid was negative. As such, it is possible that, in the presence of S9 metabolic activation, the esters were hydrolyzed and the acids released, affecting the pH, making it more acidic. This is known to cause false positive effects in cytogenicity assays. Therefore, an *in vivo* genotoxicity assay on somatic cells was performed. A bone marrow micronucleus assay was performed in mice following a single inhalatory nose-only exposure to DBE for six hours. There were no statistically significant differences in the proportion of micronucleated polychromatic erythrocytes between mice of all groups including controls at any sampling time up to 72 hours following exposure up to a very high concentration of 19 mg/L, illustrating the absence of clastogenicity

of the test substance *in vivo.* In addition, a rat micronucleus study conducted with DMG was negative.

No neuropathological changes or effects on the functional observation battery parameters were reported in any of the studies. The agency does not believe DMEGSA will be neurotoxic. Chronic/carcinogenicity studies could not be identified for DMEGSA. A DEREK evaluation for DMG and DMS was conducted and did not show any special alerts. In addition, carcinogenicity studies were conducted with adipic acid and monosodium succinate in rats and no carcinogenic effects were observed. Therefore, the agency does not expect DMEGSA to be carcinogenic in humans.

B. Toxicological Points of Departure/ Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/ safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

Various inhalation studies with DMEGSA show local effects (likely a result of irritation at the point of contact in the nasal region) as well as some changes in hormone levels that, although consistently observed, are not considered to be toxicologically significant. The effects on the olfactory epithelium are expected to be of much lower impact in humans due to major physiological differences between rats and humans (e.g., rats have a larger surface of nasal epithelium and different air flow and breathing pattern (e.g., rats are obligate nose breathers) and greater carboxylesterase activity in nasal/ olfactory epithelium than do humans) so the local exposure will be significantly lower in humans. In vitro experiments with human nasal tissue homogenates suggest that DBE metabolism in human nasal tissue is 100 to 1000 times less active than rat nasal tissue. Therefore, humans are expected to be much less sensitive. In the absence of other systemic toxicity along with the expected decrease in sensitivity of humans to olfactory responses, EPA concluded that these effects were not sufficiently adverse to be used as an endpoint for risk assessment.

As noted in Unit VI. A. above, exposed animals in repeat dose inhalation studies showed microscopic organ changes and hormonal changes in studies with DMS, DMA, and DMG. The significance of these findings is unclear because for example, the decrease in male hormone levels should result in a decrease in sperm counts, yet the opposite effect was observed. The single study showing changes in estradiol was not observed in the other two studies. Furthermore, there were no functional parameters such as estrous cycle and sperm motility or morphology affected. In addition, a reproductive study was conducted with DBE and there were no effects on fertility, viability of pups at birth, and the ability of the mothers to lactate. For these reasons the point of departure for the risk assessment for chronic oral routes of exposure was from the 14-day oral toxicity study in rats. The NOAEL was 842 mg/kg/day and the LOAEL was 1684 mg/kg/day based on reduced weight gain and food consumption. A 1000 fold uncertainty factor was used for the chronic exposure (10X interspecies extrapolation, 10X for intraspecies variability and 10X FQPA safety factor)).

The dermal study did not result in an endpoint of concern. Adverse local olfactory effects were observed in inhalation toxicity studies; however, due to anatomical and physiological difference between study animals and humans, the effects are likely to be less severe in humans and subsequently of minimal toxicological concern. No systemic endpoint of concern was identified in the available inhalation toxicity studies; therefore, quantification of inhalation risk is not necessary.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to DMEGSA, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from DMEGSA in food as follows:

Because no acute endpoint of concern was identified, a quantitative acute dietary exposure assessment is unnecessary. In conducting the chronic dietary exposure assessment using the Dietary Exposure Evaluation Model DEEM–FCIDTM, Version 3.16, EPA used food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, What we eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. The Inert Dietary Exposure Evaluation Model (I–DEEM) is a highly conservative model with the assumption that the residue level of the inert ingredient would be no higher than the highest tolerance for a given commodity. Implicit in this assumption is that there would be similar rates of degradation between the active and inert ingredient (if any) and that the concentration of inert ingredient in the scenarios leading to these highest of tolerances would be no higher than the concentration of the active ingredient. The model assumes 100 percent crop treated (PCT) for all crops and that every food eaten by a person each day has tolerance-level residues. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts.'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for DMEGSA, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

The majority of the current pesticidal uses (e.g., use in paints and wood products) of DMEGSA are for industrial and commercial settings; however, DMEGSA are approved for use in textiles, as paper coatings, and in and around homes and landscapes. There are no approved antimicrobial uses of DMEGSA. Neither the dermal nor inhalation studies resulted in an endpoint of concern; therefore, there was no need to quantify dermal or inhalation exposure. Since there is potential for use of this chemical in and around homes, residential exposure was evaluated using agency approved models to estimate high end post-application oral exposures to children from treated lawns. The residential and aggregate level of concern (LOC) is for margins of exposure (MOE) that are less than 1000 and is based on 10X interspecies extrapolation, 10X for intraspecies variability, and 10X FQPA safety factor.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found DMEGSA to share a common mechanism of toxicity with any other substances, and DMEGSA does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that DMEGSA does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased susceptibility was seen in the available developmental and reproductive toxicity studies for DMEGSA and its metabolites. Depressed pup weights were observed in a one-generation reproduction inhalation toxicity study with DBE at 1.0 mg/L but were only seen in the presence of maternal toxicity. Two developmental inhalation toxicity studies were conducted, one testing DBE on rats and with DMG on rabbits. In both studies no developmental effects were observed at doses up to and including 1.0 mg/L; while maternal toxicity was observed at doses of 0.3 mg/L and above. Similarly, no adverse developmental effects were observed in oral studies on the metabolites glutaric acid (rat and rabbit) and adipic acid (rat and mice) at doses up to and including 1,300 mg/kg/day.

3. *Conclusion.* EPA concludes that the FQPA safety factor of 10X for DMEGSA should be retained because of the need to extrapolate from a subchronic study for a chronic risk assessment. In making this determination, EPA considered the following factors:

i. The toxicity database for DMEGSA and their metabolites includes several subchronic and chronic studies, several developmental and reproductive toxicity studies, and mutagenicity studies. No chronic studies are available on DBEs; however, chronic toxicity studies on metabolites are available to characterize long term toxicity potential of DBEs.

ii. Increased incidence of delayed renal papillary development and decreased pup weights were observed in reproductive/developmental inhalation toxicity studies at 1000 mg/m^3; however, these effects were only observed in the presence of depressed maternal body weight. In addition, there were no systemic effects seen in oral studies at doses up to and including the limit dose of 1000 mg/kg/day indicating no evidence of increased susceptibility.

iii. There is no indication that DMEGSA are neurotoxic chemicals. Although no neurotoxicity studies are available in the database, no clinical signs of neurotoxicity were observed in the available subchronic and chronic studies. Therefore, there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

vi. The dietary food exposure assessment utilizes proposed tolerance level or higher residues and 100% CT information for all commodities. By using these screening-level assessments, chronic exposures/risks will not be underestimated.

Based on the absence of reproductive and developmental toxicity for DMEGSA in inhalation studies at maternally toxic doses, the high developmental NOAEL for glutaric acid, and the lack of neurotoxicity, there is no concern for increased sensitivity to infants and children to DMEGSA when used as an inert ingredients in pesticide formulations. However, due to the lack of a chronic oral toxicity study the 10X FQPA safety factor has been retained to protect infants and children.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, DMEGSA is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to DMEGSA from food and water will utilize 83.9% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure. There are no current or proposed residential uses for DMEGSA at this time. Based on the explanation in this unit, regarding residential use patterns, chronic residential exposure to residues of DMEGSA is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). A short-term adverse effect was identified; however, DMEGSA is not currently used as an inert ingredient in pesticide products that are registered for any use patterns that would result in short-term residential exposure. They may, however, be used in the future as an

inert ingredient in pesticide products that are registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to DMEGSA.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined short-term food, water, and residential oral exposures result in aggregate MOEs for children of 1450 for hand-to-mouth exposure to treated lawns. Because EPA's level of concern for DMEGSA is a MOE of 1000 or below, these MOEs are not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

An intermediate-term adverse effect was identified; however, DMEGSA is not currently used as an inert ingredient in pesticide products that are registered for any use patterns that would result in intermediate-term residential exposure. They may, however, be used in the future pesticide products that are registered for uses that could result in intermediate-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with intermediate-term residential oral exposures to DMEGSA.

Using the exposure assumptions described in this unit for intermediate-term exposures, EPA has concluded that the combined intermediate-term food, water, and residential exposures result in aggregate MOEs for children of 1500 for hand-to-mouth exposure to treated lawns. Because EPA's level of concern for DMEGSA is a MOE of 1000 or below, these MOEs are not of concern.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in available studies of the metabolites of the subject chemicals and a DEREK assessment of DMEGSA which revealed no alerts, DMEGSA is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, 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 DMEGSA residues.

V. Other Considerations

Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180. 910 for dimethyl glutarate (CAS Reg. No. 1119–40–0), dimethyl succinate (CAS Reg. No. 106–65–0), and dimethyl adipate (CAS Reg. No. 627–93–0) when used as inert ingredients (solvent/co-solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest.

VII. Statutory and Executive Order Reviews

This final rule establishes a tolerance 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).

VIII. 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: December 23, 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 § 180.910, alphabetically add the following inert ingredient(s) to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemptions from the requirement of tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	*	* * *
Dimethyl adipate (CAS no. 627–93–0)	None	Solvent/co-solvent
* * *	*	* * *
Dimethyl glutarate (CAS no. 1119–40–0)	None	Solvent/co-solvent
* * *	*	* * *
Dimethyl succinate (CAS no. 106–65–0)	None	Solvent/co-solvent
* * *	*	* * *

[FR Doc. 2013–31582 Filed 1–3–14; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 27 and 90

[PS Docket Nos. 12–94, 06–229, WT Docket No. 06–150; FCC 13–137]

Consolidated Service Rules for the 758–769 and 788–799 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (Commission) adopts a *Second Report and Order* that establishes consolidated service rules for the 758–769 and 788–799 MHz bands, the 700 MHz spectrum licensed to the First Responder Network Authority (FirstNet) for purposes of establishing a nationwide public safety broadband network. The *Second Report and Order* also lifts the suspension on the certification of equipment for operation in this band and directs the Office of Engineering and Technology to commence such certification, consistent with the service rules adopted therein.

DATES: Effective January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Erika Olsen, Senior Legal Counsel, Public Safety and Homeland Security Bureau, (202) 418–2868 or *erika.olsen@fcc.gov;* Brian Hurley, Attorney Advisor, Public Safety and Homeland Security Bureau, (202) 418–2220 or *brian.hurley@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order,* FCC 13–137; PS Docket Nos. 12–94, 06–229, WT Docket No. 06–150; adopted and released October 28, 2013. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 12th Street SW., Washington, DC 20554, or online at *http://www.fcc.gov/document/700-mhz-public-safety-broadband-service-rules-report-and-order.* This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995

This document contains no new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13.

I. Introduction

1. In the *Second Report and Order (Second R&O)* we adopt consolidated rules, primarily technical service rules, for the 758–769/788–799 MHz band, which is licensed to the First Responder Network Authority (FirstNet) on a nationwide basis. We also direct the Office of Engineering and Technology (OET) to accept and process applications for equipment certification in this band consistent with the newly consolidated rules. Our adoption of the *Second R&O* will further ''facilitate the transition'' of spectrum to FirstNet to enable its deployment of a nationwide public safety broadband network as prescribed by statute. We also focus on these technical matters in order to expedite the availability of equipment for use in this band, which will fulfill ''the imminent need'' FirstNet cites ''for authorized equipment to meet the needs of jurisdictions that may deploy early'' in its licensed spectrum.

2. The rules we adopt today will provide a necessary foundation for FirstNet's operations and expedite the availability of equipment for use in this band. As noted below, in light of the urgent need to resume our process for certifying equipment for use in promoting more effective public safety operations in this band, and because that process cannot be resumed in the absence of governing technical service rules, we find good cause to make the *Second R&O* effective immediately upon publication in the **Federal Register**.

II. Background

3. The Middle Class Tax Relief and Job Creation Act of 2012, enacted February 22, 2012, provides for the deployment of a nationwide public safety broadband network in the 700 MHz band. The Act established FirstNet as an independent authority within the National Telecommunications and Information Administration (NTIA), and required the Commission to grant a license to FirstNet for the use of both the existing public safety broadband spectrum (763–768/793–798 MHz) and the spectrally adjacent D Block (758–763/788–793 MHz), a commercial spectrum block that the statute required the Commission to reallocate for public safety use. The Act charges FirstNet with the responsibility for establishing and overseeing ''a nationwide, interoperable public safety broadband network'' operated in this spectrum by taking ''all actions necessary to ensure the building, deployment, and operation of the . . . network, in consultation with Federal, State, tribal, and local

public safety entities, the Director of NIST, the Commission, and the public safety advisory committee [that section 6205 of the Act requires FirstNet to establish].'' Among its more specific duties, FirstNet is responsible for issuing Requests for Proposals (RFPs) and entering into contracts for the construction, operation and management of the network on a nationwide basis, using funds allocated for these purposes under the Act.

4. The Act also established within the Commission a Technical Advisory Board for First Responder Interoperability (Interoperability Board) charged with the development of recommended minimum technical requirements to ensure nationwide interoperability for the public safety broadband network based on ''commercial standards for Long Term Evolution (LTE) service.'' On May 22, 2012, the Interoperability Board submitted its recommendations to the Commission, and on June 21, 2012, the Commission approved the transmittal of these recommendations to FirstNet. The Act requires FirstNet to incorporate the recommendations into its RFPs ''without materially changing'' them.

5. On September 7, 2012, the Public Safety and Homeland Security Bureau adopted, on delegated authority, a *Report and Order* implementing the clear statutory directive requiring the Commission to reallocate the D Block for ''public safety services.'' The Bureau also deleted a number of Commission rules that were plainly inconsistent with this revised allocation, including the rules establishing, providing license authority with respect to, and governing operations under the ''Public Safety Broadband License'' that had previously been established for the existing public safety broadband spectrum. On November 15, 2012, the Bureau granted FirstNet the license prescribed by statute, under call sign WQQE234.

6. The Commission released a *Notice of Proposed Rulemaking* (*NPRM*) on March 8, 2013, seeking comment on additional measures to implement its statutory responsibilities regarding deployment of the public safety broadband network. The *NPRM* sought comment on the adoption of consolidated technical service rules for the network; on the exercise of the Commission's statutory responsibilities as they relate to oversight of FirstNet's operations; and on transition matters for the various classes of incumbent operations in the spectrum licensed to FirstNet. The Commission also sought comment on the scope of its authority as it relates to these proposals, particularly in light of the statutory delegation to FirstNet of the responsibility to develop ''the technical and operational requirements of the network.''

7. FirstNet filed comments on the *NPRM* on August 2, 2013, after the comment cycle had completed. While not addressing for the most part the substantive rules at issue, FirstNet urged the Commission to ''act quickly to amend its technical service rules to enable FirstNet to expedite the deployment of [its network].'' FirstNet also expressed support for ''swift Commission action to begin accepting and processing equipment authorizations'' in its licensed spectrum, particularly in light of imminent public safety network deployments planned therein. On August 28, the Public Safety and Homeland Security Bureau published a notice in the **Federal Register** providing an additional seven days for public comment on FirstNet's filing, 78 FR 53124, Aug. 28, 2013. The few comments received in response were supportive of these views.

III. Second Report and Order

8. In the *Second R&O,* we adopt consolidated technical service rules to facilitate FirstNet's efforts in deploying a nationwide public safety broadband network in the 700 MHz band. The adoption of these rules will also enable the Commission to certify for operation in the spectrum licensed to FirstNet. This will expedite the availability of equipment for operation in this band, which FirstNet and numerous other commenters identify as an urgent priority given the near-term deployments planned in this spectrum.

9. In the *NPRM* we sought comment, including specific data and information, on the costs and benefits of each proposal set forth and of any potential alternatives to such proposals. The few commenters that addressed the potential costs associated with consolidating technical service rules under part 90 anticipate that such costs will be minimal. Such comments are unsurprising, given that the rules proposed for consolidation are already codified in Commission rules and largely track the service rules that apply to commercial LTE services in neighboring bands. Accordingly, we proceed with the consolidation of technical rules based on the record before us.

A. Consolidating the Rules That Govern the Nationwide Public Safety Broadband Network

10. In the *NPRM,* the Commission observed that ''rules governing 700 MHz commercial wireless spectrum, including the D Block, are codified primarily in part 27 (''Miscellaneous Wireless Communications Services''), while rules governing the existing public safety broadband spectrum generally fall under part 90.'' The Commission proposed, as a general matter, to modify its rules so as to merge the requirements governing both band segments into a unified set of part 90 rules. FirstNet and many other commenters expressed support for this general approach, and none opposed it. Accordingly, in the *Second R&O* we adopt a unified set of part 90 rules to govern FirstNet's licensed spectrum.

1. A Foundation of Technical Service Rules for the Network

11. We first consider the Commission's proposed modifications to the part 27 technical service rules governing the D Block and parallel part 90 rules governing the public safety broadband spectrum (763–768/793–798 MHz). The Commission proposed such modifications to unify under a common set of rules a number of technical requirements, many of them substantively similar or identical to one another, that govern the two respective segments of FirstNet's licensed spectrum. The Commission also sought comment on the merits of these technical requirements as applied to the combined spectrum allocation licensed to FirstNet. In this section, we consider each requirement in turn.

a. Power Limits

12. *Power Limits.* In the *NPRM,* the Commission proposed to modify § 90.542(a) of its rules to bring the D Block frequencies within its purview and to delete as redundant the parallel provisions of § 27.50(b). The Commission also sought comment on whether the power limits established in § 90.542(a) remain appropriate for the combined public safety broadband allocation, and on the relative costs and benefits of any proposed alternatives. In addition, the Commission sought comment on whether the operational parameters of Long Term Evolution (LTE) technology call for the placement of more restrictive limits on the power output of portable (*i.e.,* hand-held) devices operated in the public safety broadband allocation.

13. *Comments.* Most commenters that addressed the issue support maintaining the power and antenna height limits set forth in § 90.542(a) and extending the reach of this provision to the D Block. Harris supports this general approach, but argues that the rule's reduced base station power limits for antennas above

305 meters in height above average terrain (HAAT) ''may not reflect the economic realities of building out [the network] in rural areas'' and that ''[f]lexibility should be allowed for implementation of a cost effective network . . . but free of rules that may force higher site densities based on regulation rather than need.'' To that end, Harris contends that ''a single set of maximum power limits should be established and the licensee should be offered flexibility to determine specific operating parameters for each RF site'' within these limits. Verizon opposes Harris's proposal, observing that the rule ''already allow[s] operations in rural areas at power levels that are twice that of higher density areas.'' Verizon further argues that more restrictive power limits on transmissions from antennas above 305 meters HAAT should remain in place ''to protect not only nearby commercial 700 MHz operations, but other FirstNet and narrowband public safety operations as well.''

14. A number of commenters also argue that the power limits currently in place for portable devices are consistent with the operational parameters of LTE and should not be restricted further. Motorola Solutions explains that the power limits established under § 90.542, unlike those specified by LTE standards, are expressed in terms of ''effective radiated power'' (ERP) and thus account for antenna gains and losses. Motorola Solutions further argues that the Commission should continue to permit ''high gain/high powered operations'' in this band, because ''higher power LTE devices improve spectral efficiency and coverage range, especially in rural areas with large inter-site distances and low user density.'' Meanwhile, General Dynamics contends that further restricting the permissible power output of hand-held devices operated in the public safety broadband allocation ''would negate some manufacturers' research and development investment-to-date'' in higher-power LTE devices and ''could greatly impact ongoing system-level engineering trades for the emerging [network] being designed by the FirstNet.''

15. *Discussion.* As the Commission observed in the *NPRM,* power limits play an important role in minimizing the potential for radiofrequency (RF) transmissions to create harmful interference for operations in co-channel and adjacent spectrum bands. Identical power limits are already in place for the public safety broadband spectrum and D Block, and the majority of commenters support the consolidation of these existing requirements under § 90.542. Moreover, as AT&T observes, the proposed consolidated limits are those that already ''apply to 700 MHz commercial wireless services,'' which include LTE services. We thus find that the proposed limits are reasonable for FirstNet's licensed spectrum, which will be used to deploy a nationwide LTE broadband network for first responders. Also, while recognizing the need to afford FirstNet flexibility to implement its network in a cost-effective manner, we decline to reformulate the rule as Harris proposes to sever the relationship between base station power limit and antenna height above average terrain. We first observe that FirstNet has not sought any modification of the restrictions currently in place, which are already calibrated to provide maximum flexibility to operators consistent with protecting both adjacent and co-channel operations from interference. We also note Verizon's observation that the rules in place already provide for higher-power transmissions in rural areas, which should enable sites to be deployed less densely in areas where it may be particularly costly to build out the network. Accordingly, we consolidate the power limits for FirstNet's licensed spectrum under § 90.542(a) as proposed. Moreover, as we find no support in the record for further restricting the permissible power output of hand-held devices operated in this spectrum to reflect the operational parameters of LTE technology, we will retain the 3 watt ERP limit the rule currently prescribes for hand-held (*i.e.,* portable) devices.

16. *Power Strength Limits (Power Flux Density).* In the *NPRM,* the Commission proposed consolidating under § 90.542(b) of its rules the power flux density limits that govern the respective segments of FirstNet's licensed spectrum. The Commission then sought comment on whether the limit set forth, namely 3000 microwatts per square meter ($\mu w/m^2$) on the ground within 1000 meters of the base of an antenna for any signal transmitted in excess of 1000 watts ERP, remains appropriate. Finally, it sought comment on the costs and benefits of the proposed rule consolidation and of any possible alternatives.

17. *Comments.* Several commenters support the proposed consolidation of existing power flux density limits under § 90.542(b). One such commenter, Motorola Solutions, explains that ''[i]n the 800 MHz band, the 3000 $\mu w/m^2$ limit has proven to be an effective compromise between service and interference prevention,'' one that ''does not prevent interference in all cases [but] is an effective standard to trigger the initiation of mitigation work.'' Harris, on the other hand, argues that limiting the power flux density only of signals transmitted in excess of 1000 watts ERP ''is counterproductive to minimizing harmful interference.'' Harris explains that even lower ERP transmissions from a FirstNet base station could, ''by a combined effect of the site antenna directivity and ERP,'' produce a power flux density that is sufficient to create a serious potential for interference with public safety narrowband operations in the surrounding area. Harris explains that co-location of broadband and narrowband sites can mitigate this problem but that ''site densities for LTE are expected to be higher necessitating the need for broadband-only sites.'' Accordingly, Harris recommends extending rule to cover base station transmissions at any level of ERP.

18. *Discussion.* Power flux density limits help mitigate the potential for a base station's transmissions to create interference for adjacent-band users in the immediate area. We agree with Motorola Solutions that the limits currently in place provide for interference mitigation without unduly constraining service. We further observe that no public safety narrowband licensee or other public safety commenter argued that the proposed PFD limits are insufficiently restrictive to protect narrowband or other operations from interference. We will therefore consolidate the existing PFD limits as proposed. In doing so, we acknowledge Harris's argument that FirstNet's placement and configuration of sites within its network may affect the probability that adjacent narrowband users may encounter harmful interference from its base station transmissions. We would expect that FirstNet will carefully coordinate its site deployments with adjacent narrowband licensees and adjust its operations as appropriate to mitigate any problems that may arise. The Commission may also consider adoption of a more restrictive PFD limit for this spectrum in the future should circumstances warrant.

b. Emission Limits

19. In the *NPRM* the Commission sought comment on proposals to unify under § 90.543 of our rules the out-of-band emission (OOBE) limits that govern the public safety broadband spectrum allocation, as expanded to include the D Block. First, the Commission proposed consolidating into § 90.543(e) the provisions restricting emissions from the public

safety broadband allocation into the adjacent 700 MHz public safety narrowband segment (769–775/799–805 MHz). It then proposed consolidating into § 90.543(f) the limits on emissions from the public safety broadband allocation into the 1559–1610 MHz band, which supports the operation of Global Positioning System (GPS) L1 receivers, and to retain the explicit language in § 90.543(f) that the rule applies to emissions ''including harmonics.'' Finally, it sought comment on whether limits codified in § 27.53(d)(3) on emissions from the D Block into frequencies below 758 MHz, between 775 and 788 MHz, and above 806 MHz should be extended to apply to the public safety broadband spectrum. For each of these proposals, the Commission also sought comment on any possible alternatives and on the respective costs and benefits of each.

20. *Comments.* All commenters that addressed this issue support retaining appropriate limits on emissions from the public safety broadband allocation into adjacent spectrum bands, and the majority of these commenters endorse the specific proposals issued in the *NPRM.*

21. A number of commenters emphasize the need for appropriate rules limiting emissions from the public safety broadband allocation into the adjacent narrowband spectrum. Motorola Solutions supports the proposed consolidation of the existing limits on such emissions, noting that it ''strongly opposes any reduction in the protection afforded to public safety narrowband systems.'' AT&T supports the proposed rule consolidation as one that would ''apply to the national public safety broadband spectrum the same requirements applicable to commercial wireless service.'' Harris argues that the protection of adjacent narrowband systems ''require[s] special attention by the [C]ommission'' given the incompatibility of broadband technologies with these systems, which are ''used for existing critical communications.'' Harris believes that the proposed limit on emissions into the narrowband spectrum would not adequately protect these existing systems from interference from LTE operations. Accordingly, it proposes a more robust set of protections under which limits on emissions into the narrowband spectrum would vary based on the nature (*e.g.,* base vs. mobile) of both the transmitter and the receiver of the out-of-band signal.

22. With respect to the 1559–1610 MHz band, commenters acknowledge the importance of protecting GPS L1 receivers operated there from interference. General Dynamics states that the protection of GPS operations ''is viewed with great importance,'' while Motorola Solutions observes that ''GPS is a critically important service to public safety as well as a wide range of consumer, enterprise and government applications.'' While commenters generally support the proposed consolidation under § 90.543(f) of the existing rules limiting emissions from the public safety broadband allocation into the 1559–1610 MHz band, parties disagree on whether that provision should retain the phrase ''including harmonics.'' General Dynamics contends that this phrase ''is necessary to ensure that the rules are unambiguous about restrictions that are placed on harmonics of intended transmissions'' and that the cost impact of its inclusion would be ''minimal.'' Ericsson, on the other hand, contends that the provision in question would apply to harmonics emissions even in the absence of explicit wording to that effect, making such wording ''not necessary.''

23. Finally, a number of commenters support the proposed extension to the public safety broadband spectrum of existing limits imposed on emissions from the D Block into neighboring commercial spectrum bands. General Dynamics observes that ''public safety systems based on LTE technology will have to co-exist with commercial services operating in adjacent spectrum'' and that adopting the proposed rule would merely ''ensure consistency'' with emission limitations already imposed on 700 MHz public safety narrowband operations. General Dynamics further contends that the proposed limits ''are relatively straightforward to achieve by fixed, mobile and portable stations'' and that adoption of the proposal thus ''will not impose any additional cost on public safety station equipment.'' AT&T also supports the proposal, observing that its adoption would harmonize the requirements applicable to this band with those that apply to 700 MHz commercial wireless services.

24. *Discussion.* Out-of-band emissions limits play a critical role in minimizing inter-band interference. As several commenters recognize, the limits established under § 90.543(e) have been calibrated to prevent public safety broadband operations from interfering with operations in the adjacent public safety narrowband spectrum. Moreover, while Harris explains that its alternative proposal ''is based on 3GPP standard practice for evaluating co-location and co-existence of commercial deployments,'' the rule as written is aligned with the rules applicable to 700 MHz commercial bands. We accordingly modify § 90.543(e) to include within its purview the D Block portion of FirstNet's spectrum. In doing so, we emphasize that this provision merely establishes a baseline of protection, one which FirstNet may opt to strengthen as it moves forward with its deployment and engages in its required consultations with State and local governments. Accordingly, while we decline to adopt more stringent out-of-band emissions limits of the sort Harris proposes, we encourage FirstNet to work cooperatively with adjacent-channel narrowband licensees to ensure that their respective operations are adequately protected.

25. Section 90.543(f), which limits emissions from the public safety broadband spectrum into the 1559–1610 MHz band, protects critical GPS operations from interference. Accordingly, with the support of many commenters, we incorporate the D Block into this provision. We further observe that no commenters provided a compelling reason to delete the phrase ''including harmonics'' from this provision, while one argues that such deletion could create unnecessary ambiguity. We therefore retain the original wording of the part 90 provision.

26. Finally, we observe that many commenters support the Commission's proposed adoption of a part 90 provision limiting emissions from the public safety broadband allocation into neighboring commercial spectrum bands, and none oppose the proposal. The adoption of this proposal would further align the technical service rules for this band with those established for commercial 700 MHz LTE operations. Moreover, the one commenter to address the cost implications of the proposal argues that it would create no cost burden. We accordingly adopt the proposal.

c. Field Strength Limits

27. In the *NPRM,* the Commission sought comment on whether a field strength limit should be established for the expanded public safety broadband allocation to limit interference between the FirstNet radio access network (RAN) and any State Networks deployed in the same band. The Commission then sought comment more specifically on whether to adopt for this band the field strength limit of 40 dBuV/M specified in § 27.55(a)(2) for 700 MHz commercial wireless spectrum, or whether an alternative limit would be more appropriate. The Commission also

sought comment on the costs and benefits of the various options.

28. *Comments.* Commenters were divided on whether the Commission should adopt a field strength limit for FirstNet's licensed spectrum. Motorola Solutions supports the adoption of the proposed 40 dBuV/M limit ''[g]iven the likelihood that there will be more than one network operating in [this spectrum.]'' However, it also notes that 40 dBuV/M represents a ''relatively high'' field strength limit that is ''sufficient to cause interference,'' so ''deployments near service area boundaries [will] require licensee coordination.'' AT&T contends that a field strength limit should be adopted ''to mitigate the potential for harmful interference between the nationwide network and any State networks,'' and it proposes adoption of the 40 dBuV/M limit already specified ''for 700 MHz commercial wireless services'' in § 27.55(a)(2). General Dynamics and TIA also support using the 40 dBuV/M limit set forth in § 27.55(a)(2).

29. Some commenters, however, oppose the Commission's adoption of a field strength limit for FirstNet's licensed spectrum. Harris contends that any State Networks deployed in this spectrum must ''function logically [with FirstNet's network] as a single RAN,'' making field strength limits ''not necessary for this spectrum.'' Ericsson similarly argues that such limits are unnecessary given the expectation that FirstNet ''will work in a cooperative way to ensure that harmful interference is not an issue through coordination and site engineering.'' Alcatel-Lucent also opposes adoption of such a limit ''at this time.''

30. *Discussion.* Although FirstNet is licensed on a nationwide basis, we acknowledge the importance of minimizing interference between the FirstNet network and any ''State Network'' deployed in the same spectrum. The statutory scheme under which State Networks may be deployed, however, includes several provisions that serve to promote the operational integration of such networks with FirstNet's nationwide deployment. A State electing to deploy its own network must submit an interoperability plan for the Commission's approval; apply to NTIA to lease spectrum capacity from FirstNet upon demonstrating that will have the technical capabilities to operate its network, have the ability to maintain ongoing interoperability with FirstNet, and provide a comparable quality of service; and pay any user fees associated with its use of FirstNet's core network. These provisions, among others, already contemplate a significant amount of advance coordination of State Network operations with those of FirstNet. We therefore do not find it necessary at this time to adopt a field strength limit for RANs operated in FirstNet's licensed spectrum.

d. Interference Coordination

31. The Commission sought comment in the *NPRM* on whether FirstNet or other broadband operators in its licensed spectrum should be required to engage in interference coordination of some kind, either with 700 MHz commercial licensees or with incumbent public safety narrowband licensees.

32. *Comments.* While several commenters acknowledge the importance of protecting co-channel and spectrally adjacent operations from mutual interference, many oppose the adoption of formal requirements for FirstNet or other public safety broadband operators to coordinate with either 700 MHz commercial or incumbent public safety narrowband licensees. APCO ''cautions the Commission to refrain from adopting any unnecessary procedures or requirements that would have the effect of introducing additional complexity on network planning with little or no corresponding benefit.'' Motorola Solutions raises similar concerns and suggests that interference coordination procedures be ''implemented as a design guideline'' rather than a binding rule. Ericsson meanwhile suggests that, while the Commission ''is wise to consider coordinating interference issues'' between incumbent narrowband operators and FirstNet, these two constituencies are ''highly motivated'' to coordinate with one another even in the absence of any formal requirements. AT&T also opposes the adoption of formal coordination requirements but recommends that the Commission adopt for the public safety broadband allocation the informal coordination procedures codified for commercial operations under § 27.64.

33. Alone among commenters, the Commonwealth of Virginia (Virginia) argues ''that co-ordination requirements must be put in place to protect incumbent narrowband operations'' such as its own. In support of its position, Virginia explains that its network ''has already experienced harmful interference from the testing of a 700 MHz LTE system in Virginia by a manufacturer,'' an outcome it deems ''unacceptable for public safety communications.''

34. *Discussion.* We agree with commenters that assert the importance of coordination among spectrally and geographically adjacent network operators to protect against mutual interference. At the same time, we observe once again that the statute creating FirstNet imposes on it a number of consultative obligations, including obligations to consult with state and local governments as it designs and implements its network. In addition, FirstNet's desire to attract public safety customers and potential commercial partners is likely to create incentives for additional coordination beyond what is statutorily required, which are different in kind and degree from those of a manufacturer conducting tests. Accordingly, we do not find it necessary at this time to adopt any formal requirements that FirstNet coordinate its operations with either incumbent narrowband or 700 MHz commercial operators. We will continue, however, to exercise our spectrum management and licensing responsibilities as necessary to ensure that properly authorized radio communications are protected from harmful interference, and we encourage all parties to work together to minimize the potential for interference.

e. International Considerations

35. In the *NPRM,* the Commission proposed to remove the D Block from the reach of § 27.57(b) and place it within the purview of § 90.533, which sets forth substantively identical requirements concerning international coordination. Ericsson and General Dynamics, the only parties to address the issue, support this proposed rule consolidation. Accordingly, we adopt the proposal.

f. 700 MHz Public Safety Guard Band

36. In the *NPRM,* the Commission observed that FirstNet's license includes the 768–769/798–799 MHz band, which is designated as a guard band under Commission rules to minimize the potential for interference between the broadband and narrowband segments of the 700 MHz public safety band. Observing that the transfer of the broadband spectrum to FirstNet does nothing to mitigate these concerns, the Commission proposed to maintain the designation of this spectrum as a guard band and keep in place all associated restrictions on its use. The Commission sought comment on this proposal, and on whether the possibility of broadband operations eventually being permitted in the narrowband segment should have any impact on this analysis.

37. *Comments.* A number of commenters support preserving the designation of the 768–769/798–799 MHz band as a guard band, at least during the early stages of public safety

broadband network development. FirstNet recommends that ''[a]t this time'' the Commission ''enable the guard band to continue serving as a 'buffer' between public safety broadband and narrowband spectrum.'' Harris agrees and further argues that ''the existing expanded public safety broadband allocation should be deployed and subsequent evaluation of real-world harmful interference should be evaluated before the guard band is allowed to be used.'' Motorola Solutions similarly contends that ''[t]he interference concerns that led to the establishment of the guard band have not been mitigated'' and that ''[t]he Commission should take no actions with respect to the guard band that would jeopardize the continued interference-free availability of the public safety narrowband spectrum.'' The Commonwealth of Virginia also asserts that ''a continued guard band is a necessity.''

38. Some commenters, however, suggest that this spectrum could be suitable for limited use, if only within specified parameters. Motorola Solutions envisions use of the band for ''localized public safety applications'' including ''low power mobile/portable applications that would enhance public safety communications while posing little risk of interference to adjacent band systems.'' NPSTC meanwhile argues that designating this spectrum as a ''home'' for narrowband vehicular repeaters currently operated in the public safety broadband spectrum could serve as a cost-effective strategy for managing the relocation of these operations. FirstNet also cautions that ''[its] plans could necessitate a change in the status of the public safety guard bands'' to accommodate some operations therein.

39. Finally, a few commenters contend that FirstNet should retain control over the operational parameters of all spectrum licensed to it, including the 768–769/798–799 MHz band. APCO argues that FirstNet's statutory responsibilities ''extend to the guard bands'' and that the Commission should accordingly ''remove the existing guard band restrictions and instead leave to FirstNet's discretion as to how to address any potential interference issues.'' Similarly, Ericsson ''supports allowing FirstNet discretion on its use as long as these bands function as guard bands to protect narrowband operations.''

40. *Discussion.* As an initial matter, we observe that the Commission holds authority to adopt regulations aimed at preventing public safety broadband network operations from creating interference for users in adjacent bands. The operational restrictions that currently attach to the 768–769 and 798–799 MHz ''guard band'' were adopted to mitigate interference between users in the broadband and narrowband segments of the public safety band, and no commenter has challenged the Commission's observation that these underlying concerns remain valid. In addition, FirstNet itself recommends that the band ''continue serving as a 'buffer' '' between these bands, at least in the near term. Accordingly, we will maintain the guard band restrictions currently in place for the 768–769 and 798–799 MHz band. In a future proceeding we may consider relaxing these restrictions to accommodate some operations in this band, such as those commenters contemplate, but such matters are not yet ripe for consideration at this early stage of network development.

g. Equipment Certification

41. In the *NPRM,* the Commission proposed consolidating under § 90.549 of its rules the requirements governing certification of equipment for operation in FirstNet's licensed spectrum. The Commission further observed that, under this approach, such certification would be subject to consolidated technical rules that had themselves yet to be adopted. Accordingly, it suspended OET's acceptance and processing of applications for equipment certification in FirstNet's licensed spectrum pending the adoption of the necessary technical rules. In addition, it sought comment on whether to adopt certification requirements specific to this band that would augment the basic certification requirements already codified under § 90.549. Finally, it proposed removing from its rules a legacy provision, § 90.203(p), that required applicants for equipment certification in the public safety broadband spectrum to demonstrate support for LTE interfaces that public safety operators had been required to implement under rules no longer in force.

42. *Comments.* In general, commenters support the specific proposals regarding equipment certification set forth in the *NPRM.* Those commenters that addressed these matters support the proposed consolidation of requirements under § 90.549 and the proposed deletion of § 90.203(p). With respect to the proposed rule consolidation, General Dynamics further observes that ''[t]he inclusion of the D Block frequency in this section will have the benefit of eliminating duplicative certification processes, thereby reducing cost.''

43. As noted earlier, a substantial number of commenters, including FirstNet, contend that urgent Commission action is necessary to ensure that equipment is made available for operations in FirstNet's licensed spectrum on an expedited basis. FirstNet explains that ''there is an imminent need for authorized equipment to meet the needs of jurisdictions that may deploy early'' in its licensed spectrum under lease agreements. Motorola Solutions similarly notes that ''[t]here is already a demand'' for authorized equipment ''that will increase as FirstNet progresses towards deployment of the nationwide public safety broadband network,'' and that ''[t]he halt in equipment authorizations is impacting product development schedules for devices being designed to meet this demand.'' Ericsson further argues that ''delays in certifying equipment hampe[r] the access to new and potentially life-saving technologies by the public safety community.'' Some commenters, including APCO and Harris, offer proposals for expediting the availability of equipment for use in this band prior to the adoption of technical service rules. APCO recommends ''issuance of an earlier order that focuses on [equipment certification] to avoid further interruptions in the development of equipment necessary for [network] operations.'' Harris, meanwhile, recommends that the Commission permit equipment with existing certifications already granted under the provisions of its 2010 waiver order, and equipment subsequently certified to be compliant with that order's technical requirements, to be authorized for use by early adopter networks while the Commission continues to develop technical service rules to permit the certification of equipment. Harris clarifies, however, that all equipment operated in the band should be subject to the rules ultimately adopted ''to ensure interoperability and [a] multi-vendor environment.''

44. A few commenters also urge the Commission to refrain from adopting any band-specific requirements that would augment the more basic requirements for equipment certification established under § 90.549. On this point, Motorola Solutions observes that ''[s]imilar to any commercial system operator, FirstNet has the right to impose additional requirements on equipment vendors to support specified features, protocols and applications'' and that ''[s]ubjecting future enhancements and refinements to the

Commission's rulemaking process would add unnecessary delay to providing public safety with devices that have the latest features and functionality.''

45. *Discussion.* Our adoption in the *Second R&O* of consolidated public safety broadband technical service rules sets the stage for equipment certifications to commence in this band. Commenters widely support the Commission's proposal to unify the equipment certification requirements for this band under § 90.549, without further modification. We accordingly consolidate this rule as proposed and direct the Office of Engineering and Technology to certify equipment in this band consistent with the technical rules adopted in the *Second R&O,* as soon as these rules become effective. We also delete § 90.203(p) as proposed in the *NPRM.*

46. Moreover, as explained in more detail below, we will make the *Second R&O* effective January 6, 2014. Such action will expedite the Commission's ability to process applications for equipment certification under the newly consolidated rules, thereby obviating the need for adoption of interim measures such as those APCO and Harris propose.

h. Miscellaneous Proposals From the Comment Record

47. *AT&T's Proposed Rule on Adherence to Commercial Standards.* AT&T proposes that, in addition to consolidating existing technical rules under part 90, the Commission should adopt ''a catch-all rule to ensure that the public safety broadband network operates in accordance with 'commercial standards' as defined [by statute].'' Motorola Solutions opposes the adoption of such a rule, arguing that it ''may hinder FirstNet's ability to promote the development and use of public safety applications and devices that do not conform precisely to commercial standards.''

48. AT&T concedes that many of the specific technical rules proposed in the *NPRM* align with requirements applicable to commercial spectrum bands, but it asserts that its proposed rule ''would serve to fill any unintended gaps in the other rules, provide important context for construing any ambiguities in the other rules, and plainly place the Commission in step with the mission of other governments entities charged with implementing [the statute].'' The rule it proposes, however, largely recites general principles set forth by statute and, as such, would not appear to place any affirmative restriction on the conduct of FirstNet or any other entity in deploying and operating the network. Any such restriction the rule might impose, on the other hand, may exceed the scope of the *NPRM,* which did not expressly seek comment on proposals to implement the statutory requirement that FirstNet base its network on ''commercial standards,'' or on how this requirement of the Spectrum Act should be construed in this context. We thus decline to adopt AT&T's proposal.

49. *Harris's Proposed Regulatory Classification of LTE Base Stations.* Harris proposes that the Commission's public safety broadband service rules ''establish distinct definitions and rules for different types of base stations . . . in a manner consistent with 3GPP definitions and technical specifications.'' In particular, Harris recommends the adoption of distinct transmitter power and minimum coupling loss (MCL) restrictions for ''Wide area,'' ''Medium area,'' ''Local area,'' and ''Home'' base stations, at levels defined by the LTE standard. Specialized requirements for various base station classes are necessary, Harris asserts, ''to ensure that minimum technical requirements are placed on each of the classes while minimizing cost and harmful interference potential.''

50. The technical rules we are establishing for FirstNet's licensed spectrum include power limits and other technical requirements aimed at mitigating the interference potential of operations in FirstNet's licensed spectrum. These protections are well-established and enjoy broad record support, and, as some commenters have observed, they are generally aligned with the technical service rules that apply to 700 MHz commercial LTE services. We do not find that Harris has made the case for codifying a distinct and potentially conflicting set of rules for FirstNet's licensed spectrum based directly on LTE design specifications, which themselves may evolve over time. Accordingly, we decline to adopt Harris's proposal.

2. Further Rule Consolidations

51. In addition to its proposed consolidation of technical service rules, the Commission proposed additional minor rule revisions necessary to remove the D Block from the reach of part 27 and place it within the purview of part 90. The only commenters to address these proposed revisions support them. We accordingly adopt the proposals. We also requested comment more generally on ''the development of a unified set of rules for the expanded public safety broadband allocation,'' and Motorola Solutions identified for revision two additional ''non-substantive'' part 27 references to the D Block. We agree that these changes to reflect the new statutory mandate with respect to the D Block are purely ministerial, and we adopt such revisions as well.

52. The Commission also proposed minor revisions to §§ 2.103, 90.179 and 90.523 of its rules to omit references to the defunct Public Safety Broadband Licensee. The few commenters that addressed any of these proposed revisions support them. We accordingly adopt these proposals as well.

Procedural Matters

A. Final Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Final Regulatory Flexibility Analysis (FRFA) of the possible significant economic impact on small entities of rules adopted in the *Second R&O* in PS Docket No. 12–94. The Commission sought comment on such impact in an Initial Regulatory Flexibility Analysis (IRFA) prepared in connection with the *NPRM* in which the rules were proposed. No commenters directly responded to the IRFA.

B. Need for, and Objectives of, the Proposed Rules

2. In the *Second R&O,* the Commission adopts a unified set of technical service rules for the spectrum licensed to the First Responder Network Authority (FirstNet) for purposes of establishing a nationwide 700 MHz public safety broadband network. This unification primarily involves merging into part 90 of the Commission's rules a number of technical requirements that had been codified separately in parts 27 and 90 for the two respective segments of FirstNet's licensed spectrum, the ''public safety broadband spectrum'' (763–768/793–798 MHz) and the ''D Block'' (758–763/788–793 MHz). Such action will further ''facilitate[s] the transition'' of spectrum to FirstNet for its use in establishing a nationwide wireless broadband communications network for our Nation's first responders. In particular, the adoption of consolidated rules for FirstNet's licensed spectrum will enable the Commission to start certifying equipment for operation in this spectrum under the technical rules established for the combined band.

C. Summary of Significant Issues Raised by Comments in Response to IRFA

3. No commenters directly responded to the IRFA. A number of commenters

expressed support in general for the consolidation of technical rules that we effect in the *Second R&O.* Also, no commenters expressed the view that such consolidation of rules would have a significant economic impact on a substantial number of small entities.

D. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the rules changes we propose in the *NPRM.*

5. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* Our action may, over time, affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive, statutory small entity size standards. First, nationwide, there are a total of approximately 27.5 million small businesses, according to the SBA. In addition, a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 2007, there were approximately 1,621,315 small organizations. Finally, the term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2011 indicate that there were 89,476 local governmental jurisdictions in the United States. We estimate that, of this total, as many as 88,506 entities may qualify as ''small governmental jurisdictions.'' Thus, we estimate that most governmental jurisdictions are small.

6. *Public Safety Radio Licensees.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. Because of the vast array of public safety licensees, the Commission has not developed a small business size standard specifically applicable to public safety licensees. The SBA rules contain a definition for Wireless Telecommunications Carriers (except Satellite) which encompasses business entities engaged in radiotelephone communications employing no more than 1,500 persons. With respect to local governments, in particular, since many governmental entities comprise the licensees for these services, we include under public safety services the number of government entities affected. According to Commission records, there are a total of approximately 133,870 licenses within these services. There are 2,442 licenses in the 4.9 GHz band, based on an FCC Universal Licensing System search of May 23, 2012. We estimate that fewer than 2,442 public safety radio licensees hold these licenses because certain entities may have multiple licenses.

7. We observe, however, that ''small governmental jurisdictions''—regardless of their status as Public Safety Radio Pool licensees—are ineligible to hold direct Commission authorizations to operate in the spectrum licensed to FirstNet. By statute, FirstNet is charged with constructing, operating and maintaining public safety broadband network in this spectrum on a nationwide basis, under a nationwide license. Accordingly, we do not believe the technical service rules adopted in the *Second R&O* to govern operations in this spectrum will directly affect a substantial number of small entities, and that it is thus unnecessary to prepare a regulatory flexibility analysis in connection with these requirements. Nevertheless, to the extent such rules could be construed as having a direct effect on a substantial number of small entities, we estimate that the economic impact on any entity would be minimal. This is because the rules adopted in the *Second R&O* largely involve unifying under a single set of part 90 provisions a number of already existing technical requirements that had been codified in disparate rule sections.

8. The *Second R&O* does, however, establish rules governing equipment certification, which would apply directly to equipment manufacturers or other entities seeking to certify equipment for use in FirstNet's licensed spectrum. The SBA category that includes such entities is that of ''Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing,'' which the Census Bureau defines as follows: ''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, which is: all such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. According to Census bureau data for 2007, there were a total of 919 firms in this category that operated for the entire year. Of this total, 771 had less than 100 employees and 148 had more than 100 employees. Thus, under that size standard, the majority of firms can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

9. The technical service rules adopted in the *Second R&O* largely involve consolidating a number of parallel part 27 and part 90 rules within the latter rule part, so as to subject FirstNet's licensed spectrum to a unified set of rules. Because FirstNet is the nationwide licensee in this spectrum, it will be primarily responsible on a nationwide basis for complying with any such requirements that are ultimately adopted. Accordingly, as discussed, we do not believe that these requirements would have a significant economic impact on a substantial number of small entities.

10. The *Second R&O* also establishes certification requirements for equipment operated in the combined public safety broadband spectrum and directs the Commission's Office of Engineering and Technology (OET) to process certifications under the newly consolidated rules. These certification requirements will be applicable to entities, such as equipment manufacturers, seeking to certify equipment for operation in this spectrum. However, as we observed in the IRFA, equipment certification is a longstanding Commission practice, widely applicable to equipment marketed for operation in radiospectrum licensed by the Commission. As the Commission further anticipated in the IRFA, the equipment certification rules

adopted in the *Second R&O* do not depart significantly from current practice in this area. Indeed, the rules merely consolidate equipment certification requirements already applicable to the two respective segments of FirstNet's licensed spectrum. We do not believe that such consolidation would have a significant economic impact on a substantial number of small entities.

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

11. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

12. As previously discussed, the rules adopted in the *Second R&O* already involve the ''consolidation'' of existing requirements into a unified set of part 90 provisions. We believe that such action will help facilitate the efforts in deploying the network, and there is no reason to believe that such rule consolidation would impose a significant economic impact on small entities.

13. We also do not believe it would be tenable to establish differing requirements for small entities or to exempt such entities from rules adopted in the *Second R&O,* including rules governing equipment certification. Given the importance of ensuring that the public safety broadband network is technically and operationally viable on a nationwide basis, it is important that the network be governed by a common set of rules and requirements and that all equipment operated in the network be subject to common certification procedures.

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

14. None.

Effective Date

Section 553 of the Administrative Procedure Act generally requires publication of a rule in the **Federal Register** at least thirty days before it goes into effect, but not when an agency otherwise finds and publishes ''good cause'' for an earlier effective date. We believe there is good cause for making such rules effective immediately upon publication. As noted above, in our *NPRM* we suspended OET's acceptance and processing of applications for equipment certification in this band pending the adoption of the foregoing technical rules against which to evaluate such equipment. With several near-term deployments now planned in FirstNet's licensed spectrum, some under lease agreements that have already been executed, it is essential that the Commission commence its equipment certification process for this band as soon as possible, particularly in light of the clear public safety benefits resulting from such proposed deployments. Because the rules we adopt in the *Second R&O* will provide the foundation for this certification process, expediting their effective date is necessary to prevent delay in the availability of equipment for operation in FirstNet's licensed spectrum. We will therefore make the *Second Report and Order* effective January 6, 2014.

Congressional Review Act

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

List of Subjects

47 CFR Part 1

Administrative practice and procedure, Civil rights, Claims, Communications common carriers, Cuba, Drug abuse, Environmental impact statements, Equal access to justice, Equal employment opportunity, Federal buildings and facilities, Government employees, Income taxes, Indemnity payments, Individuals with disabilities, Investigations, Lawyers, Metric system, Penalties, Radio, Reporting and recordkeeping requirements, Satellites, Telecommunications, Television, Wages.

47 CFR Part 2

Communications equipment, Disaster assistance, Imports, Radio, Reporting and recordkeeping requirements, Telecommunications, Television, Wiretapping and electronic surveillance.

47 CFR Part 27

Communications common carriers, Radio.

47 CFR Part 90

Administrative practice and procedure, Business and industry, Civil defense, Common carriers, Communications equipment, Emergency medical services, Individuals with disabilities, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 27 and 90 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 15 U.S.C. 79 *et seq.;* 47 U.S.C. 151, 154(i), 154(j), 155, 157, 225, 227, 303(r), 309, 1403, 1404, and 1451.

■ 2. Section 1.9005 is amended by revising paragraph (k) to read as follows:

§ 1.9005 Included services.

* * * * *

(k) The Wireless Communications Service in the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands (part 27 of this chapter);

* * * * *

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 3. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302(a), 303, and 336, unless otherwise noted.

■ 4. Section 2.103 is amended by revising paragraph (a) introductory text and paragraph (c) to read as follows:

§ 2.103 Federal use of non-Federal frequencies.

(a) Federal stations may be authorized to use non-Federal frequencies in the bands above 25 MHz (except the 758–775 MHz and 788–805 MHz public safety bands) if the Commission finds that such use is necessary for coordination of Federal and non-Federal activities: Provided, however, that:

* * * * *

(c) Federal stations may be authorized by the First Responder Network Authority to use channels in the 758–769 MHz and 788–799 MHz public safety bands.

PART 27—MISCELLANEOUS WIRELESS COMMUNICATIONS SERVICES

■ 5. The authority citation for part 27 continues to read as follows:

Authority: 47 U.S.C. 154, 301, 302a, 303, 307, 309, 332, 336, 337, 1403, 1404, and 1451 unless otherwise noted.

■ 6. Section 27.6 is amended by revising paragraph (b) introductory text and removing paragraph (b)(3) to read as follows:

§ 27.6 Service areas.

* * * * *

(b) *746–758 MHz, 775–788 MHz, and 805–806 MHz bands.* WCS service areas for the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands are as follows.

* * * * *

■ 7. Section 27.11 is amended by revising paragraph (c) introductory text and removing paragraph (c)(4) to read as follows:

§ 27.11 Initial authorization.

* * * * *

(c) *746–758 MHz, 775–788 MHz, and 805–806 MHz bands.* Initial authorizations for the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands shall be for paired channels of 1, 5, 6, or 11 megahertz of spectrum in accordance with § 27.5(b).

* * * * *

■ 8. Section 27.13 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 27.13 License period.

* * * * *

(b) *698–758 MHz, 776–788, 775–776, and 805–806 MHz bands.* Initial authorizations for the 698–758 MHz and 776–788 MHz bands will extend for a term not to exceed ten years from June 13, 2009, except that initial authorizations for a part 27 licensee that provides broadcast services, whether exclusively or in combination with other services, will not exceed eight years. * * *

* * * * *

■ 9. Section 27.14 is amended by revising the first sentence in paragraph (a) and the first sentence in paragraph (e), and removing and reserving paragraphs (m) and (n), to read as follows:

§ 27.14 Construction requirements; Criteria for renewal.

(a) AWS and WCS licensees, with the exception of WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands, Block A in the 2305–2310 MHz and 2350–2355 MHz bands, Block B in the 2310–2315 MHz and 2355–2360 MHz bands, Block C in the 2315–2320 MHz band, and Block D in the 2345–2350 MHz band, and with the exception of licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands, must, as a performance requirement, make a showing of ''substantial service'' in their license area within the prescribed license term set forth in § 27.13. * * *

* * * * *

(e) Comparative renewal proceedings do not apply to WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block C in the 710–716 MHz and 740–746 MHz bands, Block D in the 716–722 MHz band, Block E in the 722–728 MHz band, or Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands. * * *

* * * * *

■ 10. Section 27.15 is amended by revising the first sentence in paragraphs (d)(1)(i) and (d)(2)(i) to read as follows:

§ 27.15 Geographic partitioning and spectrum disaggregation.

* * * * *

(d) * * *

(1) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, or Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands; and for licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. * * *

* * * * *

(2) * * *

(i) Except for WCS licensees holding authorizations for Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, or Blocks C, C1, and C2 in the 746–757 MHz and 776–787 MHz bands; and for licensees holding AWS authorizations in the 1915–1920 MHz and 1995–2000 MHz bands or the 2000–2020 MHz and 2180–2200 MHz bands; the following rules apply to WCS and AWS licensees holding authorizations for purposes of implementing the construction requirements set forth in § 27.14. * * *

* * * * *

■ 11. Section 27.20 is amended by revising paragraph (a) to read as follows:

§ 27.20 Digital television transition education reports.

(a) The requirements of this section shall apply only with regard to WCS license authorizations in Block A in the 698–704 MHz and 728–734 MHz bands, Block B in the 704–710 MHz and 734–740 MHz bands, Block E in the 722–728 MHz band, and Block C, C1 or C2 in the 746–757 MHz and 776–787 MHz bands.

* * * * *

■ 12. Section 27.50 is amended by revising paragraph (b) introductory text, paragraphs (b)(2) through (b)(6), (b)(7) introductory text, (b)(7)(i), (b)(8) through (b)(10), (b)(12), (c)(5)(i), and the headings to Table 1 through Table 4 below paragraph (i) to read as follows:

§ 27.50 Power limits and duty cycle.

* * * * *

(b) The following power and antenna height limits apply to transmitters operating in the 746–758 MHz, 775–788 MHz and 805–806 MHz bands:

* * * * *

(2) Fixed and base stations transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth of 1 MHz or less must not exceed an ERP of 1000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts ERP in accordance with Table 1 of this section.

(3) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth of 1 MHz or less must not exceed an ERP of 2000 watts and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts ERP in accordance with Table 2 of this section.

(4) Fixed and base stations transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth greater than 1 MHz must not exceed an ERP of 1000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights

greater than 305 m HAAT are permitted if power levels are reduced below 1000 watts/MHz ERP in accordance with Table 3 of this section.

(5) Fixed and base stations located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 746–757 MHz and 776–787 MHz bands with an emission bandwidth greater than 1 MHz must not exceed an ERP of 2000 watts/MHz and an antenna height of 305 m HAAT, except that antenna heights greater than 305 m HAAT are permitted if power levels are reduced below 2000 watts/MHz ERP in accordance with Table 4 of this section.

(6) Licensees of fixed or base stations transmitting a signal in the 746–757 MHz and 776–787 MHz bands at an ERP greater than 1000 watts must comply with the provisions set forth in paragraph (b)(8) of this section and § 27.55(c).

(7) Licensees seeking to operate a fixed or base station located in a county with population density of 100 or fewer persons per square mile, based upon the most recently available population statistics from the Bureau of the Census, and transmitting a signal in the 746–757 MHz and 776–787 MHz bands at an ERP greater than 1000 watts must:

(i) Coordinate in advance with all licensees authorized to operate in the 698–758 MHz, 775–788, and 805–806 MHz bands within 120 kilometers (75 miles) of the base or fixed station;

* * * * *

(8) Licensees authorized to transmit in the 746–757 MHz and 776–787 MHz bands and intending to operate a base or fixed station at a power level permitted under the provisions of paragraph (b)(6) of this section must provide advanced notice of such operation to the Commission and to licensees authorized in their area of operation. Licensees who must be notified are all licensees authorized to operate in the 758–775 MHz and 788–805 MHz bands under part 90 of this chapter within 75 km of the base or fixed station and all regional planning committees, as identified in § 90.527 of this chapter, with jurisdiction within 75 km of the base or fixed station. Notifications must provide the location and operating parameters of the base or fixed station, including the station's ERP, antenna coordinates, antenna height above ground, and vertical antenna pattern, and such notifications must be provided at least 90 days prior to the commencement of station operation.

(9) Control stations and mobile stations transmitting in the 746–757 MHz, 776–788 MHz, and 805–806 MHz bands and fixed stations transmitting in the 787–788 MHz and 805–806 MHz bands are limited to 30 watts ERP.

(10) Portable stations (hand-held devices) transmitting in the 746–757 MHz, 776–788 MHz, and 805–806 MHz bands are limited to 3 watts ERP.

* * * * *

(12) For transmissions in the 746–757 and 776–787 MHz bands, licensees may employ equipment operating in compliance with either the measurement techniques described in paragraph (b)(11) of this section or a Commission-approved average power technique. In both instances, equipment employed must be authorized in accordance with the provisions of § 27.51.

(c) * * *

(5) * * *

(i) Coordinate in advance with all licensees authorized to operate in the 698–758 MHz, 775–788, and 805–806 MHz bands within 120 kilometers (75 miles) of the base or fixed station;

* * * * *

(i) * * *

TABLE 1—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 757–758 AND 775–776 MHZ BANDS AND FOR BASE AND FIXED STATIONS IN THE 698–757 MHZ AND 776–787 MHZ BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHZ OR LESS

*	*	*	*	*	*	*

TABLE 2—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHZ AND 776–787 MHZ BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH OF 1 MHZ OR LESS

*	*	*	*	*	*	*

TABLE 3—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHZ AND 776–787 MHZ BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHZ

*	*	*	*	*	*	*

TABLE 4—PERMISSIBLE POWER AND ANTENNA HEIGHTS FOR BASE AND FIXED STATIONS IN THE 698–757 MHZ AND 776–787 MHZ BANDS TRANSMITTING A SIGNAL WITH AN EMISSION BANDWIDTH GREATER THAN 1 MHZ

*	*	*	*	*	*	*

■ 13. Section 27.53 is amended by removing paragraph (d), redesignating paragraphs (e) through (n) as paragraphs (d) through (m), and revising newly redesignated paragraphs (d) introductory text, (d)(1), (d)(2) and (e) to read as follows:

§ 27.53 Emission limits.

* * * * *

(d) For operations in the 775–776 MHz and 805–806 MHz bands, transmitters must comply with either paragraphs (d)(1) through (5) of this section or the ACP emission limitations

set forth in paragraphs (d)(6) to (d)(9) of this section.

(1) On all frequencies between 758–775 MHz and 788–805 MHz, the power of any emission outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by a factor not less than 76 + 10 log (P) dB in a 6.25 kHz band segment, for base and fixed stations;

(2) On all frequencies between 758–775 MHz and 788–805 MHz, the power of any emission outside the licensee's frequency bands of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, by a factor not less than 65 + 10 log (P) dB in a 6.25 kHz band segment, for mobile and portable stations;

* * * * *

(e) For operations in the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands, emissions in the band 1559–1610 MHz shall be limited to −70 dBW/MHz equivalent isotropically radiated power (EIRP) for wideband signals, and −80 dBW EIRP for discrete emissions of less than 700 Hz bandwidth. For the purpose of equipment authorization, a transmitter shall be tested with an antenna that is representative of the type that will be used with the equipment in normal operation.

* * * * *

■ 14. Section 27.55 is amended by revising paragraph (c) to read as follows:

§ 27.55 Power strength limits.

* * * * *

(c) *Power flux density limit for stations operating in the 746–757 MHz and 776–787 MHz bands.* For base and fixed stations operating in the 746–757 MHz and 776–787 MHz bands in accordance with the provisions of § 27.50(b)(6), the power flux density that would be produced by such stations through a combination of antenna height and vertical gain pattern must not exceed 3000 microwatts per square meter on the ground over the area extending to 1 km from the base of the antenna mounting structure.

■ 15. Section 27.57 is amended by revising paragraph (b) to read as follows:

§ 27.57 International coordination.

* * * * *

(b) Operation in the 698–758 MHz, 775–788 MHz, and 805–806 MHz bands is subject to international agreements between Mexico and Canada. Unless otherwise modified by international treaty, licenses must not cause interference to, and must accept harmful interference from, television broadcast operations in Mexico and Canada.

* * * * *

■ 16. Section 27.60 is amended by revising the introductory text, paragraph (a)(1)(iii), the second sentence in paragraph (b) introductory text, the first sentence in paragraph (b)(2)(i), paragraph (b)(2)(ii) introductory text, and paragraphs (b)(2)(ii)(A) and (C) to read as follows:

§ 27.60 TV/DTV interference protection criteria.

Base, fixed, control, and mobile transmitters in the 698–758 MHz, 775–788 MHz, and 805–806 MHz frequency bands must be operated only in accordance with the rules in this section to reduce the potential for interference to public reception of the signals of existing TV and DTV broadcast stations transmitting on TV Channels 51 through 68.

(a) * * *

(1) * * *

(iii) For transmitters operating in the 746–758 MHz, 775–788 MHz, and 805–806 MHz frequency bands, 17 dB at the equivalent Grade B contour (41 dBμV/m) (88.5 kilometers (55 miles)) of the DTV station.

* * * * *

(b) * * * Tables to determine the necessary minimum distance from the 698–758 MHz, 775–788 MHz, and 805–806 MHz station to the TV/DTV station, assuming that the TV/DTV station has a hypothetical or equivalent Grade B contour of 88.5 kilometers (55 miles), are located in § 90.309 of this chapter and labeled as Tables B, D, and E. * * *

* * * * *

(2) * * *

(i) Base and fixed stations that operate in the 746–758 MHz and 775–787 MHz bands having an antenna height (HAAT) less than 152 m. (500 ft.) shall afford protection to co-channel and adjacent channel TV/DTV stations in accordance with the values specified in Table B (co-channel frequencies based on 40 dB protection) and Table E (adjacent channel frequencies based on 0 dB protection) in § 90.309 of this chapter.

* * *

(ii) Control, fixed, and mobile stations (including portables) that operate in the 787–788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 698–757 MHz and 776–787 MHz bands are limited in height and power and therefore shall afford protection to co-channel and adjacent channel TV/DTV stations in the following manner:

(A) For control, fixed, and mobile stations (including portables) that operate in the 787–788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 746–757 MHz and 776–787 MHz bands, co-channel protection shall be afforded in accordance with the values specified in Table D (co-channel frequencies based on 40 dB protection for TV stations and 17 dB for DTV stations) in § 90.309 of this chapter.

* * * * *

(C) For control, fixed, and mobile stations (including portables) that operate in the 787–788 MHz and 805–806 MHz bands and control and mobile stations (including portables) that operate in the 698–757 MHz and 776–787 MHz bands, adjacent channel protection shall be afforded by providing a minimum distance of 8 kilometers (5 miles) from all adjacent channel TV/DTV station hypothetical or equivalent Grade B contours (adjacent channel frequencies based on 0 dB protection for TV stations and −23 dB for DTV stations).

* * * * *

■ 17. Section 27.70 is amended by revising paragraph (a) introductory text, and paragraphs (b)(1) and (2) to read as follows:

§ 27.70 Information exchange.

(a) *Prior notification.* Public safety licensees authorized to operate in the 758–775 MHz and 788–805 MHz bands may notify any licensee authorized to operate in the 746–757 or 776–787 MHz bands that they wish to receive prior notification of the activation or modification of the licensee's base or fixed stations in their area. Thereafter, the 746–757 or 776–787 MHz band licensee must provide the following information to the public safety licensee at least 10 business days before a new base or fixed station is activated or an existing base or fixed station is modified:

* * * * *

(b) * * *

(1) Allow a public safety licensee to advise the 746–757 or 776–787 MHz band licensee whether it believes a proposed base or fixed station will generate unacceptable interference;

(2) Permit 746–757 and 776–787 MHz band licensees to make voluntary changes in base or fixed station parameters when a public safety licensee alerts them to possible interference; and,

* * * * *

■ 18. Section 27.303 is amended by revising paragraph (a) introductory text to read as follows:

§ 27.303 Upper 700 MHz commercial and public safety coordination zone.

(a) *General.* CMRS operators are required, prior to commencing operations on fixed or base station transmitters on the 776–787 MHz band that are located within 500 meters of existing or planned public safety base station receivers, to submit a description of their proposed facility to a Commission-approved public safety coordinator.

* * * * *

■ 19. Section 27.501 is revised to read as follows:

§ 27.501 746–758 MHz, 775–788 MHz, and 805–806 MHz bands subject to competitive bidding.

Mutually exclusive initial applications for licenses in the 746–758 MHz, 775–788 MHz, and 805–806 MHz bands are subject to competitive bidding. The general competitive bidding procedures set forth in part 1, subpart Q of this chapter will apply unless otherwise provided in this subpart.

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

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

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

■ 21. Section 90.179 is amended by revising paragraph (g) to read as follows:

§ 90.179 Shared use of radio stations.

* * * * *

(g) Notwithstanding paragraph (a) of this section, licensees authorized to operate radio systems on Public Safety Pool frequencies designated in § 90.20 may share their facilities with Federal Government entities on a non-profit, cost-shared basis. Such a sharing arrangement is subject to the provisions of paragraphs (b), (d), and (e) of this section, and § 2.103(c) of this chapter concerning operations in the 758–769 MHz and 788–799 MHz bands. State governments authorized to operate radio systems under § 90.529 may share the use of their systems (for public safety services not made commercially available to the public) with any entity that would be eligible for licensing under § 90.523 and Federal government entities.

* * * * *

§ 90.203 [Amended]

■ 22. Section 90.203 is amended by removing paragraph (p) and redesignating paragraph (q) as paragraph (p).

■ 23. Section 90.205 is amended by revising paragraph (j) to read as follows:

§ 90.205 Power and antenna height limits.

* * * * *

(j) *758–775 MHz and 788–805 MHz.* Power and height limitations are specified in §§ 90.541 and 90.542.

* * * * *

■ 24. Section 90.523 is amended by revising the introductory text and paragraph (e), to read as follows:

§ 90.523 Eligibility.

This section implements the definition of public safety services contained in 47 U.S.C. 337(f)(1). The following are eligible to hold Commission authorizations for systems operating in the 769–775 MHz and 799–805 MHz frequency bands:

* * * * *

(e) A nationwide license for the 758–769 MHz and 788–799 MHz bands shall be issued to the First Responder Network Authority.

■ 25. Section 90.533 is amended by revising the introductory text and paragraphs (a) and (c) to read as follows:

§ 90.533 Transmitting sites near the U.S./Canada or U.S./Mexico border.

This section applies to each license to operate one or more public safety transmitters in the 758–775 MHz and 788–805 MHz bands, at a location or locations North of Line A (see § 90.7) or within 120 kilometers (75 miles) of the U.S.-Mexico border, until such time as agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, become effective governing border area non-broadcast use of these bands. Public safety licenses are granted subject to the following conditions:

(a) Public safety transmitters operating in the 758–775 MHz and 788–805 MHz bands must conform to the limitations on interference to Canadian television stations contained in agreement(s) between the United States and Canada for use of television channels in the border area.

* * * * *

(c) Conditions may be added during the term of the license, if required by the terms of international agreements between the government of the United States and the government of Canada or the government of the United States and the government of Mexico, as applicable, regarding non-broadcast use of the 758–775 MHz and 788–805 MHz bands.

§ 90.542 [Amended]

■ 26. Section 90.542 is amended by revising all references to ''763'' to read ''758'' and ''793'' to read ''788'' in paragraph (a) introductory text, in paragraphs (a)(1) through (8), in the headers of Tables 1 through 4, and in paragraph (b).

■ 27. Section 90.543 is amended by revising the introductory text, revising paragraph (e) introductory text, redesignating paragraph (e)(3) as (e)(4), adding new paragraphs (e)(3) and (5), and revising paragraph (f) to read as follows:

§ 90.543 Emission limitations.

Transmitters designed to operate in 769–775 MHz and 799–805 MHz frequency bands must meet the emission limitations in paragraphs (a) through (d) of this section. Transmitters operating in 758–768 MHz and 788–798 MHz bands must meet the emission limitations in (e) of this section.

* * * * *

(e) For operations in the 758–768 MHz and the 788–798 MHz bands, the power of any emission outside the licensee's frequency band(s) of operation shall be attenuated below the transmitter power (P) within the licensed band(s) of operation, measured in watts, in accordance with the following:

* * * * *

(3) On any frequency between 775–788 MHz, above 805 MHz, and below 758 MHz, by at least 43 + 10 log (P) dB.

* * * * *

(5) Compliance with the provisions of paragraph (e)(3) of this section is based on the use of measurement instrumentation employing a resolution bandwidth of 100 kHz or greater. However, in the 100 kHz bands immediately outside and adjacent to the frequency block, a resolution bandwidth of 30 kHz may be employed.

(f) For operations in the 758–775 MHz and 788–805 MHz bands, all emissions including harmonics in the band 1559–1610 MHz shall be limited to −70 dBW/MHz equivalent isotropically radiated power (EIRP) for wideband signals, and −80 dBW EIRP for discrete emissions of less than 700 Hz bandwidth. For the purpose of equipment authorization, a transmitter shall be tested with an antenna that is representative of the type that will be used with the equipment in normal operation.

* * * * *

■ 28. Section 90.549 is revised to read as follows:

§ 90.549 Transmitter certification.

Transmitters operated in the 758–775 MHz and 788–805 MHz frequency bands must be of a type that have been authorized by the Commission under its certification procedure as required by § 90.203.

■ 29. Section 90.555 is amended by revising paragraph (a) introductory text, paragraph (b)(1), paragraph (b)(2), and paragraph (c) to read as follows:

§ 90.555 Information exchange.

(a) *Prior notification.* Public safety licensees authorized to operate in the 758–775 MHz and 788–805 MHz bands may notify any licensee authorized to operate in the 746–757 MHz or 776–787 MHz bands that they wish to receive prior notification of the activation or modification of the licensee's base or fixed stations in their area. Thereafter, the 746–757 MHz or 776–787 MHz band licensee must provide the following information to the public safety licensee at least 10 business days before a new base or fixed station is activated or an existing base or fixed station is modified:

* * * * *

(b) * * *

(1) Allow a public safety licensee to advise the 746–757 or 776–787 MHz band licensee whether it believes a proposed base or fixed station will generate unacceptable interference;

(2) Permit 746–757 and 776–787 MHz band licensees to make voluntary changes in base or fixed station parameters when a public safety licensee alerts them to possible interference; and,

* * * * *

(c) *Public Safety Information Exchange.* (1) Upon request by a 746–757 or 776–787 MHz band licensee, public safety licensees authorized to operate radio systems in the 758–775 and 788–805 MHz bands shall provide the operating parameters of their radio system to the 746–757 or 776–787 MHz band licensee.

(2) Public safety licensees who perform the information exchange described in this section must notify the appropriate 746–757 or 776–787 MHz band licensees prior to any technical changes to their radio system.

[FR Doc. 2013–28974 Filed 1–3–14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120918468–3111–02]

RIN 0648–XD058

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2014 Gulf of Alaska Pollock and Pacific Cod Total Allowable Catch Amounts

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2014 total allowable catch (TAC) amounts for the Gulf of Alaska (GOA) pollock and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the GOA pollock and Pacific cod TACs are the appropriate amounts based on the best available scientific information for pollock and Pacific cod in the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 1, 2014, until the effective date of the final 2014 and 2015 harvest specifications for GOA groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 21, 2014.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2012-0252 by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0252,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) set the 2014 pollock TAC at 111,530 metric tons (mt) and the 2014 Pacific cod TAC at 63,150 mt in the GOA. In December 2013, the North Pacific Fishery Management Council (Council) recommended a 2014 pollock TAC of 174,976 mt for the GOA, which is more than the 111,530 mt established by the final 2013 and 2014 harvest specifications for groundfish in the GOA. The Council also recommended a 2014 Pacific cod TAC of 64,738 mt for the GOA, which is more than the 63,150 mt established by the final 2013 and 2014 harvest specifications for groundfish in the GOA. The Council's recommended 2014 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2013, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock and Pacific cod are a principal prey species for Steller sea lions in the GOA. The seasonal apportionment of pollock and Pacific cod harvest is necessary to ensure the

groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5)(iv) specify how the pollock TAC will be apportioned. The regulations at § 679.20(a)(6)(ii) and § 679.20(a)(12)(i) specify how the Pacific cod TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv) the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2013 SAFE report for this fishery, the current GOA pollock and Pacific cod TACs are incorrectly specified. Consequently, pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2014 GOA pollock TAC to 174,976 mt and the 2014 GOA Pacific cod TAC to 64,738 mt. Therefore, Table 2 of the final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(iv), Table 4 of the final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) is revised for the 2014 TACs of pollock in the Central and Western Regulatory Area of the GOA.

TABLE 4—FINAL 2014 DISTRIBUTION OF POLLOCK IN THE CENTRAL AND WESTERN REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton and percentages are rounded to the nearest 0.01]

Season [1]	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total [2]
A (Jan 20–Mar 10)	4,800	(12.18%)	25,924	(65.79%)	8,680	(22.03%)	39,402
B (Mar 10–May 31)	4,799	(12.18%)	30,963	(78.58%)	3,636	(9.23%)	39,402
C (Aug 25–Oct 1)	13,235	(33.59%)	12,448	(31.59%)	13,720	(34.82%)	39,402
D (Oct 1–Nov 1)	13,235	(33.59%)	12,448	(31.59%)	13,720	(34.82%)	39,402
Annual Total	36,070		81,784		39,756		157,610

[1] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

[2] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

Note: Seasonal allowances may not total precisely to annual TAC total due to rounding down, rather than up).

Pursuant to § 679.20(a)(6)(ii) and § 679.20(a)(12)(i), Table 6 of the final 2013 and 2014 harvest specifications for groundfish in the GOA (78 FR 13162, February 26, 2013) is revised for the 2014 seasonal apportionments and allocation of Pacific cod TAC in the GOA consistent with this adjustment.

TABLE 6—FINAL 2014 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TOTAL ALLOWABLE CATCH AMOUNTS IN THE GOA; ALLOCATIONS FOR THE WESTERN GOA AND CENTRAL GOA SECTORS AND THE EASTERN GOA INSHORE AND OFFSHORE PROCESSING COMPONENTS

[Values are rounded to the nearest metric ton and percentages to the nearest 0.01. Seasonal allowances may not total precisely to annual allocation amount]

Regulatory area and sector	Annual allocation (mt)	A season		B season	
		Sector % of annual non-jig TAC	Seasonal allowances (mt)	Sector % of annual non-jig TAC	Seasonal allowances (mt)
Western GOA:					
Jig (1.5% of TAC)	573	N/A	344	N/A	229
Hook-and-line CV	313	0.70	156	0.70	156
Hook-and-line C/P	4,425	10.90	2,436	8.90	1,989
Trawl CV	8,582	27.70	6,191	10.70	2,391
Trawl C/P	536	0.90	201	1.50	335
All Pot CV and Pot C/P	8,492	19.80	4,425	18.20	4,067
Total	22,922	60.00	13,753	40.00	9,169
Central GOA					
Jig (1.0% of TAC)	797	N/A	478	N/A	319
Hook-and-line < 50 CV	5,699	9.32	3,636	5.29	2,063
Hook-and-line ≥ 50 CV	2,617	5.61	2,189	1.10	428
Hook-and-line C/P	1,992	4.11	1,603	1.00	389
Trawl CV	16,230	21.14	8,249	20.45	7,981
Trawl C/P	1,638	2.00	782	2.19	856
All Pot CV and Pot C/P	10,852	17.83	6,959	9.97	3,893
Total	39,825	60.00	23,895	40.00	15,930
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	1,991		1,792		199

Note: Seasonal apportionments may not total precisely due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for Pacific cod based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 30, 2013, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 21, 2014.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 31, 2013.

Sean F. Corson,

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

[FR Doc. 2013–31558 Filed 12–31–13; 4:15 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 121029593–3999–02]

RIN 0648–BC73

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; Amendment 99

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

ACTION: Final rule.

SUMMARY: NMFS publishes regulations to implement Amendment 99 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP). Amendment 99 enables the holders of license limitation program (LLP) licenses authorizing a designated vessel to catch and process Pacific cod in the BSAI hook-and-line fisheries to use newly built or existing vessels that are not eligible under current vessel length and capacity restrictions. This action is necessary to promote safety-at-sea by encouraging the replacement of older vessels with newer and more efficient vessels that are able to meet modern vessel safety standards. This action is intended to facilitate the increased retention and utilization of groundfish by allowing sector participants to use larger vessels with increased processing and hold capabilities. This action is intended to promote the goals and objectives of the BSAI FMP, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable laws.

DATES: Effective February 6, 2014.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR) and the Categorical Exclusion prepared for this action may be obtained from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection of information requirements contained in this final rule may be submitted by mail to NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS, Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; or by email to *OIRA_submission@omb.eop.gov* or fax to (202) 395–7285.

FOR FURTHER INFORMATION CONTACT: Seanbob Kelly, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Regulatory Authority

NMFS establishes regulations to implement Amendment 99 to the BSAI FMP. NMFS manages the U.S. groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the GOA FMP and BSAI FMP pursuant to the Magnuson-Stevens Act and other applicable laws. Regulations implementing the GOA FMP and BSAI FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

Background

NMFS published the Notice of Availability for Amendment 99 in the **Federal Register** on September 30, 2013 (78 FR 59908), with a 60-day comment period that ended November 29, 2013. NMFS published a proposed rule for Amendment 99 in the **Federal Register** on October 25, 2013 (78 FR 63951). The 30-day comment period on the proposed rule ended November 25, 2013. NMFS received a total of three comment letters from the same person during the comment periods on Amendment 99 and the proposed rule. The letters contained one substantive comment. A summary of this comment and NMFS' response is provided in the Comments and Responses section of this preamble.

A detailed review of the provisions of Amendment 99, the proposed regulations, and the rationale for these regulations is provided in the preamble to the proposed rule (78 FR 63951, October 25, 2013) and is not repeated here. The proposed rule is available from the NMFS Alaska Region Web site (see **ADDRESSES**). The preamble to this final rule provides a brief review of the regulatory changes made by this final rule.

Amendment 99 amends the BSAI FMP and this final rule revises Federal regulations to: (1) Increase the maximum length overall (MLOA) to 220 feet (67 m) on an LLP license that authorizes a vessel to catch and process Pacific cod with hook-and-line gear in the BSAI; (2) allow a holder of an LLP license authorized to catch and process Pacific cod with both hook-and-line and pot gear in the BSAI to increase the MLOA on the LLP license to 220 feet (67 m) only if the pot gear endorsement is surrendered within a specific time frame; and (3) allow a vessel that catches and processes Pacific cod with hook-and-line gear in the BSAI to exceed length, tonnage, and power limits established under the American Fisheries Act (AFA). The following sections provide background on the need for, the objectives of, and the provisions of Amendment 99 and this final rule.

Under the LLP, which was implemented by NMFS on January 1, 2000 (63 FR 52642, October 1, 1998), an LLP license is required for most vessels directed fishing for groundfish in the BSAI and GOA. Directed fishing is defined in regulations at § 679.2. For a vessel designated on an LLP license, the

LLP license authorizes the type of fishing gear that may be used by the vessel, the maximum size of the vessel, and whether the vessel may catch and process fish at sea or if it is limited to delivering catch without at-sea processing. LLP licenses that allow vessels to catch and process at-sea are assigned a catcher/processor (C/P) endorsement. LLP licenses specify the MLOA of the vessel to which that LLP license may be assigned. Regulations implementing the LLP prohibit participants in LLP groundfish fisheries from using a vessel to fish for LLP groundfish that has a length overall that is greater than the MLOA specified on the LLP license (see § 679.7(i)(6)).

The LLP also includes a species endorsement for Pacific cod in the BSAI and GOA. A vessel can directed fish for Pacific cod in the BSAI or GOA only if the vessel is designated on an LLP license that has this specific endorsement. The LLP Pacific cod endorsement requirement has, in effect, limited the number of vessels that are eligible to fish for Pacific cod in the BSAI and GOA. Specific to this final rule, vessels currently used to directed fish for Pacific cod in the BSAI using hook-and-line gear and to process that catch at sea must be assigned an LLP license with a BSAI Pacific cod hook-and-line C/P endorsement. Public Law 108–447, 118 Stat. 2887, Dec. 8, 2004, at section 219(a)(6), defines the term ''longline catcher processor subsector'' as ''the holders of an LLP license that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher processor fishing activity, C/P, Pcod [Pacific cod], hook and line gear.'' There are 36 LLP licenses that meet the eligibility criteria for the BSAI longline C/P subsector.

Currently, each of the 36 LLP licenses eligible for the BSAI longline C/P subsector have an MLOA equal to or less than 220 feet (67 m). Increasing the MLOA on the LLP licenses in the BSAI longline C/P subsector to 220 feet (67 m) will not constrain any existing LLP licenses in terms of vessel length. Additional detail on the LLP licenses currently eligible for the BSAI longline C/P subsector can be found in the preamble to the proposed rule (78 FR 63951, October 25, 2013) and section 1.5.1 of the RIR for this action (see **ADDRESSES**).

Under this final rule, NMFS will increase the MLOA on LLP licenses in the BSAI longline C/P subsector that are not also endorsed for pot gear to 220 feet (67 m). NMFS and the Council have determined that a 220-foot (67 m) MLOA for these eligible LLP licenses will encourage LLP license holders in the BSAI longline C/P subsector to replace aging vessels with newer, safer, and more efficient vessels. NMFS determined that a 220-foot (67 m) MLOA provides adequate incentives to meet the objectives of the action. It will promote the sustainable harvest of groundfish, especially Pacific cod in the BSAI and GOA, by removing disincentives for owners of vessels to rebuild or replace their vessels with larger vessels. It will promote efficient utilization of the Pacific cod resource in the BSAI and GOA. The action will also promote safety-at-sea by allowing vessel owners to replace existing vessels with vessels that can accommodate improved safety features and minimize the risks faced by crew members.

The 220-foot (67 m) MLOA is intended to allow vessel owners to replace vessels with new vessels that could accommodate improved efficiency and safety design. Additional detail on the rationale for the 220-foot (67 m) MLOA limit is provided in the preamble to the proposed rule (78 FR 63951, October 25, 2013) and section 1.6.2.2 of the RIR prepared for this action (see **ADDRESSES**).

NMFS is also implementing regulations that are intended to protect historical participants in the Pacific cod pot fisheries that could be adversely affected by the use of larger, more efficient vessels in the BSAI longline C/P subsector. NMFS recognizes that three of the 36 LLP licenses endorsed for participation in the BSAI longline C/P subsector also authorize the designated vessel to target Pacific cod with C/Ps using pot gear in the BSAI: two of those LLP licenses authorize participation in the BSAI Pacific cod fisheries with C/Ps using pot gear; one of the LLP licenses authorizes participation in the BSAI and Western GOA Pacific cod fisheries with C/Ps using pot gear. Under the final rule, NMFS will authorize a person holding an LLP license endorsed to catch and process Pacific cod with hook-and-line and pot gear in the BSAI to increase the MLOA on the LLP license to 220 feet (67 m) only if the LLP license holder elects to surrender any Pacific cod pot gear endorsements within a specific time frame.

Regulations implemented by this final rule are intended to prevent adverse competitive effects of increased fishing capacity by the BSAI longline C/P subsector relative to the C/Ps using pot gear in both the BSAI and the GOA. Under this final rule, the holders of the two BSAI longline C/P subsector LLP licenses with BSAI Pacific cod pot gear C/P endorsements can either surrender the BSAI Pacific cod pot gear C/P endorsements and receive an LLP license with a 220-foot (67 m) MLOA or retain their current MLOA and continue to participate in both fisheries. Similarly, the holder of the BSAI longline C/P subsector LLP license with BSAI and Western GOA Pacific cod pot gear C/P endorsements can either surrender the BSAI and GOA Pacific cod pot gear C/P endorsements and receive an LLP license with a 220-foot (67 m) MLOA or retain the BSAI Pacific cod pot gear C/P endorsements and the current LLP license MLOA will continue to apply.

This final rule will limit holders of LLP licenses with Pacific cod pot gear C/P endorsements from naming larger vessels on those LLP licenses that could increase vessel capacity in the pot gear C/P fisheries and could disadvantage historical participants in the sector who would continue to be constrained by the MLOAs specified on their LLP licenses. Without this limitation, these participants could harvest a greater proportion of the GOA Pacific cod sector allocation relative to their historical catch. This could negatively impact historical participants in the Pacific cod pot fisheries and would not promote a fair and equitable standard for all participants in the pot gear C/P fisheries.

This final rule establishes regulations to ensure that holders of LLP licenses eligible for the BSAI longline C/P subsector that choose to retain Pacific cod pot gear C/P endorsements will continue to be restricted by the current MLOAs on the LLP licenses. This final rule establishes a time limit on the one-time permanent election for these LLP license holders that would close 36 months from the date of implementation of this action. The deadline for making the one-time election is intended to promote the conservation and management of the BSAI and GOA Pacific cod fisheries by clearly identifying pot gear C/P sector participants within a reasonable time frame and by establishing an upper limit on vessel capacity in the BSAI longline C/P subsector.

Regulatory Amendments

This final rule lists the groundfish LLP licenses that are modified by this action at Table 9 to part 679. Table 9 to part 679 will list in Column A the 36 LLP licenses endorsed to participate in the BSAI longline C/P subsector. Table 9 indicates which LLP licenses are eligible for an increase in MLOA to 220 feet (67 m), as designated in Column B, and the LLP license holders that are eligible for a one-time election to

permanently surrender and extinguish certain LLP license endorsements in exchange for an increase in the MLOA to 220 feet (67 m), as designated in Column C.

This final rule modifies the regulatory definition of ''Maximum LOA (MLOA)'' at § 679.2 and establishes regulatory provisions at § 679.4(k)(3)(i)(D) for a new MLOA category. Under this provision, NMFS will revise MLOAs on the LLP licenses designated in Column B of Table 9 to part 679. The NMFS Restricted Access Management Division will issue new LLP licenses with an MLOA of 220 feet (67 m) to the holders of the eligible licenses designated in Column B of Table 9 to part 679. The new LLP licenses will be mailed to the address provided to NMFS by the holder of the qualifying LLP license. NMFS has revised the definition of ''Maximum LOA (MLOA)'' at § 679.2 to ensure that all LLP licenses designated in Column B of Table 9 to part 679 are revised on the effective date of this final rule.

This final rule implements regulations at § 679.4(k)(3)(i)(D)(*2*) to ensure that the MLOA on an LLP license endorsed for participation in the BSAI longline C/P subsector is not revised if the LLP license holder retains an endorsement to participate in Pacific cod pot fisheries in the BSAI or GOA. Under this final rule, NMFS will establish a process for eligible LLP license holders to surrender a Pacific cod pot gear endorsement on LLP licenses also endorsed to participate in the BSAI longline C/P subsector. Regulations implemented by this final rule will assign an MLOA of 220 feet (67 m) to any of the three LLP licenses listed in Column C of Table 9 to part 679 whose holders surrender the Pacific cod pot gear endorsements on their LLP license. This final rule provides a one-time election to permanently surrender the Pacific cod pot gear endorsements on an LLP license, and NMFS will extinguish the surrendered Pacific cod pot gear endorsements. NMFS will not transfer the endorsements to another person, and the endorsements cannot be used in other areas, with other gears, or for other operational types.

This final rule includes provisions at § 679.4(k)(6)(xi) that describe the requirements for holders of LLP licenses eligible to participate in the BSAI longline C/P subsector to surrender their Pacific cod pot gear C/P endorsements. NMFS will notify in writing the three LLP license holders listed in Column C of Table 9 to part 679 of their option to elect to surrender their Pacific cod pot gear C/P endorsements on their LLP license and receive a 220-foot (67 m) MLOA. Owners of eligible licenses, or their agents, will need to notify NMFS in writing at the address specified at § 679.4(k)(6)(xi) that they elect to surrender the endorsements. The request will need to include a signed statement notifying NMFS that the holder of the LLP license acknowledges that the election is permanent and irreversible and that all pot gear Pacific cod endorsements on that LLP will be extinguished. Each LLP license holder has 36 months from February 6, 2014, to notify NMFS in writing of the one-time permanent election. If the written notification is received by NMFS within the 36 months prior to the deadline, NMFS will issue a revised LLP license to the holder of that LLP license. LLP license holders who choose not to make the one-time election or who do not submit a written notification within the 36-month deadline will retain their current MLOA and continue to be eligible to participate in both the Pacific cod pot fisheries and longline fisheries in the BSAI and GOA.

American Fisheries Act and United States Maritime Administration

In order for a vessel to participate in a U.S. fishery, a vessel must obtain a certificate of documentation with a fishery endorsement from either the U.S. Coast Guard or the Maritime Administration (MARAD), as set forth in regulations at 46 U.S.C. 12102(a) and 12151(b). The AFA of 1998, as amended, Title II, Division C, Public Law 105–277, was enacted to increase U.S. citizen participation in U.S. fisheries. The AFA required the Maritime Administration to ensure compliance with the U.S. citizenship ownership and control requirements for U.S.-flag fishing industry vessels of 100 feet or greater in registered length. Therefore, a vessel 100 feet or greater in registered length must receive this documentation from MARAD.

The AFA and MARAD implementing regulations prohibit larger vessels from obtaining a fishery endorsement unless specific conditions are met. Unless an exemption applies, a vessel is not eligible for a fishery endorsement if it is greater than 165 feet in length overall, has more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower.

These regulations were intended to limit, but not reduce, fishing capacity in the BSAI; however, the regulations effectively limit the ability of vessel owners to replace vessels currently participating in the BSAI longline C/P subsector with newer vessels of an equivalent size. There are currently nine vessels named on LLP licenses eligible to participate within the BSAI longline C/P subsector that exceed at least one of the thresholds described at 46 CFR 356.47(a) and (c). These vessels are able to participate in the fishery because they received a fishery endorsement prior to September 25, 1997; however, the license holders could not replace vessels named on their LLP licenses with vessels of comparable or additional capacity and continue to participate in the BSAI longline C/P subsector because such vessels would not be eligible for a fishery endorsement.

An exemption from these regulations is possible if the owner of such a vessel demonstrates to MARAD that the regional fishery management council of jurisdiction, established under section 302(a)(1) of the Magnuson-Stevens Act, has recommended after October 21, 1998, and the Secretary has approved, conservation and management measures in accordance with regulations implementing the AFA at 46 CFR 356.47, to allow vessels that may exceed the length, horsepower, and tonnage requirements to be used in fisheries under such council's authority. NMFS and MARAD General Counsel consulted to determine what action on the part of the Council and NMFS would satisfy this exemption. NMFS and MARAD General Counsel determined, based on the regulatory requirements established at 46 CFR 356.47(c), that the Council would need to recommend, and the Secretary would need to approve, conservation and management measures that would allow such a vessel to be used in the BSAI longline C/P subsector fisheries. The statutory vessel capacity restrictions are described in more detail in section 1.2.2 of the RIR for this action (See **ADDRESSES**).

The Secretary approved Amendment 99 on December 19, 2013, and has issued this final rule to implement Amendment 99; therefore, the Secretary has approved conservation and management measures that permit a vessel to exceed the limits specified at 46 U.S.C. 12113(d) in order to participate in the BSAI longline C/P subsector. Secretarial approval of Amendment 99 and the publication of implementing regulations are intended to provide MARAD with documentation that eligible vessels qualify to receive a fishery endorsement. Following the implementation of this final rule on February 6, 2014, NMFS will notify MARAD that any vessel named on an LLP license endorsed for participation in the BSAI longline C/P subsector, which is greater than 165 feet in registered length, of more than 750 gross registered tons, or that has an engine or engines capable of producing a total of

more than 3,000 shaft horsepower, is authorized for use in the EEZ under the jurisdiction of the Council, and is eligible to receive a certificate of documentation consistent with 46 U.S.C. 12113(d) and MARAD regulations at 46 CFR 356.47.

Recordkeeping, Reporting, Monitoring and Enforcement

This final rule does not change existing recordkeeping, monitoring and enforcement requirements for participants in the BSAI C/P longline subsector. This action will add a reporting requirement for the LLP licenses identified in Column C to Table 9 to part 679. The holders of these three LLP licenses would need to notify NMFS of their election to permanently surrender all Pacific cod pot gear endorsements in exchange for a 220-foot (67 m) MLOA on an LLP, as described in more detail in the Collection-of-Information Requirements section of this preamble.

Changes From the Proposed Rule

No changes were made between the proposed and final regulations. However, NMFS acknowledges one error on page 63954 in the preamble to the proposed rule (78 FR 63951, October 25, 2013). The first column, first paragraph incorrectly states that the MLOA on an LLP license would increase to 200 feet, and not 220 feet. The sentence should read as follows: ''Under Amendment 99, the MLOA specified on LLP licenses in the BSAI longline C/P subsector that are not also endorsed for pot gear would be increased to 220 feet (67 m).''

Comments and Responses

During the public comment period on the Notice of Availability for Amendment 99 and the proposed rule to implement Amendment 99, NMFS received three comments, only one of which was substantive. The same member of the public submitted all three comments. All of the comments expressed a general dislike of fishery management policies that are outside the scope of this action. One comment expressed general discontent with this action and is included below with NMFS' response. No changes were made to this final rule in response to the comment letters received. NMFS' response to the one substantive public comment on Amendment 99 and the proposed rule to implement Amendment 99 is presented below.

Comment: Older vessels should not be replaced with newer, larger, and more efficient vessels because these larger vessels will increase catch to unsustainable levels.

Response: NMFS analyzed whether this action would increase catch of groundfish in Section 1.6.2 of the RIR. Section 1.6.2 of the RIR indicates that NMFS expects that this action will not increase the catch of groundfish by vessels in the BSAI longline C/P subsector in the BSAI or GOA. The preamble to the proposed rule (78 FR 63951, October 25, 2013) notes that management constraints, such as Pacific cod species endorsements on LLP licenses in the BSAI and GOA (see 67 FR 18129, April 15, 2002 for the BSAI; and 76 FR 15826, March 22, 2011 for the GOA), sector allocations for Pacific cod in the BSAI and GOA (see 72 FR 50788, September 4, 2007 for the BSAI; and 76 FR 74670, December 1, 2011 for the GOA), and halibut prohibited species catch limits in the BSAI and GOA (see 78 FR 13813, March 1, 2013 for the BSAI; and 78 FR 13162, February 26, 2013 for the GOA), limit the ability of vessels in the BSAI longline C/P subsector to expand their overall fishing operations in groundfish fisheries.

The preamble to the proposed rule notes that the potential for expanded participation in the Pacific cod pot fishery is constrained by the limitations on LLP licenses with Pacific cod hook-and-line and pot C/P endorsements that are implemented under this final rule (78 FR 63951, October 25, 2013). These provisions are described in the Background and Regulatory Amendments sections of this preamble. Additional information describing the management measures that limit the ability of all vessels, including new vessels, to increase catch in the BSAI longline C/P subsector in the BSAI and GOA are found in Section 1.6.2 of the RIR prepared for this action (See **ADDRESSES**).

Classification

The NMFS Assistant Administrator determined that Amendment 99 to the BSAI FMP is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the BSAI and GOA FMPs, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

Collection-of-Information Requirements

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by the Office of Management and Budget (OMB) under control number 0648–0334. Public reporting burden per response is estimated to be 2 hours for One-time Election to Permanently Surrender Pacific Cod Pot Gear Endorsement for the BSAI and GOA in Exchange for Receiving an LLP with an MLOA of 220 feet Authorizing Participation in the BSAI Pacific cod Longline C/P fisheries. Public reporting burden includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 31, 2013.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679— FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

■ 2. In § 679.2, add paragraph (2)(v) to the definition of ''Maximum LOA (MLOA)'' to read as follows:

§ 679.2 Definitions.

* * * * *

Maximum LOA (MLOA) means:

(2) * * *

(v) The MLOA of a groundfish LLP license endorsed to catch and process Pacific cod with hook-and-line gear in the BS or AI, or both, and is designated in Column B of Table 9 to this part is 220 feet (67 m).

* * * * *

■ 3. In § 679.4, add paragraphs (k)(3)(i)(D) and (k)(6)(xi) to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(3) * * *

(i) * * *

(D) *Modification of the MLOA on a groundfish LLP license listed in column A of Table 9 to this part.* (*1*) Each groundfish LLP license endorsed to catch and process Pacific cod with hook-and-line gear in the BS or AI, or both, and designated in column B of Table 9 to this part will receive a 220-foot (67 m) MLOA following February 6, 2014.

(*2*) Each groundfish LLP license endorsed to catch and process Pacific cod with hook-and-line gear in the BS or AI, or both, and designated in column C of Table 9 to this part is eligible to be assigned a 220-foot (67 m) MLOA if the LLP holder submits a timely written request to remove all pot gear Pacific cod endorsements on that LLP following the process established under paragraph (k)(6)(xi) of this section.

* * * * *

(6) * * *

(xi) *Surrender and extinguishment of a groundfish LLP endorsement.* Endorsements specified on a groundfish LLP license are not severable from a license and cannot be surrendered except that pot gear Pacific cod endorsements specified on groundfish LLP licenses listed in Column C of Table 9 to this part, can be permanently surrendered, removed, and extinguished if:

(A) The holder of the groundfish LLP license listed in Column C of Table 9 to this part requests, in writing, that NMFS permanently remove and extinguish all pot gear Pacific cod endorsements specified on that LLP license and acknowledges in that written request that the surrender and removal are permanent and irreversible and that all pot gear Pacific cod endorsements on that LLP license are extinguished;

(B) The holder of the groundfish LLP license listed in Column C of Table 9 to this part requests, in writing, that NMFS assign a 220-foot (67 m) MLOA on that LLP license;

(C) The holder of the eligible LLP license, or the authorized agent, signs the request;

(D) NMFS receives the written request to permanently remove and extinguish all pot gear Pacific cod endorsements specified on the LLP groundfish license by February 6, 2017; and

(E) The written request is submitted to NMFS using one of the following methods:

(*1*) Mail: Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(*2*) Fax: 907–586–7354; or

(*3*) Hand delivery or carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

* * * * *

■ 4. Table 9 to part 679 is added to read as follows:

TABLE 9 TO PART 679—GROUNDFISH LLP LICENSES ELIGIBLE FOR USE IN THE BSAI LONGLINE CATCHER/PROCESSOR SUBSECTOR, COLUMN A. X INDICATES WHETHER COLUMN B OR COLUMN C APPLIES.

Column A	Column B	Column C
The Holder of Groundfish License Number . . .	Is eligible under 50 CFR 679.4(k)(3)(i)(D)(*1*) to be assigned a 220-foot (67 m) MLOA on that LLP license	Is eligible to request that NMFS permanently assign a 220-foot (67 m) MLOA on that LLP License under 50 CFR 679.4(k)(3)(i)(D)(*2*)
LLG 4508	X	
LLG 1785	X	
LLG 3681	X	
LLG 3676	X	
LLG 3609	X	
LLG 1400	X	
LLG 1401	X	
LLG 3617	X	
LLG 1916	X	
LLG 1917	X	
LLG 1989	X	
LLG 1127	X	
LLG 1128	X	
LLG 1125	X	
LLG 4823	X	
LLG 2783	X	
LLG 1988	X	
LLG 2238	X	
LLG 2958	X	
LLG 3973	X	
LLG 3637	X	
LLG 2421	X	
LLG 1713	X	
LLG 3616	X	
LLG 2892	X	
LLG 2112	X	
LLG 5222	X	

TABLE 9 TO PART 679—GROUNDFISH LLP LICENSES ELIGIBLE FOR USE IN THE BSAI LONGLINE CATCHER/PROCESSOR SUBSECTOR, COLUMN A. X INDICATES WHETHER COLUMN B OR COLUMN C APPLIES.—Continued

Column A	Column B	Column C
The Holder of Groundfish License Number . . .	Is eligible under 50 CFR 679.4(k)(3)(i)(D)(*1*) to be assigned a 220-foot (67 m) MLOA on that LLP license	Is eligible to request that NMFS permanently assign a 220-foot (67 m) MLOA on that LLP License under 50 CFR 679.4(k)(3)(i)(D)(*2*)
LLG 1578	X	
LLG 2026	X	
LLG 3847	X	
LLG 3602	X	
LLG 2081	X	
LLG 4008	X	
LLG 3090		X
LLG 1576		X
LLG 2959		X

[FR Doc. 2013–31556 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 79, No. 3
Monday, January 6, 2014

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 179

RIN 3206–AM89

Administrative Wage Garnishment

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is issuing this proposed regulation to implement the administrative wage garnishment (AWG) provisions of the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996 (DCIA). The regulation will allow OPM to garnish the disposable pay of an individual to collect delinquent non-tax debts owed to the United States without first obtaining a court order. The proposed regulation sets forth procedures for use by OPM in collecting debts owed to the Federal Government. The Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 and the DCIA, requires agencies to issue regulations on their debt collection procedures. The proposed regulation includes procedures for collection of debts through AWG.

DATES: Comments on the proposed regulation must be received in writing on or before March 7, 2014.

ADDRESSES: You may submit your comments on the proposed regulation, identified by regulatory information number (RIN), by any one of the following methods:

- *Mail:* The mailing address for comments is: Daniel K. Marella, Deputy Chief Financial Officer, or Robert Wurster, Chief, Policy and Internal Control: Attention: Comments/RIN 3206–AM89, U.S. Office of Personnel Management, Room 7525, 1900 E Street NW., Washington, DC 20415.
- *Email:* Comments may be sent to Daniel K. Marella, Deputy Chief Financial Officer, by email at *Dan.Marella@opm.gov* or to Robert Wurster, Chief, Policy and Internal Control, at *Robert.Wurster@opm.gov.* Include ''RIN 3206–AM89'' in the subject line of 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 OPM at *Comments@opm.gov* to ensure timely receipt by the agency. Include the following information in the subject line of your submission: Comments/RIN 3206–AM89.

FOR FURTHER INFORMATION CONTACT: Robert Wurster, Chief, Policy and Internal Control, at (202) 606–5220, or Office of Personnel Management, 5H30L, 1900 E Street NW., Washington, DC 20415. The telephone number for the Telecommunications Device for the Deaf is (800) 878–5707.

SUPPLEMENTARY INFORMATION: OPM's implementation of AWG would maximize collections of delinquent debts while minimizing the costs of debt collections. By adding a new Subpart D to 5 CFR Part 179, OPM may collect non-tax debts owed to it from non-Federal wages pursuant to 31 U.S.C. 3720D and 31 CFR 285.11.

Background

The DCIA directed the Secretary of the Treasury to issue implementing regulations (see 31 U.S.C. 3720D (h)) with respect to AWG. On May 6, 1998 (63 FR 25136), the Department of Treasury (Treasury) published a final rule implementing the statutory AWG requirements at 31 CFR 285.11. Paragraph (f) of 31 CFR 285.11 provides that ''[a]gencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by reference.'' Among other things, the DCIA centralized administrative collection of Federal non-tax debts with Treasury and gave Treasury responsibility for setting administrative debt collection requirements, including those for AWG. This proposed rule would amend OPM's regulations at 5 CFR Part 179, Subpart D, to adopt 31 CFR 285.11 in its entirety. Specifically, the proposed rule would establish a new provision that would contain a cross-reference to 31 CFR.285.11.

This regulation implements the administrative wage garnishment provision in section 31001(o) of DCIA, Public Law 104–134, 110 Stat. 1321–358, codified at 31 U.S.C. 3720D, and the Treasury AWG regulations at 31 CFR 285.11. Under the AWG provisions of the DCIA, Federal agencies may garnish administratively up to 15 percent of the wages of a debtor to satisfy a delinquent non-tax debt owed to the United States. Prior to the enactment of the DCIA, Federal agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees. Section 31001(o) of the DCIA preempts State laws that prohibit wage garnishment or otherwise govern wage garnishment procedures.

As authorized by the DCIA, a Federal agency collecting a delinquent non-tax debt may garnish a delinquent debtor's wages in accordance with regulations promulgated by the Secretary of the Treasury. The Treasury Department's Bureau of the Fiscal Service is responsible for promulgating the regulations implementing this and other debt collection tools established by the DCIA.

Purpose: This part prescribes the standards and procedures for the Agency to collect money from a debtor's wages by means of AWG to satisfy delinquent non-tax debts owed to the United States.

Authority: OPM adopts and incorporates all of the provisions of 31 CFR 285.11 concerning AWG, including the hearing procedures described in 31 CFR 285.11(f), as promulgated by Treasury to allow Federal agencies to collect money from an individual whose wages are not paid by the Federal Government. Such collections will be accomplished by means of AWG authorized by 31 U.S.C. 3720D.

Scope: This part applies to all OPM offices that administer programs that give rise to delinquent non-tax debts owed to the United States and to all officers or employees of the Agency authorized to collect such debts.

Procedures: In accordance with the substantive and procedural requirements of 31 U.S.C. 3720D and 31 CFR 285.11, this proposed rule would establish the following rules and procedures:

1. Providing a debtor with written notice at least 30 days before OPM, or Treasury on OPM's behalf, initiates

garnishment proceedings, informing the debtor of the nature and amount of the debt, the intention of the Agency to collect the debt through deductions from the debtor's disposable pay, and an explanation of the debtor's rights regarding the proposed action.

2. Providing the debtor with an opportunity to inspect and copy OPM records relating to the debt, to enter into a repayment agreement with the Agency, and to receive a hearing concerning the existence or amount of the debt and the terms of a repayment schedule.

3. Conducting a hearing prior to the issuance of a withholding order, if the debtor submits a timely request. When a debtor's request for a hearing is not received within the time period specified, OPM will not delay issuance of a withholding order prior to conducting the hearing.

List of Subjects in 5 CFR Part 179

Administrative practices and procedures, Claims, Debts, Garnishment of wages, Hearings and appeal procedures, Salaries.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

For the reasons set forth above, the Office of Personnel Management proposes to amend 5 CFR part 179 as follows:

PART 179—CLAIMS COLLECTIONS STANDARDS

■ 1. The authority citation for part 179 continues to read as follows:

Authority: 31 U.S.C. 952; 5 U.S.C. 1103; Reorganization Plan No. 2 of 1978; 5 U.S.C. 5514; 5 CFR part 550 subpart K; 31 U.S.C. 3701; 31 U.S.C. 3711; 31 U.S.C. 3716; 31 U.S.C. 3720A.

■ 2. Add subpart D to read as follows:

Subpart D—Administrative Wage Garnishment

Sec.
179.401 Administrative wage garnishment.

Authority: 15 U.S.C. 46; 31 U.S.C. 3720D; 31 CFR 285.11(f).

§ 179.401 Administrative wage garnishment.

General. OPM may use administrative wage garnishment to collect debts in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11, including debts it refers to the Bureau of the Fiscal Service, Department of the Treasury, for cross-servicing pursuant to 31 U.S.C. 3711. This part adopts and incorporates all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). This section does not apply to collection of debt by Federal salary offset, under 5 U.S.C. 5514, the process by which OPM collects debts from the salaries of Federal employees.

[FR Doc. 2013–31500 Filed 1–3–14; 8:45 am]

BILLING CODE 6325–23–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

RIN 3206–AM64

Career and Career-Conditional Employment

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The U.S. Office of Personnel Management (OPM) is proposing to change the regulations on creditable service for career tenure. The proposed regulation removes the requirement for creditable service to be substantially continuous. This change will assist individuals who leave Federal service before meeting the requirement and subsequently return to a qualifying appointment.

DATES: We will consider comments received on or before March 7, 2014.

ADDRESSES: Send or deliver comments to Kimberly A. Holden, Deputy Associate Director for Recruitment and Hiring, Employee Services, U.S. Office of Personnel Management, Room 6551, 1900 E Street NW., Washington, DC, 20415–9700; email to *employ@opm.gov;* or fax to (202) 606–2329. Comments may also be sent through the Federal eRulemaking Portal at *http://www.regulations.gov.* All submissions received through the Portal must include the agency name and docket number or the Regulation Identifier Number (RIN) for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Pam Galemore by telephone at (202) 606–0960; by TTY at (202) 418–3134; by fax at (202) 606–2329; or by email at *pamela.galemore@opm.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is proposing to revise part 315, title 5, Code of Federal Regulations (CFR), to change the criteria for career tenure in the Federal competitive service. The current regulations require an employee to serve a 3-year period of substantially continuous creditable service to attain career tenure. With certain exceptions, the current regulations also require a career-conditional employee who separates from Federal service to re-start the 3-year period if there is a break in service of more than 30 days.

OPM is proposing to change the requirement from 3 years of substantially continuous service to at least 3 years of total creditable service (whether or not continuous). This change will remove the basis for the 30-day break-in-service rule. Under the proposed rule, each period of creditable service would stand alone, so breaks in service would be irrelevant.

In the Federal competitive service, tenure is important for the purposes of reinstatement eligibility and retention standing in a reduction in force (RIF). An employee who separates from the Federal service with career tenure, or a veterans' preference eligible who separates with career-conditional tenure, has lifetime reinstatement eligibility. Generally, a non-veterans' preference eligible employee who separates with career-conditional tenure has only 3 years of reinstatement eligibility from the date of separation. (Reinstatement eligibility means the individual does not have to re-compete with the general public for a future competitive service appointment.) An employee with career tenure also has higher retention standing in a RIF than a career-conditional employee. (RIF is the regulatory process an agency uses when it must reduce the number of positions in its workforce, for example, due to budget constraints. The higher an employee's retention standing, the more opportunities the employee may have to keep a Federal job under RIF procedures.)

OPM is proposing to revise the regulations in response to an issue raised by the Department of the Army in relation to military spouses. A Federally employed spouse may have to resign his/her appointment to accompany a military ''sponsor'' (in this context, meaning a spouse who is serving in the military) when the sponsor must relocate under permanent change of station (PCS) orders. Many spouses are unable to obtain another Federal job within the 30-day break period. The 30-day break requirement left these spouses at a disadvantage in attaining career tenure. When reemployed, they have to re-start the 3-year period, basically resulting in a perpetual career-conditional tenure status due to the constant PCS movement of their spouses.

In response to the issues raised by the Department of the Army, OPM decided to review not only the 30-day break requirement, but also the basis for the

''substantially continuous'' creditable service requirement for career tenure. We have determined that the ''substantially continuous'' requirement is no longer appropriate in today's employment environment.

The ''substantially continuous'' requirement has been in place since the career-conditional system was established in the mid-1950s. The rationale for the requirement was that 3 years was an appropriate amount of time to determine an employee's interest in and commitment to the career Federal service, as well as the Government's ability to provide reasonable assurance of continued employment opportunities. OPM believes this reasoning no longer applies in today's work environment. Individuals in today's workforce may change jobs, including between the Federal and private sectors, throughout their careers and are more mobile than in previous generations. OPM believes both sectors can benefit from the experiences gained from the other so individuals should not be penalized if they choose to or must, as circumstances dictate, leave Federal service before meeting a substantially continuous service requirement. We believe 3 years in the aggregate—even if not continuous—is sufficient to demonstrate an interest in Federal service that warrants granting an individual career tenure.

Therefore, OPM is proposing to change 5 CFR 315.201(a) to remove ''substantially continuous'' from the requirement for career tenure. Under this change, an individual may attain career tenure after completing at least 3 years of creditable service as described in section 315.201(b). Each period of creditable service would stand alone. Once the employee accumulates 3 years of creditable service, he/she would be converted to career tenure.

We also are proposing to revise section 315.201(b) to reflect this change and to remove references to outdated and obsolete appointing authorities. The introductory text of section 315.201(b) is reworded but would continue to specify that creditable service for career tenure must include service described in section 315.201(b)(1). We also are removing some repetitive verbiage from the introductory text.

Section 315.201(b)(1) specifies that the 3 years of creditable service must begin with one of the nontemporary appointments listed in paragraphs (i) through (xvi) of section 315.201(b)(1).

Section 315.201(b)(1)(i) describes the qualifying nontemporary appointments in the competitive service that begin eligibility for career tenure. This paragraph retains career-conditional appointment and status quo employment as qualifying beginning appointments. We removed ''reinstatement'' and ''transfer'' as beginning appointments because the 30-day break rule no longer applies under the proposed change; therefore, neither a reinstatement nor a transfer will begin a 3-year period of service as it does under the current regulations. The proposed revision of paragraph (b)(1)(i) would consolidate the list of obsolete appointing authorities by incorporating certain items that were previously listed in separate paragraphs under section 315.201(b)(1), including certain excepted appointments before 1955 and temporary appointments pending establishment of a register. We are also revising the relevant paragraphs under section 315.201(b)(1) to reflect the July 10, 2012, effective date of the Pathways regulations in 5 CFR parts 213 and 362.

Other proposed revisions to paragraphs under section 315.201(b)(1) reflect statutory or regulatory changes that have occurred since the last revision to this section, for example, in (b)(1)(iii) to add nonappropriated fund positions in the U.S. Coast Guard under the Department of Homeland Security and in (b)(1)(viii) to change the name of the Postal Rate Commission to the Postal Regulatory Commission. Proposed paragraph (b)(1)(ix) revises the text to conform to proposed regulations published in the **Federal Register** on February 7, 2012 (77 FR 6022) pertaining to the appointment of persons with disabilities.

We are revising section 315.201(b)(2), *Competitive status,* to clarify that an individual may attain career tenure only when employed (or reemployed) in a permanent appointment in the competitive service that provides or leads to competitive status.

We are removing section 315.201(b)(3), *Substantially continuous service,* and redesignating the remaining paragraphs in section 315.201(b). The current regulation to begin a new 3-year period after a break in service of more than 30 days will not apply under the proposed rules removing the ''substantially continuous service'' requirement.

We are revising section 315.201(b)(4)(i)(B) (redesignated as section 315.201(b)(3)(i)(B) in the proposed rule) to refer agencies to OPM's *Guide to Processing Personnel Actions* to convert intermittent days worked to calendar time. We are removing paragraph (b)(4)(i)(C) relating to part-time and intermittent service before July 1, 1962, because it is obsolete.

In proposed section 315.201(b)(3)(ii)—the current section 315.201(b)(4)(ii)—we are revising the text from passive to active voice. We are also proposing to update the regulation by adding a new paragraph (G) to specify that periods of nonpay status incident to an assignment under subchapter VI of chapter 33, title 5, U.S. Code, [Assignments To and From States (also known as the Intergovernmental Personnel Act)], are creditable service for career tenure.

In what is currently section 315.201(b)(4)(iii), *Restoration based on unwarranted or improper actions,* which we are proposing to redesignate as section 315.201(b)(3)(iii), we are removing the obsolete paragraph (A), relating to findings made before March 30, 1966, that a furlough, suspension, or separation was unwarranted or improper.

In proposed section 315.201(b)(3)(iv)—the current section 315.201(b)(4)(iv), *Intervening service*—we are removing from the introductory text the reference to breaks in service in excess of 30 calendar days as obsolete under the proposed rule. Also, under paragraph (b)(4)(iv)(H) of section 315.201, regarding crediting service performed overseas by family members, we are removing the 180-day limitation for crediting such service. Under the proposed rule, each period of creditable service will stand alone, so breaks in service will be irrelevant.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

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

Paperwork Reduction Act

The information collection requirements contained in this proposed rule are currently approved by the Office of Management and Budget under 3206–A120. This regulation does not modify this approved collection.

List of Subjects in 5 CFR Part 315

Government employees.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

Accordingly, OPM proposes to amend 5 CFR part 315 as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

■ 1. The authority citation for part 315 continues to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR, 1954–1958 Comp. p. 218, unless otherwise noted; and E.O. 13562. Secs. 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652. Secs. 315.602 and 315.604 also issued under 5 U.S.C. 1104. Sec. 315.603 also issued under 5 U.S.C. 8151. Sec. 315.605 also issued under E.O. 12034, 3 CFR, 1978 Comp. p. 111. Sec. 315.606 also issued under E.O. 11219, 3 CFR, 1964–1965 Comp. p. 303. Sec. 315.607 also issued under 22 U.S.C. 2506. Sec. 315.608 also issued under E.O. 12721, 3 CFR, 1990 Comp. p. 293. Sec. 315.610 also issued under 5 U.S.C. 3304(c). Sec. 315.611 also issued under 5 U.S.C. 3304(f). Sec. 315.612 also issued under E.O. 13473. Sec. 315.710 also issued under E.O. 12596, 3 CFR, 1987 Comp. p. 229. Subpart I also issued under 5 U.S.C. 3321, E.O. 12107, 3 CFR, 1978 Comp. p. 264.

■ 2. In § 315.201, revise paragraphs (a) and (b) to read as follows:

§ 315.201 Service requirement for career tenure.

(a) *Service requirement.* A person employed in the competitive service for other than temporary, term, or indefinite employment is appointed as a career or career-conditional employee subject to the probationary period required by subpart H of this part. Except as provided in paragraph (c) of this section, an employee must serve at least 3 years of creditable service as defined in paragraph (b) of this section to become a career employee.

(b) *Creditable service.* Unless otherwise approved by OPM, the service required for career tenure must include service as described in paragraph (b)(1) of this section and total at least 3 years.

(1) *Nontemporary employment.* To be creditable, the 3 years of service must begin with one of the following:

(i) *Nontemporary appointment in the competitive service.* For this purpose, nontemporary appointment includes a career-conditional appointment. The 3 years may also begin, but not end, with status quo employment under subpart G of part 316 of this chapter, and overseas limited appointment of indefinite duration or overseas limited term appointment under part 301 of this chapter. The 3 years also may have begun with permanent employment under now obsolete appointing authorities such as probational, war service indefinite, emergency indefinite, nontemporary appointment from a civil service register to a position in the excepted service before January 23, 1955, temporary appointment pending establishment of a register (also known as TAPER authority), nontemporary appointment to a position in the District of Columbia Government before January 23, 1955, and appointment based on Public Law 83–121. Determinations of whether an obsolete authority provides the basis for creditable service may be obtained from OPM;

(ii) Nontemporary appointment to an excepted position, provided the employee's excepted position was brought into the competitive service and, on that basis, the employee acquired competitive status or was converted to a career-conditional appointment;

(iii) Nontemporary appointment to a nonappropriated fund (NAF) position in or under the Department of Defense or in or under the U.S. Coast Guard, Department of Homeland Security, provided the employee's NAF position was brought into the competitive service and, on that basis, the employee acquired competitive status or was converted to a career or career-conditional appointment;

(iv) Nontemporary excepted or nonappropriated fund appointment, Foreign Service appointment, or appointment in the Canal Zone Merit System, provided the employee is appointed to a competitive service position under the terms of an interchange agreement with another merit system under § 6.7 of this chapter, under Executive Order 11219 as amended by Executive Order 12292, or under Executive Order 11171;

(v) The date of appointment to a position on the White House Staff or in the immediate office of the President or Vice President, provided the service has been continuous and the individual was appointed to a competitive service position under § 315.602 of this chapter;

(vi) The date of nontemporary excepted appointment under § 213.3202(b) of this chapter (the former Student Career Experience Program) as in effect immediately before July 10, 2012, the effective date of the regulations removing that paragraph, provided the student's appointment was converted to a career or career-conditional appointment under Executive Order 12015 or under Executive Order 13562, with or without an intervening term appointment, and without a break in service of one day;

(vii) The date of veterans recruitment appointment (VRA), provided the appointment is converted to a career or career-conditional appointment under § 315.705 of this chapter, or the person is appointed from a civil service register without a break in service while serving under a VRA;

(viii) The date of nontemporary appointment to the Postal Career Service or the Postal Regulatory Commission after July 1, 1971, provided the individual is appointed to a career or career-conditional appointment under 39 U.S.C. 1006;

(ix) The date of nontemporary appointment under Schedule A, § 213.3102(u) of this chapter, of a person with an intellectual disability, severe physical disability, or a psychiatric disability, provided the employee's appointment is converted to a career or career-conditional appointment under § 315.709;

(x) The date of appointment in the Presidential Management Fellows Program under the provisions of Executive Order 13318, provided the employee's appointment was converted without a break in service to a career or career-conditional appointment under § 315.708 as in effect immediately before July 10, 2012, the effective date of the regulations that removed and reserved that section, or under Executive Order 13562;

(xi) The starting date of active service as an administrative enrollee in the United States Merchant Marine Academy;

(xii) Appointment as a career intern under Schedule B, § 213.3202(o) of this chapter, provided the employee's appointment was converted to a career or career-conditional appointment under § 315.712 as in effect immediately before July 10, 2012, the effective date of the regulations that removed and reserved that section;

(xiii) The date of appointment as a Pathways Participant in the Internship Program under Schedule D, § 213.3402(a) of this chapter, provided the employee's appointment is converted to a career or career-conditional appointment under § 315.713(a), with or without an intervening term appointment, and without a break in service of one day;

(xiv) The date of appointment as a Pathways Participant in the Recent Graduates Program under Schedule D, § 213.3402(b) of this chapter, provided the employee's appointment is converted to a career or career-conditional appointment under § 315.713(b), with or without an intervening term appointment, and without a break in service of one day;

(xv) The date of appointment as a Pathways Participant in the Presidential Management Fellows Program under Schedule D, § 213.3402(c) of this chapter, provided the employee's appointment is converted to a career or career-conditional appointment under § 315.713(c), with or without an

intervening term appointment, and without a break in service of one day; and

(xvi) Employment with the District of Columbia Government after January 1, 1980 (the date the District implemented an independent merit personnel system not tied to the Federal system), provided the person was a District employee on December 31, 1979, was converted to the District system on January 1, 1980, and is employed by nontemporary appointment in the competitive service.

(2) *Competitive status.* An individual may attain career tenure only when employed (or reemployed) in a permanent appointment in the competitive service that provides or leads to competitive status.

(3) *Crediting service.* An employee's creditable service must total at least 3 years, under the following conditions:

(i) *Work schedule.* (A) Full-time service, and part-time service on or after July 1, 1962, are counted as calendar time from the date of appointment to date of separation.

(B) Intermittent service on or after July 1, 1962, is counted as 1 day for each day an employee is in pay status, regardless of the number of hours for which the employee is actually paid on a given day. Agencies should consult the ''260-Day Work Year Chart'' in OPM's *Guide to Processing Personnel Actions* to convert intermittent days worked to calendar time. The service requirement may not be satisfied in less than 3 years of calendar time.

(ii) *Nonpay status on the rolls and time off the rolls.* An agency may not credit periods of nonpay status and time off the rolls except as follows:

(A) Credit the first 30 calendar days of each period of nonpay status on the rolls during full-time employment, or during part-time employment on or after July 1, 1962. On this same basis, a seasonal employee receives credit for the first 30 calendar days of each period of nonduty/nonpay status. Nonpay status in excess of 30 days is not creditable.

(B) Credit periods of nonpay status and time off the rolls incident to entry into and return from military service and return from defense transfer, provided the person is reemployed in Federal service during the period of his or her statutory or regulatory restoration or reemployment rights.

(C) Credit periods of nonpay status and time off the rolls incident to transfer to and return from an international organization, provided the person is reemployed in Federal service under subpart C of part 352 of this chapter.

(D) Credit periods of nonpay status during which an employee was eligible to receive continuation of pay or injury compensation from the Office of Workers' Compensation Programs. Also credit periods of time off the rolls during which an employee was eligible to receive injury compensation from the Office of Workers' Compensation Programs, provided the person is reemployed under part 353 of this chapter.

(E) Credit up to 30 calendar days for time off the rolls that follows separation by reduction in force of employees who are eligible for entry on the reemployment priority list under subpart B of part 330 of this chapter, provided the person is reemployed in Federal service during the period of his or her reemployment priority.

(F) Credit up to 30 calendar days for time off the rolls that follow involuntary separation without personal cause of employees who are eligible for a noncompetitive appointment based on an interchange agreement with another merit system under § 6.7 of this chapter, provided the person is employed in the competitive service under the agreement during the period of his or her eligibility.

(G) Credit periods of nonpay status incident to an assignment to a State, local, or Indian tribal government, institution of higher education, or other eligible organization provided the employee returns to a creditable appointment pursuant to an agreement established under subchapter VI of chapter 33, title 5, U.S.C., and part 334 of this chapter.

(iii) *Restoration based on unwarranted or improper actions.* Based on a finding made on or after March 30, 1966, that a furlough, suspension, or separation was unwarranted or improper, an employee restored to duty receives full calendar time credit for the period of furlough, suspension, or separation for which he or she is eligible to receive back pay. If the employee is restored to duty at a date later than the original adverse action, credit for intervening periods of nonpay status is given in accordance with other provisions of this subsection. If the employee had been properly separated from the rolls of the agency before a finding was made that the adverse action was unwarranted or improper, the correction and additional service credit given the employee may not extend beyond the date of the proper separation.

(iv) *Intervening service.* Certain types of service that ordinarily are not creditable are counted when they intervene between two periods of creditable service. Under these conditions, credit each period of service:

(A) In the excepted service of the Federal executive branch, including employment in nonappropriated fund positions in or under any Federal agency;

(B) Under temporary, term, or other nonpermanent employment in the Federal competitive service;

(C) In the Senior Executive Service;

(D) In the Federal legislative branch;

(E) In the Federal judicial branch;

(F) In the armed forces;

(G) In the District of Columbia Government through December 31, 1979. For an employee on the District rolls on December 31, 1979, who converted on January 1, 1980, to the District independent personnel system, credit also is given for service between January 1, 1980, and September 25, 1980. Otherwise, service in the District of Columbia Government on or after January 1, 1980, is not creditable as intervening service; and

(H) Performed overseas by family members, as defined by § 315.608 of this chapter.

* * * * *

[FR Doc. 2013–31499 Filed 1–3–14; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN 3206–AM81

Special Rights for Transferred Employees Under the Dodd-Frank Act Regarding Federal Employees' Group Life Insurance

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule to implement provisions of Public Law 111–203, the Dodd–Frank Wall Street Reform and Consumer Protection Act. Public Law 111–203 includes authorization for certain transferred employees to have a special enrollment opportunity and special rights regarding Federal Employees' Group Life Insurance (FEGLI) to ensure their continuity of benefits coverage.

DATES: Comments are due on or before March 7, 2014.

ADDRESSES: You may submit comments, identified by RIN number ''3206–AM81,'' using any of the following methods:

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

Mail: Rachel Royster, Program Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Rachel Royster, Program Analyst (202) 606–4181.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing a notice of proposed rulemaking to provide special FEGLI rights to the following employees who were carrying employer sponsored life insurance other than FEGLI: (1) Employees from Office of Thrift Supervision (OTS) transferred to Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC); and (2) employees of the Federal Reserve System, FDIC, National Credit Union Administration Board (NCUA), OCC, OTS, and Department of Housing and Urban Development (HUD) to the Consumer Financial Protection Bureau (CFPB or the Bureau) under Public Law 111–203. The new regulatory provisions include new subparts in part 870 of title 5 of the Code of Federal Regulations.

Authorizing legislation: Section 322 and Section 1064 of Public Law 111–203 discuss the transfer of employees and their special FEGLI rights.

Section 322. Transfer of Employees From OTS to OCC or FDIC

The relevant portions of this section states:

''(B) Dental, Vision, or Life Insurance After the First Year.—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as the case may be, will not continue to participate in any dental, vision or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in—'' 322(i)(2)(B).

* * * * *

''(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.'' 322(i)(2)(B)(iii).

* * * * *

''(IV) Credit for Time Enrolled in Other Plans—For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for the purpose of 8706(b)(1)(A) of title 5, United States Code.'' 322(i)(2)(E)(ii)(IV).

These provisions allow a transferring employee that participated in an OTS life insurance program that is no longer available at OCC or FDIC to have a special enrollment period for FEGLI. OTS maintained the Office of Thrift Supervision Group Life Insurance Program in which OCC and FDIC did not continue to participate. Therefore, at approximately one year after the transfer date, July 21, 2011, OPM held a special enrollment period for transferred employees participating in Office of Thrift Supervision Group Life Insurance Program to enroll in FEGLI. The special enrollment period began on June 1, 2012 and ended July 29, 2012.

Any employee who enrolled in FEGLI during this special enrollment period will have their time in a life insurance plan administered by OTS credited towards their 5 years of continuous enrollment to continue FEGLI coverage into retirement.

Section 1064. Transfer of Employees From the Federal Reserve System, FDIC, NCUA, OCC, OTS and HUD to CFPB

The relevant portion of this section states:

''(B) Medical, Dental, Vision, or Life Insurance After the First Year.— If, at the end of the 1-year period beginning on the designated transfer date, the Bureau has not established its own, or arranged for participation in another entity's, medical, dental, vision, or life insurance program, an employee transferred pursuant to this subtitle who was a member of such a program at the agency or Federal reserve bank from which the employee transferred may, before the coverage of that employee ends under subparagraph (A)(i), elect to enroll, without regard to any regularly scheduled open season, in—''1064(i)(2)(B).

''(iii) the Federal Employees' Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability . . .'' 1064(i)(2)(B)(iii).

CFPB established its own life insurance program. Therefore, the referenced employees transferred did not have a special enrollment period to elect FEGLI coverage. These transferred employees can enroll if they experience a qualifying life event or by providing satisfactory medical information.

While there was no special enrollment period for employees transferring to CFPB, if employees that transferred to CFPB were newly eligible for FEGLI (they did not have a prior FEGLI election opportunity at their former employing agency from which they were transferred), an opportunity to enroll was created. Since these employees previously did not have the opportunity to elect FEGLI, they were treated as though they were new employees for FEGLI purposes and could make a first-opportunity election of FEGLI coverage during the same special enrollment period as the Section 322 transferees. These employees who enrolled in FEGLI during this special enrollment period will have their time in a life insurance plan administered by their former agency in which they transferred from credited towards their 5 years of continuous enrollment to continue FEGLI coverage into retirement.

Section 322 and Section 1064. Special Provisions for Annuitants To Ensure Continuation of Life Insurance Benefits

Section 322 and Section 1064 contain the following text:

(E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this title on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, as applicable, without regard to any regularly scheduled open season or any requirement of insurability. 322(i)(2)(E)(i).

And

(G) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by a transferor agency on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Bureau, without regard to any regularly scheduled open season and requirement of insurability. 1064(i)(2)(G)(i).

OPM has interpreted these provisions to mean that if a referenced annuitant's life insurance coverage lapsed because their life insurance program ceased to exist, then they will be eligible to elect FEGLI. There is no one in this category because there are no life insurance

programs administered by a transferor agency that ceased to exist. Therefore, there are no annuitants that can elect FEGLI as a result of these provisions.

Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rule is not considered a major rule because OPM expects that this rule will not impose costs of more than $100 million in any one year.

List of Subjects on 5 CFR Part 870

Administrative practice and procedure, Government Employees, Life insurance.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

For the reasons set forth in the preamble, the U.S. Office of Personnel Management proposes to amend 5 CFR Part 870 as follows:

Title 5—Administrative Personnel

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

Subpart A—Administration and General Provisions

■ 1. The authority citation for Part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104–106, 110 Stat. 521;

■ 2. In § 870.701, add paragraph (f) to read as follows:

§ 870.701 Eligibility for life insurance.

* * * * *

(f) An individual's period of coverage in a life insurance plan is credited to the 5 years of service under (a)(2) of this section if: (1) He/she participated in the Office of Thrift Supervision (OTS) life insurance plan and transferred to the Office of the Comptroller of the Currency/Federal Deposit Insurance Corporation under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, or he/she transferred to the Consumer Financial Protection Bureau under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203 and did not have a prior FEGLI election opportunity at their former agency from which they transferred, and (2) elected FEGLI coverage during the special enrollment period between June 1, 2012 and July 29, 2012. Evidence of the non-FEGLI period of continuous coverage will be documented in a manner designated by OPM.

* * * * *

[FR Doc. 2013–31498 Filed 1–3–14; 8:45 am]

BILLING CODE 6325–63–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A; Docket No. R–1476]

RIN 7100–AE08

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Board invites public comment on proposed amendments to Regulation A (Extensions of Credit by Federal Reserve Banks) that would implement sections 1101 and 1103 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act''). These provisions of the Dodd-Frank Act amend the emergency lending authority of the Federal Reserve Banks under section 13(3) of the Federal Reserve Act (the ''FRA''), and require the Board, in consultation with the Secretary of the Treasury, to establish by regulation certain policies and procedures with respect to emergency lending under that section.

DATES: Comments must be submitted by March 7, 2014.

ADDRESSES: You may submit comments, identified by Docket No. R–1476, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at 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 docket 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 Street NW.,) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Laurie S. Schaffer, Associate General Counsel (202) 452–2272, Sophia H. Allison, Senior Counsel (202) 452–3565, or Jay R. Schwarz, Counsel (202) 452–2970, Legal Division; for users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869; Board of Governors of the Federal Reserve System, 20th Street and Constitution Ave. NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Background

Prior to 2010, section 13(3) of the FRA (12 U.S.C. 343) provided that the Board may authorize any Federal Reserve Bank (''Reserve Bank'') to extend credit to any individual, partnership, or corporation subject to four principal conditions set forth in that section. These conditions required that (1) credit be extended only in unusual and exigent circumstances; (2) the Board act by the affirmative vote of at least five of its members; (3) the lending Reserve Bank obtain evidence before extending the credit that the borrower is unable to secure adequate accommodations from other banking institutions; and (4) the extension of credit be indorsed or otherwise secured to the satisfaction of the Reserve Bank. This statutory authority to extend credit in unusual and exigent circumstances was enacted by Congress in 1932 to

enable the Federal Reserve, as the nation's central bank, to provide liquidity in times of financial stress.

Effective on July 21, 2010, the Dodd-Frank Act (Pub. L. 111–203, 124 Stat. 1376) made extensive amendments to section 13(3) of the FRA. In particular, section 1101 of the Dodd-Frank Act amended section 13(3) of the FRA to:

- Remove the general authority to lend to an individual, partnership, or corporation and limit the Federal Reserve's emergency lending authority to extending credit to participants in a program or facility with broad-based eligibility;
- require the Board to obtain the approval of the Secretary of the Treasury prior to extending emergency credit under section 13(3) of the FRA;
- provide that a program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy, resolution under title II of the Dodd-Frank Act, or any other Federal or State insolvency proceeding, would not be considered a program or facility with broad-based eligibility; and
- require the Board, in consultation with the Secretary of the Treasury, to adopt by regulation policies and procedures that are designed to ensure that:
  - ○ Any emergency lending program or facility is for the purpose of providing liquidity to the financial system, and not to aid a failing financial company;
  - ○ the security for emergency loans is sufficient to protect taxpayers from losses;
  - ○ any such program or facility is terminated in a timely and orderly fashion;
  - ○ a Reserve Bank assigns, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for emergency loans; and
  - ○ borrowing by insolvent borrowers is prohibited.

The revisions made to section 13(3) by the Dodd-Frank Act focus this emergency lending authority on programs and facilities that relieve liquidity pressures in financial markets through broad-based liquidity facilities. The Dodd-Frank Act did not change the requirements already contained in section 13(3) that the Board authorize lending under that section only in unusual and exigent circumstances and upon a vote of at least five of its members, the Reserve Bank be secured to its satisfaction, and the Reserve Bank obtain evidence that other bank credit accommodations are not generally available.

Because these rules establish procedures governing lending activity, the Board does not believe that the Administrative Procedure Act requires publication of the proposed rule or impedes lending in accordance with the statutory provisions of section 13(3) as amended by the Dodd-Frank Act prior to adoption of the final rule. Nevertheless, the Board also believes that there is significant value in obtaining public comment on the proposed rule in this instance. Consequently, the Board invites comment on all aspects of the proposed amendments to Regulation A set forth below to implement the requirements of the Dodd-Frank Act. As required by the Dodd-Frank Act, the Board consulted with the Secretary of the Treasury in the development of the proposed amendments.

II. Section by Section Summary of Proposed Rule

A. Section 201.4(d)—Emergency Credit for Others

1. Authorization To Extend Credit

Section 201.4(d)(1) of the proposed rule sets forth the process that the Board must undertake to authorize a Reserve Bank to extend credit under section 13(3) of the FRA. First, section 201.4(d)(1)(i) provides that the Board may authorize credit under section 13(3) of the FRA only if it determines that unusual and exigent circumstances exist upon the affirmative vote of not less than five members of the Board unless fewer are authorized pursuant to section 11(r) of the FRA. This requirement in section 13(3) was not changed by the Dodd-Frank Act. Section 201.4(d)(1)(ii) of the proposed rule provides that the Board may not establish a program or facility under section 13(3) without the prior approval of the Secretary of the Treasury.

Section 201.4(d)(1)(i) of the proposed rule also provides that credit may be extended by any Reserve Bank only through a program or facility with broad-based eligibility. This requirement conforms the regulation with the limitations in the Dodd-Frank Act. In addition, section 201.4(d)(1)(i) provides that any credit extended under section 13(3) of the FRA is subject to such other conditions as the Board may determine.

Section 201.4(d)(1)(iii) of the proposed rule provides that the Board must, at the time of the authorization or as soon thereafter as is reasonably practicable, document the justification for its authorization, including describing the unusual and exigent circumstances that exist and the intended effect of the program or facility. Section 201.4(d)(1)(iii) of the proposed rule further requires that the Board (and the authorized Reserve Bank or Reserve Banks, as appropriate) make publicly available, as soon as is reasonably practicable, a description of the program or facility and the terms and conditions for participation in the program or facility.

2. Definitions of Broad-Based Eligibility and Insolvency

Section 201.4(d)(2) of the proposed rule sets forth the definition of a program or facility ''with broad-based eligibility.'' As part of this definition, it also sets forth the definition of ''insolvent.''

Proposed section 201.4(d)(2)(i) incorporates three requirements established by the Dodd-Frank Act for a program or facility to have ''broad-based eligibility'' for purposes of section 13(3) of the FRA. Under subparagraph (A) of proposed section 201.4(d)(2)(i), in order for a program or facility to have ''broad-based eligibility,'' it must be designed to provide liquidity to a market or sector of the financial system. As required by the Dodd-Frank Act, proposed section 201.4(d)(2)(i)(B) provides that a program or facility must not be for the purpose of aiding a failing financial company and must not be structured to remove assets from the balance sheet of a single and specific company. In addition, proposed section 201.4(d)(2)(i)(C) incorporates the requirement of the Dodd-Frank Act that a program or facility not be established for the purpose of assisting a single and specific company to avoid bankruptcy, resolution under Title II of the Dodd-Frank Act, or any other Federal or State insolvency proceeding.

Proposed section 201.4(d)(2)(ii) authorizes the Board to determine the type of facility used to extend credit, so long as the facility is broad-based. For example, liquidity facilities may extend credit directly to participants in those facilities in some cases, or through a special purpose vehicle in other cases.

As noted above, section 1101 of the Dodd-Frank Act requires the Board to ''establish procedures to prohibit borrowing from programs and facilities by borrowers that are insolvent.'' Section 1101 also provides that a borrower ''shall be considered insolvent'' if the borrower ''is in bankruptcy, resolution under Title II of [the Dodd-Frank Act], or any other

Federal or State insolvency proceeding.'' [1]

The proposed rule adopts these statutory provisions. Accordingly, proposed section 201.4(d)(2)(iii) provides that a Reserve Bank must not extend credit through a program or facility established under section 13(3) of the FRA to any person or entity that is in bankruptcy, resolution under Title II of the Dodd-Frank Act, or any other Federal or State insolvency proceeding.

As provided by the Dodd-Frank Act, the proposed rule includes a certification process for establishing that a person or entity is not ''insolvent'' for purposes of the rule. Proposed section 201.4(d)(2)(iii)(B) provides that a Reserve Bank may rely on a written certification from the person, the chief executive officer of the entity or another authorized officer of the entity, at the time the person or entity initially borrows under a program or facility, that the person or entity is not in bankruptcy or in a resolution or other insolvency proceeding. As also provided in section 1101 of the Dodd-Frank Act, the proposed rule provides that a person or entity that submits a written certification must immediately notify the lending Reserve Bank if the information in the certification changes. Section 201.4(d)(2)(iii)(C) of the proposed rule provides that a participant that is or has become insolvent would be prohibited from receiving any new extension of credit under the program or facility.

3. Indorsement or Other Security

Prior to the Dodd-Frank Act, section 13(3) provided that any extension of credit under that section must be ''indorsed or otherwise secured to the satisfaction of the Federal Reserve bank.'' [2] The Dodd-Frank Act retained this provision of the original statute and added two further requirements. First, the Dodd-Frank Act directs that the Board's policies and procedures ''be designed to ensure . . . that the security for emergency loans is sufficient to protect taxpayers from losses.'' [3] Second, the Dodd-Frank Act requires that the Board's policies and procedures ''require that a Federal reserve bank assign, consistent with sound risk management practices and to ensure protection for the taxpayer, a lendable value to all collateral for a loan executed'' under section 13(3) of the FRA.[4]

Section 201.4(d)(3) of the proposed rule incorporates both of these requirements. Section 201.4(d)(3) provides that all credit extended under emergency lending programs and facilities must be indorsed or otherwise secured to the satisfaction of the lending Reserve Bank and that the Reserve Bank must, at the time the credit is initially extended, assign a lendable value to all collateral for the program or facility, consistent with sound risk management practices and to ensure protection for the taxpayer. As in section 13(3) of the FRA as amended, proposed section 201.4(d)(3)(ii) applies specifically to ''collateral.''

The Reserve Banks have long assigned a lendable value to collateral at the time credit is extended by reviewing the collateral and applying discounts or ''haircuts'' to the value of the collateral. The Reserve Banks then determine, based on the lendable value of any collateral posted, the financial strength of the borrower, the presence of any indorsement, and other factors, whether the credit is satisfactorily secured. The haircuts applied to collateral are described in the Federal Reserve Discount Window & Payment System Risk Collateral Margins Table and the Federal Reserve Collateral Guidelines, available on the Federal Reserve Discount Window & Payment System Risk Web site.[5] The Board believes that these provisions of proposed section 201.4(d)(3) address the statutory requirement for policies and procedures that are designed to ensure protection for the taxpayer.

4. Termination of Program or Facility

The Dodd-Frank Act requires that the Board's policies and procedures with respect to section 13(3) extensions of credit be designed to ensure that any such program is terminated in a timely and orderly fashion.[6] In order to address this requirement, Section 201.4(d)(4) of the proposed rule provides that the Board will periodically review whether each emergency lending program should be terminated. The proposed rule further provides that, in conducting this review, the Board will consider such factors as the continued existence of unusual and exigent circumstances; the extent of usage of the program or facility; the extent to which the continuing authorization of the program or facility facilitates restoring or sustaining confidence in financial markets; economic and market conditions; the functioning of financial markets; the ongoing need for the liquidity support provided by such program or facility; and other appropriate factors. The Board will generally seek to terminate programs or facilities when their identified goals have been reached or once the Board determines that conditions have otherwise changed to warrant the termination of the program or facility.

5. Evidence Regarding Unavailability of Adequate Credit Accommodation

Section 13(3) has always required that a Reserve Bank, prior to extending credit to any participant in a program or facility under that section, obtain evidence that such participant is unable to secure adequate credit accommodations from other banking institutions. The proposed rule incorporates this requirement that the Reserve Bank obtain evidence of the inability of participants to secure adequate credit accommodations, and recognizes that this evidence may include evidence based on economic conditions in the market or markets addressed by the program or facility or evidence obtained from other sources, including facility or market participants.

6. Reporting Requirements

The Dodd-Frank Act contains detailed reporting requirements with respect to section 13(3) extensions of credit.[7] The Board intends to comply with these statutory requirements as enacted. Therefore, the proposed rule provides that the Board will comply with 12 U.S.C. 248(s) and 12 U.S.C. 343(3)(C) pursuant to their terms.

7. No Obligation To Extend Credit

Section 201.4(d)(7) of the proposed rule recognizes that Reserve Banks have no obligation to extend credit to any particular person or entity through an emergency lending program or facility. This provision mirrors the provision applicable to lending to depository institutions set forth in section 201.3(b) of Regulation A.

8. Short-Term Emergency Credit Secured Solely by United States or Agency Obligations

Section 201.4(d)(8) of the proposed rule retains, but relocates, an authorization already included in Regulation A that authorizes a Reserve Bank to extend credit under section 13(13) of the FRA if the collateral used to secure the credit consists solely of obligations of, or obligations fully guaranteed as to principal and interest by, the United States or an agency of the

[1] 124 Stat. 1376 at 2113–15.

[2] *See* 12 U.S.C. 343, 47 Stat. 715.

[3] Dodd-Frank Act Section 1101(a)(6).

[4] *Id.*

[5] *http://www.frbdiscountwindow.org/index.cfm.*

[6] Dodd-Frank Act Section 1101(a)(6).

[7] Dodd-Frank Act Sections 1101(a)(6) and 1103(b).

United States. As under the current rule, under the proposed rule, the Reserve Bank would be authorized to extend credit under section 13(13) of the FRA in unusual and exigent circumstances, after consultation with the Board, and if the Reserve Bank has obtained evidence that credit is not available from other sources and failure to obtain credit would adversely affect the economy. As set forth in section 13(13) of the FRA, section 201.4(d)(8) of the proposed rule also provides that credit extended under this provision may not be extended for a term exceeding 90 days. Section 201.4(d)(8) retains the provision in current section 201.4(d) of Regulation A that extensions of credit under this section be at a rate above the highest rate in effect for advances to depository institutions.

B. Section 201.3(b)—No obligation to make advances or discounts

Section 201.3(b) of the proposed rule reflects a technical change to conform the language of that section with the language of section 201.4(d)(7) of the proposed rule.

The Board invites comments on all aspects of its proposed rule.

III. Administrative Law Matters

A. Regulatory Flexibility Act

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) (''RFA''), the Board is publishing an initial regulatory flexibility analysis of the proposed rule. The RFA requires an agency either to provide an initial regulatory flexibility analysis with a proposed rule for which a general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities. Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing an initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after comments received during the public comment period have been considered.

In accordance with section 1101 and 1103 of the Dodd-Frank Act, the Board is proposing amendments to Regulation A (12 CFR part 201 et seq.) to establish policies and procedures for emergency lending under section 13(3) of the FRA. The reasons and justification for the proposed rule are described in the Supplementary Information. The Board does not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules. Under regulations issued by the Small Business Administration (''SBA''), a ''small entity'' includes those firms within the ''Finance and Insurance'' sector with asset sizes that vary from $35.5 million or less in assets to $500 million or less in assets. The Board believes that the Finance and Insurance sector constitutes a reasonable universe of firms for these purposes because such firms generally engage in activities that are financial in nature and the vast majority of emergency loans under section 13(3) during the recent financial crisis were extended to such firms. Consequently, financial firms with asset sizes of $175 million or less are small entities for purposes of the RFA.

As discussed in the Supplementary Information, the proposed rule would apply to any participant in an emergency lending program or facility with broad-based eligibility. To the extent that small entities are participants in these programs or facilities, they would be receiving emergency loans from the Federal Reserve. It is not possible to ascertain at this time the number of small entities that might participate in these programs and facilities or what requirements will be imposed on them if they do so. At a minimum, it is likely that participants would be required to pay interest on loans extended to them and to keep records of the use of loan proceeds. However, the positive economic impact of receiving such a loan is likely to substantially outweigh any economic burden of participating in the program or facility.

In light of the foregoing, the Board does not believe that the proposed rule, if adopted in final form, would have a significant negative economic impact on a substantial number of small entities. Nonetheless, the Board invites comment on whether (a) the Finance and Insurance sector constitutes a reasonable universe of firms for establishing the definition of ''small entity'' and (b) the proposed rule would impose undue burdens on, or have unintended consequences for, small organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with sections 1101 and 1103 of the Dodd-Frank Act.

B. Paperwork Reduction Act Analysis

Office of Management and Budget (OMB) regulations implementing the Paperwork Reduction Act (PRA) state that agencies must submit ''collections of information'' contained in proposed rules published for public comment in the **Federal Register** in accordance with OMB regulations.[8] OMB regulations define a ''collection of information'' as obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency ''by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit.'' [9]

In accordance with the PRA, the Board reviewed the proposed rule under the authority delegated to the Board by the Office of Management and Budget (OMB). The Federal Reserve may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number.

The collection of information that would be required by this notice of proposed rulemaking is found in section 201.4(d)(2)(iii)(B). Under this section a Reserve Bank may rely on a written certification from the person, the chief executive officer of the entity or another authorized officer of the entity, at the time the person or entity initially borrows under a program or facility, that the person or entity is not in bankruptcy or in a resolution or other insolvency proceeding. In addition, a person or entity that submits such a written certification must immediately notify the lending Reserve Bank if the information in the certification changes. The Federal Reserve believes that compliance with this requirement should require minimal effort on the part of the respondent, thus the burden associated would be considered negligible.

Comments are invited regarding (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 cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (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. Comments on the collection of information should be sent to Secretary, Board of Governors of the Federal Reserve System,

[8] 5 CFR 1320.11. The PRA is codified at 44 U.S.C. 3506 *et seq.*

[9] 5 CFR 1320.11(c).

Washington, DC 20551, with copies of such comments to be sent to the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 20503.

C. Invitation for Comments on Use of Plain Language

Section 722 of the Gramm-Leach Bliley Act of 1999 requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000.[10] The Board invites comment on whether the proposed rule is clearly stated and effectively organized, and how the Board might make the text of the rule easier to understand.

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Board is proposing to amend 12 CFR Part 201 (Regulation A) as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 is revised to read as follows:

Authority: 12 U.S.C. 248(i)–(j) and (s), 343 et seq., 347a, 347b, 347c, 348 et seq., 357, 374, 374a, and 461.

■ 2. Section 201.3 paragraph (b) is revised to read as follows:

§ 201.3 Extensions of credit generally.

* * * * *

(b) *No obligation to make advances or discounts.* This section does not entitle any person or entity to obtain credit from a Federal Reserve Bank.

* * * * *

■ 3. Section 201.4 paragraph (d) is revised to read as follows:

§ 201.4 Availability and terms of credit.

* * * * *

(d) *Emergency credit for others.*—(1) *Authorization to extend credit.* (i) In unusual and exigent circumstances, the Board, by the affirmative vote of not less than five members,[1] may authorize any Federal Reserve Bank, subject to such conditions and during such periods as the Board may determine, to extend credit to any participant in a program or facility with broad-based eligibility established and operated in accordance with this section at rates established in accordance with the provisions of section 14, subdivision (d) of the Federal Reserve Act (12 U.S.C. 357).

(ii) The Board may not establish any program or facility under this section without obtaining the prior approval of the Secretary of the Treasury.

(iii) At the time of any authorization under paragraph (d)(1)(i) of this section or as soon thereafter as is reasonably practicable, the Board will document the justification for its authorization, including a description of the unusual and exigent circumstances that exist and the intended effect of the program or facility. The Board and the authorized Federal Reserve Bank or Federal Reserve Banks, as appropriate, will make publicly available a description of the program or facility and the terms and conditions for participation in the program or facility as soon as is reasonably practicable.

(2) *Broad-based eligibility; insolvency.* (i) A program or facility established under this section must have broad-based eligibility in accordance with terms established by the Board. For purposes of this section, a program or facility has broad-based eligibility only if the program or facility—

(A) Is designed to provide liquidity to an identifiable market or sector of the financial system;

(B) Is not for the purpose of aiding a failing financial company and is not structured to remove assets from the balance sheet of a single and specific company; and

(C) Is not established for the purpose of assisting a single and specific company to avoid bankruptcy, resolution under Title II of Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 12 U.S.C. 5381 *et seq.*), or any other Federal or State insolvency proceeding.

(ii) A Federal Reserve Bank may extend credit through a program or facility with broad-based eligibility established under this section through such mechanism or vehicle as the Board determines would facilitate the extension of such credit.

(iii) A Federal Reserve Bank may not extend credit through a program or facility established under this section to any person or entity that is insolvent.

(A) A person or entity is ''insolvent'' for purposes of this section if the person or entity is in bankruptcy, resolution under Title II of Public Law 111–203 (12 U.S.C. 5381 et seq.) or any other Federal or State insolvency proceeding.

(B) In determining for purposes of this section whether a person or entity is insolvent, a Federal Reserve Bank may rely on a written certification from the person or from the chief executive officer or other authorized officer of the entity, at the time the person or entity initially borrows under a program or facility hereunder, that the person or entity is not in bankruptcy or in a resolution or other insolvency proceeding described in paragraph (d)(2)(iii)(A) of this section. The person or entity submitting such a written certification must immediately notify the lending Federal Reserve Bank if the information in the certification changes.

(C) Upon a finding by the Federal Reserve Bank that a participant, including a participant that has provided a certification under paragraph (d)(2)(iii)(B) of this section, is or has become insolvent, that participant is not eligible for any new extension of credit from a program or facility established under this section until such time as the Federal Reserve Bank determines that such participant is no longer insolvent.

(3) *Indorsement or other security.* (i) All credit extended under a program or facility established under this section must be indorsed or otherwise secured to the satisfaction of the lending Federal Reserve Bank.

(ii) In determining whether an extension of credit under any program or facility established under this section is secured to its satisfaction, a Federal Reserve Bank must, prior to or at the time the credit is initially extended, assign a lendable value to all collateral for the program or facility, consistent with sound risk management practices and to ensure protection for the taxpayer.

(4) *Termination of program or facility.* To ensure that the program or facility under this section is terminated in a timely and orderly fashion, the Board will periodically review the existence of unusual and exigent circumstances; the extent of usage of the program or facility; the extent to which the continuing authorization of the program or facility facilitates restoring or sustaining confidence in financial markets; economic and market conditions; the functioning of financial markets; the ongoing need for the liquidity support provided by such program or facility; and such other factors as the Board may deem to be appropriate.

(5) *Evidence regarding unavailability of adequate credit accommodation.* Each lending Federal Reserve Bank must obtain evidence that, under the prevailing circumstances, participants in a program or facility established under this section are unable to secure adequate credit accommodations from other banking institutions. This evidence may be based on economic

[10] 12 U.S.C. 4809.

[1] Unless fewer are authorized pursuant to section 11(r) of the Federal Reserve Act. 12 U.S.C. 248(r).

conditions in the market or markets intended to be addressed by the program or facility, or other evidence from participants, or other sources.

(6) *Reporting requirements.* The Board will comply with the reporting requirements of 12 U.S.C. 248(s) and 12 U.S.C. 343(3)(C) pursuant to their terms.

(7) *No obligation to extend credit.* This section does not entitle any person or entity to obtain credit from a Federal Reserve Bank.

(8) *Short-term emergency credit secured solely by United States or agency obligations.* In unusual and exigent circumstances and after consultation with the Board, a Federal Reserve Bank may extend credit under section 13(13) of the Federal Reserve Act if the collateral used to secure such credit consists solely of obligations of, or obligations fully guaranteed as to principal and interest by, the United States or an agency thereof. Prior to extending credit under this paragraph, the Federal Reserve Bank must obtain evidence that credit is not available from other sources and failure to obtain such credit would adversely affect the economy. Credit extended under this paragraph may not be extended for a term exceeding 90 days, must be extended at a rate above the highest rate in effect for advances to depository institutions as determined in accordance with section 14(d) of the Federal Reserve Act, and is subject to such limitations and conditions as provided by the Board.

By order of the Board of Governors of the Federal Reserve System, December 23, 2013.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2013–31025 Filed 1–3–14; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2011–0016]

RIN 0703–AA90

32 CFR Part 767

Guidelines for Permitting Archaeological Investigations and Other Activities Directed at Sunken Military Craft and Terrestrial Military Craft Under the Jurisdiction of the Department of the Navy

AGENCY: Department of the Navy, DoD.

ACTION: Proposed rule.

SUMMARY: The Department of the Navy (DoN) is revising its rules to assist the Secretary in managing sunken military craft under the jurisdiction of the DoN pursuant to the Sunken Military Craft Act (SMCA), and to issue revised application guidelines for research permits on terrestrial military craft under the jurisdiction of the DoN.

DATES: Interested parties should submit written comments on or before March 7, 2014.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov.

Follow the instructions for submitting comments.

Mail: Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket or RIN number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Neyland, Head, Underwater Archaeology Branch, Naval History & Heritage Command, Department of the Navy, 805 Kidder Breese Street SE., BL 57, Washington Navy Yard, DC 20374, email: *NHHCUnderwater Archaeology@navy.mil.*

SUPPLEMENTARY INFORMATION:

Executive Summary

This proposed rule serves as a revision of the current 32 CFR part 767 and incorporates existing regulations together with the expanded authority provided to the Secretary of the Navy by the SMCA (Pub. L. 108–375, 10 U.S.C. 113 Note and 118 Stat. 2094–2098) in regards to permitting activities directed at sunken military craft that are otherwise prohibited by the SMCA (10 U.S.C. 1402(a)–1402(b)). The proposed rule replaces the current regulations and establishes a single permitting process for members of the public wishing to engage in activities that disturb, remove, or injure DoN sunken and terrestrial military craft for archaeological, historical, or educational purposes. As per the limitations on application expressed in (10 U.S.C. 1402(c)(1)), section 1402 shall not apply to actions taken by, or at the direction of, the United States.

The current rule is based on provisions of the National Historic Preservation Act (NHPA) (16 U.S.C. 470) which sets forth the responsibility for each agency to preserve and manage historic properties under their respective jurisdiction and control and 5 U.S.C. 301, which authorizes the DoN to promulgate regulations regarding the custody, use, and preservation of its records, papers and property. The rule institutes a permitting program that authorizes controlled access to disturb these historic properties, which remain property of the DoN, for prescribed purposes. It is the policy of the DoN to preserve these sites in situ unless site disturbance, removal, or injury is necessary for their protection or justified for research and educational purposes. Archaeological science and sound management principles support this strategy that affords the DoN the ability to efficiently oversee its more than 17,000 historic wrecks dispersed around the globe.

The existing regulations only apply to ships and aircraft that are classified as historic structures or archaeological sites, regardless of location, and do not carry the enforcement provisions necessary to serve as a deterrent to their unauthorized disturbance. The SMCA was enacted in 2004 and codified these existing principles of preservation of title and sovereign immunity in regards to sunken military craft. As defined in the SMCA, the term sunken military craft includes all sunken warships, all naval auxiliaries, and other vessels that were owned or operated by a government on military noncommercial service when they sank. The term also includes all sunken military aircraft or spacecraft owned or operated by a government when they sank. In addition, associated contents such as equipment, cargo, and the remains and personal effects of the crew and passengers are also protected if located within a craft's debris field. It is important to note that the SMCA is not limited to historic sunken military craft of the United States. All U.S. sunken military craft are covered, regardless of location or time of loss, while all foreign sunken military craft in U.S. waters, consisting of U.S. internal waters, the U.S. territorial sea, and the U.S. contiguous zone, are also afforded protection from disturbance by the SMCA. A permitting process may be implemented by the Secretary of a military department or the department in which the Coast Guard is operating in order to permit activities directed at sunken military craft that are otherwise prohibited.

Sunken military craft are not only of historical importance to the Nation, having served in all of its most critical moments, but are also often war graves and memorials to the men and women who served aboard them. Many carry unexploded ordnance that can pose public safety hazards or oil and other materials that, if not properly handled, may cause substantial harm to the environment. Furthermore, many hold state secrets and technologies of significance to national security. Therefore, it is important for these sites to be respected and remain undisturbed and for the U.S. to promote the international law rules that sunken military craft are entitled to sovereign immunity and preservation of title. When otherwise prohibited activities are permitted, they must be conducted in a professional manner and with archaeological, historical or educational purposes in mind. Accordingly, the SMCA declares that the ''law of finds'' does not apply to any U.S. sunken military craft or any foreign sunken military craft in U.S. waters. No salvage rights or awards are to be granted with respect to U.S. sunken military craft without the express permission of the U.S., or with respect to foreign sunken military craft located in U.S. waters without the express permission of the relevant foreign state.

This proposed rule is promulgated based on the authority granted to the Secretary of the Navy by the SMCA to establish a permitting program allowing controlled public access to sunken military craft that is otherwise prohibited. As stewards of the DoN's historic ship and aircraft wrecks, the Naval History & Heritage Command (NHHC) continues its role as the authority responsible for administering this revised permitting program. As a result of the need to incorporate the existing regulations and provisions set forth in the SMCA, the proposed rule adopts the definition of sunken military craft present in the Act and develops a counterpart—terrestrial military craft—to refer to DoN wrecked craft located on land that are either historic structures or archaeological sites.

NHHC will serve as the permitting authority for the disturbance of non-historic DoN sunken and terrestrial military craft and consider such applications in the cases where there is a clear demonstrable benefit to the DoN under the special use permit provisions. Special use permits will only be issued in cases when internal DoN coordination does not result in any objection. Finally, the NHHC will also serve as the permitting authority for those foreign sunken military craft located in U.S. waters that through and under the terms of an agreement with the respective foreign state are included within NHHC's management purview. Non-intrusive activities including diving adjacent to or remotely documenting sites do not require a permit or authorization from the NHHC though this does not preclude the obligation to obtain permits or other authorizations otherwise required by law. The regulations stipulate an application process for disturbance of historic sunken military craft and terrestrial military craft. Applicants must meet certain requirements and qualifications which are set forth in the proposed rules in order to demonstrate careful planning, professional credentials, and a long-term view of the effects of the proposed activities on the craft and any recovered material.

The proposed rule also incorporates provisions for a special use permit to be issued in the case of certain activities directed at sunken military craft that would result in the wrecksite's disturbance, removal, or injury but otherwise be minimally intrusive. The standards that must be met for special use permits are more easily attainable as are the reporting requirements, though data collected must be shared with NHHC.

As more than half of the DoN's sunken military craft rest beyond U.S. waters, the U.S. government has an interest in reaching agreements with foreign nations, and in particular the major maritime powers, seeking assurances that our sunken military craft will be respected and protected and offering foreign nations reciprocal treatment. In order to encourage universal respect and such mutually-beneficial treatment of sunken military craft, the Secretary of the Navy, in consultation with the Secretary of State, may consider requests by foreign states to incorporate their military craft located in U.S. waters within the DoN permitting program. The foreign state must assert its sovereign immunity over its craft, request assistance by the U.S. government, and acknowledge the provisions that will apply to their sunken military craft if incorporated into the DoN permitting program. Following such a request and appropriate consultation, an understanding to this effect may be reached with that foreign state.

The final major provision of the proposed rule affects violations of the SMCA or of the permitting program and outlines penalties and enforcement procedures. Violators may be punished by a fine not to exceed $100,000 per violation, with each day of a violation counting as a separate incident, may be liable for damages, and may suffer loss of their vessel and other equipment associated with the violation.

The proposed revision to the rule codifies existing legislation and stated public policy and does not carry a significant burden of cost to the public. With stricter enforcement provisions acting as a deterrent and a management policy based on the principle of in situ preservation, the proposed rule makes the protection of war-related and other maritime graves, the preservation of historical resources, the proper handling of safety and environmental hazards, and the safeguarding national security interests more effective, efficient, and affordable. At the same time, the proposed rule enables the public to have controlled intrusive access to sites otherwise prohibited from disturbance, bringing to light new knowledge about the Nation's maritime heritage, and honoring the service of those Sailors lost at sea.

The revisions to this rule are part of DoD's retrospective plan under EO 13563 completed in August 2011. DoD's full plan can be accessed at *http://exchange.regulations.gov/exchange/topic/eo-13563.*

Background

The DoN is revising 32 CFR part 767 pursuant to the SMCA in order to implement a permitting system regulating research activities directed at DoN sunken military craft that otherwise are prohibited by the SMCA. The proposed rule also revises existing regulations by incorporating those permitting provisions stemming from 5 U.S.C. Chapter 301, 16 U.S.C. Chapter 470, and the SMCA into a single comprehensive set of rules for research activities directed at sunken military craft and terrestrial military craft under the jurisdiction of the DoN, regardless of location or passage of time. Sunken military craft and terrestrial military craft are non-renewable cultural resources that often serve as war-related and other maritime graves, safeguard state secrets, carry environmental and safety hazards such as oil and ordnance, and hold significant historical and archaeological value. Access to these sites requires DoN oversight to ensure site preservation, the sanctity of war and other maritime graves, public safety, and sound environmental stewardship. In addition, DoN oversight ensures that research carrying the potential to disturb such sites is conducted to professional standards under existing laws and guidelines such as those of the Federal Archaeology Program and the NHPA. The proposed rule allows for the

incorporation of foreign sunken military craft in this permitting system upon request and agreement with the foreign state. Furthermore, it identifies penalties and enforcement procedures to be followed in the event of violations to the proposed rule affecting sunken military craft. The proposed rule will replace the existing section to reflect current agency regulations. Interested persons are invited to comment in writing on this amendment. All written comments received will be considered in making the proposed amendments to this part. It has been determined that this proposed rule amendment is not a major rule within the criteria specified in Executive Order 12866, as amended by Executive Order 13258, and does not have substantial impact on the public.

Matters of Regulatory Procedure

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

It has been determined that 32 CFR Part 767 is not a significant regulatory action. The rule does not:

(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 the recipients thereof; or

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

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been certified that 32 CFR Part 767 does not contain a Federal Mandate that may result in the expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

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

It has been certified that 32 CFR Part 767 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR Part 767 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Federalism (Executive Order 13132)

It has been certified that 32 CFR Part 767 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 767

Evaluation of permit applications, Historic sunken military craft and terrestrial military craft site permits, Special use permits, Foreign sunken military craft, Civil penalties, Liability for damages, Enforcement actions, Prohibited acts, Permit requirements.

For the reasons set forth in the preamble, the Department of the Navy proposes to revise 32 CFR part 767 to read as follows:

PART 767—GUIDELINES FOR ARCHAEOLOGICAL INVESTIGATION PERMITS AND OTHER RESEARCH ON SUNKEN MILITARY CRAFT AND TERRESTRIAL MILITARY CRAFT UNDER THE JURISDICTION OF THE DEPARTMENT OF THE NAVY

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Sec.

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767.16 Civil penalties for violations of Act or permit conditions.
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767.21 Hearings.
767.22 Final administrative decision.
767.23 Payment of final assessment.
767.24 Compromise of civil penalty, enforcement costs and/or liability for damages.
767.25 Factors considered in assessing penalties.
767.26 Criminal law.
767.27 References.

Authority: 10 U.S.C. 113 note; Pub. L. 108–375, Title XIV, sections 1401 to 1408, Oct. 28, 2004, 118 Stat. 2094; 5 U.S.C. 301; 16 U.S.C. 470.

Subpart A—Regulations and Obligations

§ 767.1 Purpose.

The purpose of this part is:

(a) To assist the Secretary in managing sunken military craft under the jurisdiction of the Department of the Navy (DoN) pursuant to the Sunken Military Craft Act (SMCA), 10 U.S.C. 113 note; Public Law 108–375, Title XIV, sections 1401 to 1408, Oct. 28, 2004, 118 Stat. 2094, and to provide application rules for research permits on applicable military craft under the jurisdiction of the DoN.

(b) To establish the procedural rules for the issuance of permits authorizing persons to engage in activities directed at sunken military craft and terrestrial military craft under the jurisdiction of the DoN for archaeological, historical, or educational purposes, when the proposed activities may disturb, remove, or injure the sunken military craft or terrestrial military craft.

(c) To ensure DoN consistency with other applicable Federal laws. The Secretary is responsible for managing DoN historic military craft, including those that also qualify as sunken military craft, under the guidelines of the Federal Archeology Program. In order for the Secretary's management policy to be consistent to the extent practicable with the Federal Archeology Program, the NHPA (16 U.S.C. 470), Protection of Archaeological Resources: Uniform Regulations (32 CFR part 229), and Curation of Federally-Owned and Administered Archaeological Collections (36 CFR part 79), the DoN has implemented a permitting process applicable to DoN historic military craft consistent with and applying the

Archaeological Resources Protection Act (ARPA) of 1979 as amended, 16 U.S.C. 470aa–mm, permitting criteria. The DoN's application of ARPA's permitting criteria promotes consistency among federal agencies. The regulations provide qualified individuals and entities with access to DoN historic military craft for purposes consistent with ARPA and the SMCA.

(c) To set forth the procedures governing administrative proceedings for assessment of civil penalties or liability damages in the case of a sunken military craft permit violation or violation of section 1402 of the SMCA.

§ 767.2 [Reserved]

§ 767.3 Definitions.

Agency means the Department of the Navy.

Archaeological site means the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains. A historic sunken military craft or a terrestrial military craft is considered an archaeological site when it lacks the structural integrity of an intact craft and when its wrecksite retains archaeological or historical value.

Artifact means any portion of a sunken military craft or terrestrial military craft that by itself or through its relationship to another object or assemblage of objects, regardless of age, whether in situ or not, may carry archaeological or historical data that yields or is likely to yield information that contributes to the understanding of culture or human history.

Associated Contents means:

(1) The equipment, cargo, and contents of a sunken military craft or terrestrial military craft that are within its debris field; and

(2) The remains and personal effects of the crew and passengers of a sunken military craft or terrestrial military craft that are within its debris field.

Disturb or *Disturbance* means directly or indirectly affecting the physical condition of any portion of a sunken military craft or terrestrial military craft, altering the position or arrangement of any portion of a sunken military craft or terrestrial military craft, or influencing the wrecksite or its immediate environment in such a way that any portion of a craft's physical condition is affected or its position or arrangement is altered.

Debris field means an area, whether contiguous or non-contiguous, that consists of portions of one or more sunken military craft or terrestrial military craft distributed due to, or as a consequence of, a wrecking event and post-depositional site formation processes. An artifact field forms part of a debris field.

Historic in the case of a sunken military craft or a terrestrial military craft means fifty (50) years have elapsed since the date of its loss and/or the craft is listed on, eligible for, or potentially eligible for listing on the National Register of Historic Places.

Historic structure means a structure made up of interdependent and interrelated parts in a definite pattern or organization that has been deemed historic. Constructed by man, it is often an engineering project large in scale. If a historic structure has lost its historic configuration or pattern of organization through deterioration or demolition, it is considered an archaeological site. A historic sunken military craft or terrestrial military craft is a historic structure when it is relatively intact and when it and its location retain historical, architectural, or associative value.

Injure or *injury* means to inflict material damage on or impair the soundness of any portion of a sunken military craft or terrestrial military craft.

Permit holder means any person authorized and given the right by the Naval History and Heritage Command (NHHC) to conduct activities authorized under these regulations.

Permitted activity means any activity that is authorized by the NHHC under the regulations in this part.

Person means an individual, corporation, partnership, trust, institution, association; or any other private entity, or any officer, employee, agent, instrumentality, or political subdivision of the United States.

Possession or *in possession of* means having physical custody or control over any portion of a sunken military craft or terrestrial military craft.

Remove or *removal* means to move or relocate any portion of a sunken military craft or terrestrial military craft by lifting, pulling, pushing, detaching, extracting, or taking away or off.

Respondent means a vessel or person subject to a civil penalty, enforcement costs and/or liability for damages based on an alleged violation of this part or a permit issued under this part.

Secretary means the Secretary of the Navy or his or her designee. The Director of the NHHC is the Secretary's designee for DoN ship and aircraft wreck historical and archaeological policy; the permitting of activities that disturb foreign sunken military craft in U.S. waters and DoN sunken military craft; the initiation of enforcement actions; and, assessment of civil penalties or liability for damages. The Secretary's designee for appeals of Notices of Violations is the Defense Office of Hearings and Appeals (DOHA).

Secretary concerned means:

(1) The Secretary of a military department;

(2) In the case of a sunken Coast Guard military craft, the Secretary of the Department in which the Coast Guard is operating.

Sunken Military Craft means all or any portion of—

(1) Any sunken warship, naval auxiliary, or other vessel that was owned or operated by a government on military noncommercial service when it sank;

(2) Any sunken military aircraft or military spacecraft that was owned or operated by a government when it sank;

(3) The associated contents of a craft referred to in paragraph (1) or (2) of this definition;

(4) Any craft referred to in paragraph (1) or (2) of this definition which may now be on land or in water, if title thereto has not been abandoned or transferred by the government concerned.

Sunken Military Craft Act refers to the provisions of 10 U.S.C. 113 note; Pub.L. 108–375, Title XIV, sections 1401 to 1408, Oct. 28, 2004, 118 Stat. 2094.

Terrestrial military craft means the physical remains of all or any portion of a historic ship, aircraft, spacecraft, or other craft, intact or otherwise, manned or unmanned, along with all associated contents, located on land and under the jurisdiction of the DoN. Terrestrial military craft sites are classified as either historic structures or archaeological sites and are distinguished from sunken military craft by never having sunk in a body of water.

United States Contiguous Zone means the contiguous zone of the United States declared by Presidential Proclamation 7219, dated September 2, 1999. Accordingly, the contiguous zone of the United States extends to 24 nautical miles from the baselines of the United States determined in accordance with international law, but in no case within the territorial sea of another nation.

United States Internal Waters means all waters of the United States on the landward side of the baseline from which the breadth of the United States territorial sea is measured.

United States sunken military craft means all or any portion of a sunken military craft owned or operated by the United States.

United States Territorial Sea means the waters of the United States territorial sea claimed by and described in Presidential Proclamation 5928,

dated December 27, 1988. Accordingly, the territorial sea of the United States extends to 12 nautical miles from the baselines of the United States determined in accordance with international law.

United States Waters means United States internal waters, the United States territorial sea, and the United States contiguous zone.

Wrecksite means the location of a sunken military craft or terrestrial military craft. The craft may be intact, scattered or completely deteriorated, may presently be on land or in water, and may be a historic structure or an archaeological site. The wrecksite includes any physical remains of the craft and all associated contents.

§ 767.4 Prohibited acts.

(a) *Unauthorized activities directed at sunken military craft or terrestrial military craft.* No person shall engage in or attempt to engage in any activity directed at a sunken military craft or terrestrial military craft that disturbs, removes, or injures any sunken military craft or terrestrial military craft, except—

(1) As authorized by a permit issued pursuant to these regulations;

(2) As otherwise authorized by these regulations; or

(3) As otherwise authorized by law.

(b) *Possession of sunken military craft or terrestrial military craft.* No person may possess, disturb, remove, or injure any sunken military craft or terrestrial military craft in violation, where applicable, of—

(1) Section 1402 of the SMCA; or

(2) Any regulation set forth in this part or any permit issued under it; or

(3) Any prohibition, rule, regulation, ordinance, or permit that applies under any other applicable law.

(c) *Limitations on Application.* Prohibitions in section 1402 of the SMCA shall not apply to—

(1) Actions taken by, or at the direction of, the United States.

(2) Any action by a person who is not a citizen, national, or resident alien of the United States, except in accordance with—

(i) Generally recognized principles of international law;

(ii) An agreement between the United States and the foreign country of which the person is a citizen;

(iii) In the case of an individual who is a crew member or other individual on a foreign vessel or foreign aircraft, an agreement between the United States and the flag State of the foreign vessel or aircraft that applies to the individual.

§ 767.5 Policy.

(a) As stewards of the DoN's historic sunken military craft and wrecksites, the NHHC is responsible for managing these irreplaceable resources for the continued education and appreciation of present and future generations. To ensure consistent and effective stewardship, the NHHC has developed a comprehensive program that encompasses the following categories: preservation planning; wrecksite management; curation; and public information, interpretation, and education. The NHHC strongly encourages cooperation with other Department of Defense commands, Federal and State agencies, educational institutions, and individuals interested in preserving DoN's maritime and aviation heritage.

(b) Historic sunken military craft and terrestrial military craft will generally be managed in place unless wrecksite disturbance, recovery, or injury is justified and necessary to protect the craft or the environment, to conduct research, or provide for public education. While the NHHC prefers non-destructive, in situ research on sunken military craft and terrestrial military craft, it recognizes that wrecksite disturbance, removal, or injury may become necessary or appropriate. At such times, wrecksite disturbance, removal, or injury may be permitted by the NHHC with respect to DoN sunken military craft for archaeological, historical, or educational purposes, subject to conditions set forth in accordance with these regulations. Historic shipwrecks under the jurisdiction of the DoN that do not qualify as sunken military craft are to be provided the same consideration and treatment as terrestrial military craft.

(c) In addition to managing historic sunken military craft and terrestrial military craft, the NHHC will serve as the permitting authority for the disturbance of non-historic DoN sunken military craft. Permit applications will only be issued in instances where there is a clear demonstrable benefit to the DoN, and only special use permits can be issued in the case of non-historic sunken military craft. In such instances, prior to issuing a special use permit, the NHHC will consult with appropriate DoN offices within affected commands or offices, including, but not limited to, the Naval Sea Systems Command, Naval Air Systems Command, Space and Naval Warfare Systems Command, Naval Supply Systems Command, Naval Facilities Engineering Command, Navy Personnel Command, Supervisor of Salvage and Diving, Office of the Judge Advocate General of the Navy, the Office of the Chief of Naval Operations, or any other interested office.

(d) The NHHC will serve as the permitting authority for disturbance of those foreign state sunken military craft located in U.S. waters addressed in § 767.15 of this part. The NHHC, in consultation with the Department of State as appropriate, will make a reasonable effort to inform the applicable agency of a foreign state of the discovery or significant changes to the condition of its sunken military craft upon becoming aware of such information.

(e) The DoN recognizes that, in accordance with section 1402(a)(3) of the Act, certain federal agencies have statutory authority to permit specific activities directed at DoN sunken military craft. The NHHC will coordinate, consult, and enter into interagency agreements with those federal agencies to ensure effective management of DoN sunken military craft and compliance with applicable law.

(f) Notwithstanding any other section of this part, no act by the owner of a vessel, or authorized agent of the owner of a vessel, under a time charter, voyage charter, or demise charter to the DoN and operated on military service at the time of its sinking, provided that the sunken military craft is not considered historic as determined by the NHHC, shall be prohibited by, nor require a permit under, the SMCA or these regulations. This paragraph (f) shall not be construed to otherwise affect any right or remedy of the United States existing at law, in equity, or otherwise, in regard to any such sunken military craft, in regard to cargo owned by the United States on board or associated with any such craft, or in regard to other property or contents owned by the United States on board or associated with any such sunken military craft.

(g) The NHHC reserves the right to deny an applicant a permit if the proposed activity does not meet the permit application requirements; is inconsistent with DoN policy or interests; does not serve the best interests of the sunken military craft or terrestrial military craft in question; in the case of foreign sunken military craft, is inconsistent with the desires of a foreign sovereign; is inconsistent with an existing resource management plan; is directed towards a sunken military craft or terrestrial military craft upon which other activities are being considered or have been authorized; will be undertaken in such a manner as will not permit the applicant to meet final report requirements; raises ethical

conduct concerns or concerns over commercial exploitation; raises concerns over national security, foreign policy, environmental or ordnance issues; or out of respect for any human remains that may be associated with a wrecksite. The NHHC also reserves the right to deny an applicant a permit if the applicant has not fulfilled requirements associated with preceding permits issued by NHHC to the applicant.

Subpart B—Permit Requirements

§ 767.6 Historic sunken military craft and terrestrial military craft permit application.

(a) Any person seeking to engage in an activity otherwise prohibited by section 1402 of the SMCA with respect to a historic sunken military craft or any activity that might affect a terrestrial military craft under the jurisdiction of the DoN shall apply for a permit for the proposed activity and shall not begin the proposed activity until a permit has been issued. The Secretary or his designee may issue a permit to any qualified person, in accordance with these regulations, subject to appropriate terms and conditions.

(b) To request a permit application form, please write to: Department of the Navy, U.S. Naval History and Heritage Command, Underwater Archaeology Branch, 805 Kidder Breese St. SE., Washington Navy Yard, Washington, DC 20374–5060. Application forms and guidelines can also be found on the NHHC's Web site at: *www.history.navy.mil*.

(c) Applicants must submit two printed copies of their completed application, as well as a digital version, at least 120 days in advance of the requested effective date to allow sufficient time for evaluation and processing. Completed applications should be sent to the Department of the Navy, U.S. Naval History and Heritage Command, Underwater Archaeology Branch, 805 Kidder Breese St. SE., Washington Navy Yard, Washington, DC 20374–5060.

(d) Each permit application shall include:

(1) A statement of research objectives, scientific methods, and significance of the proposed work to the U.S. Navy or the nation's maritime cultural heritage. This should include discussion articulating clearly the archaeological, historical, or educational purposes of the proposed activity;

(2) A summary of significant previous work in the area of interest;

(3) A discussion of how the proposed activity could disturb, remove, or injure the sunken military craft or the terrestrial military craft and the related physical environment;

(4) A discussion of the methodology planned to accomplish the project's objectives. This should include a map showing the study location(s) and a description of the wrecksite(s) of particular interest;

(5) An analysis of the extent and nature of potential environmental impacts from permitted activities and any associated permits or authorizations required by foreign, federal, state, or local law;

(6) A detailed plan for wrecksite restoration and remediation with recommendations on wrecksite preservation and protection of the wrecksite location;

(7) In addition to identification and qualifications of the Principal Investigator (PI), required by Sec. 767.8 of this part, identification of all other members of the research team and their qualifications. Changes to the primary research team subsequent to the issuance of a permit must be authorized via a permit amendment request as per § 767.10(a) of this part;

(8) A proposed budget, identification of funding source, and sufficient data to substantiate, to the satisfaction of the NHHC, the applicant's financial capability to complete the proposed research and, if applicable, any conservation and curation costs associated with or resulting from that activity;

(9) A proposed plan for the public interpretation and professional dissemination of the proposed activity's results;

(10) Where the application is for the excavation and/or removal of artifacts from a sunken military craft or terrestrial military craft, or for the excavation and/or removal of a sunken military craft or terrestrial military craft in its entirety:

(i) A conservation plan, estimated cost, and the name of the university, museum, laboratory, or other scientific or educational institution in which the material will be conserved, including written certification, signed by an authorized official of the institution, of willingness to assume conservation responsibilities must be included.

(ii) A plan for applicable post-fieldwork artifact analysis, including an associated timetable.

(iii) The name of the facility in which the recovered materials and copies of associated records derived from the work will be preserved. This will include written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibilities for the collection. The named repository must, at a minimum, meet the standards set forth in 36 CFR part 79, Curation of Federally-Owned and Administered Archaeological Collections as per § 767.9(h) of this part.

(iv) Acknowledgement that the applicant is responsible for all conservation-related and long-term curation costs.

(11) A proposed project timetable to incorporate all phases of the project through to the final report and/or any other project-related activities.

(e) If the applicant believes that compliance with one or more of the factors, criteria, or procedures in the regulations contained in this part are not practicable, the applicant should set forth why and explain how the purposes of the SMCA (if applicable), these regulations, and the policies of the DoN are better served without compliance with the specified requirements. If the NHHC determines there is merit in the request and that full compliance is not required to meet these priorities, the NHHC will provide a written waiver to the applicant stipulating which factors, criteria, or procedures may be foregone or amended. However, NHHC will not waive statutory procedures or requirements.

(f) Persons carrying out official NHHC duties under the direction of the NHHC Director, or his/her designee, or conducting activities at the direction of or in coordination with the NHHC as recognized through express written permission by the NHHC Director, or his/her designee, need not follow the permit application procedures set forth in this section and §§ 767.7 and 767.9 to 767.12 of this part if those duties or activities are associated with the management of archaeological resources. Where appropriate, such persons will coordinate with Federal Land Managers, the Bureau of Ocean Energy Management, and/or State Historic Preservation Offices prior to engaging in the aforementioned activities. The NHHC Director, or his/her designee, shall ensure that the provisions of §§ 767.6(d), 767.8, and 767.11 of this part have been met by other documented means consistent with the Federal Archeology Program and, that such documents and all resulting data will be archived within the NHHC.

§ 767.7 Evaluation of permit application.

(a) Permit applications are reviewed for completeness, compliance with program policies, and adherence to the regulations of this subpart. Incomplete applications will be returned to the applicant for clarification. Complete applications are reviewed by NHHC

personnel who, when appropriate, may seek outside guidance or peer reviews. In addition to the criteria set forth in §§ 767.6(d) and 767.8 of this part, applications are also judged on the basis of: project objectives being consistent with DoN policy and the near- and long-term interests of the DoN; relevance or importance of the proposed project; archaeological, historical, or educational purposes achieved; appropriateness and environmental consequences of technical approach; conservation and long-term management plan; qualifications of the applicants relative to the type and scope of the work proposed; and funding to carry out proposed activities. The NHHC will also take into consideration the historic, cultural, or other concerns of a foreign state when considering an application to disturb a foreign sunken military craft of that state located within U.S. waters, subsequent to an agreement with the foreign state as per § 767.15 of this part. The same consideration may be applied to U.S. sunken military craft that are not under the jurisdiction of the DoN, following an agreement with the Secretary of any military department, or in the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating, as set forth in § 767.15(e) of this part.

(b) The NHHC will consult with the appropriate federal resource manager when it receives applications for research at wrecksites located in areas that include units of the National Park System, National Wildlife Refuge System, National Marine Sanctuary System, Marine National Monuments, within lease blocks managed by the Bureau of Ocean Energy Management, or within areas of responsibility of other Federal Land Managers.

(c) The NHHC will consult with the appropriate State Historic Preservation Office (SHPO) or Tribal Historic Preservation Office (THPO) when it receives applications for research at wrecksites located on state lands, including lands beneath navigable waters as defined in the Submerged Lands Act, 43 U.S.C. 1301–1315, or tribal lands.

(d) The applicant is responsible for obtaining any and all additional permits or authorizations, such as but not limited to those issued by another federal or state agency, or foreign government. In the case of U.S. sunken military craft or terrestrial military craft located within foreign jurisdictions, the NHHC may review and issue a conditional permit authorizing activities upon receipt of the appropriate permits and authorizations of the applicable foreign government by the applicant. The applicant must file a copy of the foreign government authorization with the NHHC when submitting the preliminary report stipulated in § 767.9(d) of this part and final report stipulated in § 767.9(f) of this part. Failure to do so will be considered a permit violation.

(e) Based on the findings of the NHHC evaluation, NHHC personnel will recommend an appropriate action to the NHHC Deputy Director. If approved, the NHHC Deputy Director, or his or her designee, will issue the permit; if denied, applicants are notified of the reason for denial and may request reconsideration within 30 days of receipt of the denial. Requests for reconsideration must be submitted in writing to: Director of Naval History, Naval History and Heritage Command, 805 Kidder Breese St. SE., Washington Navy Yard, Washington DC 20374–5060.

§ 767.8 Credentials of principal investigator.

The principal investigator shall be suitably qualified as evidenced by training, education, and/or experience, and possess demonstrable competence in archaeological theory and method, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed. A resume or curriculum vitae detailing the professional qualifications of the principal investigator must be submitted with the permit application. Additionally, the principal investigator will be required to attest that all persons on the project team shall be qualified and have demonstrated competence appropriate to their roles in the proposed activity. The principal investigator must, at a minimum, meet the following requirements:

(a) The minimum professional qualification standards for Archeology as determined by the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (*http://www.cr.nps.gov/local-law/arch_stnds_0.htm*).

(b) At least one year of full-time professional supervisory experience in the archaeological study of historic maritime resources or historic aviation resources. This experience requirement may concurrently account for certain stipulations of § 767.8(a);

(c) The demonstrated ability to plan, equip, fund, staff, organize, and supervise the type and scope of activity proposed;

(d) If applicable, the demonstrated ability to submit post-operational archaeological or other technical reports in a timely manner.

§ 767.9 Conditions of permits.

(a) Permits are valid for one year from the date of issue.

(b) Upon receipt of a permit, permit holders shall counter-sign the permit and return copies to the NHHC and the applicable SHPO, THPO, or foreign government official prior to conducting permitted activities on the wrecksite. When the sunken military craft or terrestrial military craft is located within federal areas such as a unit of the National Park System, the National Wildlife Refuge System, the National Marine Sanctuary System, or Marine National Monuments, the permit holder shall provide copies of countersigned permits to the applicable federal resource manager. Upon NHHC confirming receipt of the counter-signed permit, the permitted activities may commence, provided that any other regulatory and permitting requirements that may be applicable are met.

(c) Permits shall be carried on-site and made available upon request for inspection to regional preservation personnel or federal or state law enforcement officials. Permits are non-transferable. Permit holders are expected to remain on-site for the duration of operations prescribed in the permit. In the event a permit holder is unable to directly oversee operations, the permit holder must nominate a suitable qualified representative who may only serve in that function upon written approval by NHHC.

(d) Permit holders must abide by all provisions set forth in the permit as well as applicable state or federal regulations. Permit holders must abide by applicable regulations of a foreign government for activities directed at a sunken military craft when the sunken military craft is located in the internal waters, territorial sea, or contiguous zone of a foreign State, as defined by customary international law as reflected in the United Nations Convention on the Law of the Sea. If the sunken military craft is located on the continental shelf of a foreign nation, there may also be laws or regulations pertaining to the foreign nation's sovereign rights and jurisdiction relating to its continental shelf or EEZ that may apply to the proposed activities. To the extent possible, if the physical environment is impacted by the permitted activity, it must be returned to the condition that existed before the activity occurred.

(e) Upon completion of permitted activities and at least 30 days prior to the original permit expiring, the permit

holder shall submit to the NHHC a preliminary report that includes a working and diving log, the latter where appropriate, listing days spent conducting field research, activities pursued, working area locations including precise coordinates, an inventory of artifacts observed or recovered, and preliminary results and conclusions.

(f) In the case of one or more permit extensions received through the process identified in § 767.10(b) of this part, a preliminary report that includes all the information stated in paragraph (d) of this section is to be submitted by the permit holder annually at least 30 days prior to the renewed permit's expiration date.

(g) The permit holder shall prepare and submit a final report as detailed in Sec. 767.11 of this part, summarizing the results of the permitted activity to the NHHC, and the applicable SHPO, THPO, federal or state resource manager, or foreign government official within an appropriate time frame as specified in the permit. Failure to submit a final report within the specified time-frame will be considered a permit violation. If the final report is not due to be submitted within two years of commencement of a permitted activity, interim reports must be filed biannually, with the first interim report submitted within two years of commencement of the activity. The interim report must include information required by § 767.11 of this part to the maximum extent possible, a report on the progress that has been achieved to date, as well as the remaining objectives to be accomplished until submission of the final report.

(h) The permit holder shall agree to protect all sensitive information regarding the location and character of the wrecksite that could potentially expose it to non-professional recovery techniques, looters, or unauthorized salvage. Sensitive information includes specific location data and information about the cargo of a sunken military craft or terrestrial military craft, the existence of armaments and munitions, or the presence of or potential presence of human remains. Sensitive cargo might also include hazardous materials other than munitions.

(i) All recovered DoN sunken military craft, terrestrial military craft, and their associated contents, remain the property of the United States. These resources and copies of associated archaeological records and data must be preserved by a suitable university, museum, or other scientific or educational institution that, at a minimum, meets the standards set forth in 36 CFR part 79, Curation of Federally-Owned and Administered Archaeological Collections, at the expense of the applicant or facility, unless otherwise agreed upon in writing by the NHHC. The curatorial facility must establish a loan of resources agreement with the NHHC and maintain it in good standing. If a loan of resources agreement is not established, or at the discretion of the NHHC, resources are to be managed, conserved and curated directly by the NHHC at the expense of the applicant and at no cost to the government, unless otherwise agreed upon in writing by the NHHC. Copies of associated archaeological and conservation records and data will be made available to the NHHC, and to the applicable SHPO, THPO, the federal or state resource manager, or foreign government official upon request.

(j) The disposition of foreign sunken military craft or associated contents shall be determined on a case-by-case basis in coordination with the foreign state prior to the issuance of a NHHC permit.

(k) In the event that credible evidence for or actual human remains, unexploded ordnance, or environmental pollutants such as oil are discovered during the course of research, the permit holder shall cease all work and immediately notify the NHHC. Permitted work may not resume until authorized by the NHHC.

(l) The permittee shall purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and agrees to hold the United States harmless against such claims.

§ 767.10 Requests for amendments or extensions of active permits.

(a) Requests for amendments to active permits (e.g., a change in study design or research personnel) must conform to the regulations in this part. All information deemed necessary by the NHHC to make an objective evaluation of the amendment must be included as well as reference to the original application. Requests for amendments must be sent to the Deputy Director, Naval History and Heritage Command, 805 Kidder Breese St. SE., Washington Navy Yard, Washington DC 20374–5060. A pending amendment request does not guarantee approval. Proposed activities cannot commence until approval is granted. All requests for permit amendments must be submitted during the period within which an existing permit is active and at least 30 days prior to the desired effect date of the amendment. Time-sensitive amendments must be submitted in writing to the contact information included in the permit and will be considered and expedited on a case-by-case basis.

(b) Permit holders desiring to continue research activities beyond the original permit expiration date must apply for an extension of a valid permit prior to its expiration. A pending extension request does not guarantee an extension of the original permit. All requests for a permit extension must be sent to the Deputy Director, Naval History and Heritage Command, 805 Kidder Breese St. SE., Washington Navy Yard, Washington DC 20374–5060, at least 30 days prior to the original permit's expiration date. Reference to the original application may be given in lieu of a new application, provided the scope of work does not change significantly. Applicants may apply for one-year extensions subject to annual review.

(c) Permit holders may appeal denied requests for amendments or extensions to the appeal authority listed in § 767.7(e) of this part.

§ 767.11 Content of permit holder's final report.

The permit holder's final report shall at minimum include the following:

(a) A wrecksite history and a contextual history relating the wrecksite to the general history of the region;

(b) A master wrecksite map;

(c) Feature map(s) of any recovered artifacts showing their position within the wrecksite;

(d) Where environmental conditions allow, photographs of significant wrecksite features and significant artifacts both in situ and after removal;

(e) If applicable, a section that includes an inventory of recovered artifacts, description of the conserved artifacts, laboratory conservation records, documentation of analyses undertaken, photographs of the artifacts before and after conservation treatment, and recommended curation conditions;

(f) A written report describing the wrecksite's discovery, environment, past and current archaeological fieldwork, results, and analysis;

(g) A summary of the survey and/or excavation process including methods and techniques employed, an account of operational phases, copies of applicable logs, as well as thorough analysis of the recovered data.

(h) An evaluation of the completed permitted activity that includes an assessment of the success of the goals specified in the permit application;

(i) Recommendations for future activities, if applicable.

(j) An account of how the public interpretation or dissemination plan

described in the permit application has been or is being carried out. Additionally, identification of any sensitive information that should be protected and withheld from public disclosure as detailed in § 767.9(g) of this part; and

(k) If a wrecksite is deemed by the NHHC to be eligible or potentially eligible for the National Register of Historic Places then a completed draft National Register of Historic Places nomination form must be attached as an appendix to the final report. The eligibility determination will be made by the NHHC upon review of the preliminary report that is to be submitted by the permit holder.

§ 767.12 Special use permit application.

(a) Any person proposing to engage in an activity to document a sunken military craft utilizing remotely-operated or autonomously-operated equipment or collect data or samples from a wrecksite that would result in the wrecksite's disturbance but otherwise be minimally intrusive may apply for a special use permit. Any person proposing to engage in an activity that would disturb, remove, or injure a non-historic sunken military craft may apply for a special use permit.

(b) To request a special use permit application form, please refer to § 767.6(b) and (c) of this part. Special use permit applications must be sent to the Deputy Director, Naval History and Heritage Command, 805 Kidder Breese St. SE., Washington Navy Yard, Washington DC 20374–5060.

(c) Each special use permit application shall include:

(1) A statement of the project's objectives and an explanation on how they would serve the NHHC's objectives stated in § 767.5 of this part;

(2) A discussion of the methodology planned to accomplish the project's objectives. This should include a map showing the study location(s) and a description of the wrecksite(s) of particular interest;

(3) An analysis of the extent and nature of potential direct or indirect environmental impacts on the resources from permitted activities;

(4) Where appropriate, a plan for wrecksite restoration and remediation with recommendations on wrecksite preservation and protection of the wrecksite location;

(5) Any permits or authorizations required by foreign, federal, state, tribal, or local law.

(d) The NHHC Deputy Director, or his or her designee, may authorize a special use permit under the following conditions:

(1) The proposed activity is compatible with NHHC policies and in the case of non-historic sunken military craft is not opposed by consulted DoN parties;

(2) The activities carried out under the permit are conducted in a manner that is minimally intrusive and does not purposefully or significantly disturb, destroy or injure the sunken military craft or wrecksite;

(3) When applicable, the pilot(s) of remotely-operated equipment holds a commercial certificate of operation from a nationally-recognized organization;

(4) The principal investigator must hold a graduate degree in archaeology, anthropology, maritime history, oceanography, marine biology, marine geology, other marine science, closely related field, or possess equivalent training and experience. This requirement may be waived by the NHHC on a case by case basis depending on the activity stipulated in the application.

(e) The permittee shall submit the following information subsequent to the conclusion of the permitted activity within an appropriate time frame as specified in the permit:

(1) A summary of the activities undertaken that includes an assessment of the goals specified in the permit application;

(2) Identification of any sensitive information that should be protected and withheld from public disclosure as detailed in § 767.9(g) of this part;

(3) Complete and unedited copies of any and all documentation and data collected (photographs, video, remote sensing data, etc.) during the permitted activity and results of any subsequent analyses.

(f) The following additional sections of subpart B shall apply to special use permits: §§ 767.7(e); 767.9(a), (b), (c), (e), (f), (g), (I,) (j), and (k); 767.10(a), (b), and (c); 767.13; and 767.14 of this part.

(g) All sections of subpart A shall apply to special use permits and all sections of subpart C shall apply to special use permits pertaining to sunken military craft.

(h) Unless stipulated in the special use permit, the recovery of artifacts associated with any wrecksite is strictly prohibited.

§ 767.13 Monitoring of performance.

Permitted activities will be monitored to ensure compliance with the conditions of the permit. In addition to remotely monitoring operations, NHHC personnel, or other designated authorities, may periodically assess work in progress through on-site monitoring at the location of the permitted activity. The discovery of any potential irregularities in performance under the permit by NHHC on-site personnel, other designated authorities, or the permit holder, must be promptly reported to the NHHC for appropriate action. Adverse action may ensue as per § 767.14 of this part. Findings of unauthorized activities will be taken into consideration when evaluating future permit applications.

§ 767.14 Amendment, suspension, or revocation of permits.

The NHHC Deputy Director, or his/her designee may amend, suspend, or revoke a permit in whole or in part, temporarily or indefinitely, if in his/her view the permit holder has acted in violation of the terms of the permit or of other applicable regulations, or for other good cause shown. Any such action will be communicated in writing to the permit holder or the permit holder's representative and will set forth the reason for the action taken. The permit holder may request the Director of NHHC reconsider the action as per § 767.7(e) of this part.

§ 767.15 Application to foreign sunken military craft and U.S. sunken military craft not under the jurisdiction of the DoN.

(a) Sunken military craft are generally entitled to sovereign immunity regardless of where they are located or when they sank. Foreign governments may request, via the Department of State, that the Secretary of the Navy administer a permitting program for a specific or a group of its sunken military craft in U.S. waters. The request must include the following:

(1) The foreign government must assert its sovereign immunity over a specified sunken military craft or group of sunken military craft;

(2) The foreign government must request assistance from the United States government;

(3) The foreign government must acknowledge that Subparts B and C of this Part will apply to the specified sunken military craft or group of sunken military craft for which the request is submitted.

(b) Upon receipt and favorable review of a request from a foreign government, the Secretary of the Navy, or his or her designee, in consultation with the Department of State, will proceed to accept the specified sunken military craft or group of sunken military craft into the present permitting program. The Secretary of the Navy, or his or her designee, in consultation with the Department of State, reserves the right to decline a request by the foreign government. Should there be a need to

formalize an understanding with the foreign government in response to a submitted request stipulating conditions such as responsibilities, requirements, procedures, and length of effect, the Secretary of State, or his or her designee, in consultation with the Secretary of Defense, or his or her designee, will proceed to formalize an understanding with the foreign government. Any views on such a foreign government request or understanding expressed by applicable federal, tribal, and state agencies will be taken into account.

(c) Persons seeking a permit to disturb foreign sunken military craft located in U.S. waters that have been accepted into the present permitting program or are covered under a formalized undertanding as per Sec. 767.15(b) of this section, may submit a permit application for consideration by the NHHC as per subparts B and C of this part.

(d) In the case where there is reasonable dispute over the sovereign immunity status of a foreign sunken military craft, the Secretary of the Navy maintains the right to postpone action on §§ 767.6 and 767.12 of this part, as well as requests under § 767.15(a) of this part, until the dispute over the sovereign immunity status is resolved.

(e) The Secretary of any military department or in the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating, may request that the Secretary of the Navy administer a permitting program for sunken military craft under his or her cognizance. Upon the agreement of the Secretary of the Navy, subparts B and C of this part shall apply to those agreed upon craft.

Subpart C—Enforcement Provisions for Violations of the Sunken Military Craft Act and Associated Permit Conditions

§ 767.16 Civil penalties for violation of Act or permit conditions.

(a) *In general.* Any person who violates the SMCA, or any regulation or permit issued thereunder, shall be liable to the United States for a civil penalty.

(b) *Assessment and amount.* The Secretary may assess a civil penalty under this section of not more than $100,000 for each violation.

(c) *Continuing violations.* Each day of a continuing violation of the SMCA or these regulations or any permit issued hereunder constitutes a separate violation.

(d) *In rem liability.* A vessel used to violate the SMCA shall be liable in rem for a penalty for such violation.

§ 767.17 Liability for damages.

(a) Any person who engages in an activity in violation of section 1402 or any regulation or permit issued under the Act that disturbs, removes, or injures any U.S. sunken military craft shall pay the United States enforcement costs and damages resulting from such disturbance, removal, or injury.

(b) Damages referred to in paragraph (a) of this section may include:

(1) The reasonable costs incurred in storage, restoration, care, maintenance, conservation, and curation of any sunken military craft that is disturbed, removed, or injured in violation of section 1402 or any regulation or permit issued under the Act; and

(2) The cost of retrieving, from the site where the sunken military craft was disturbed, removed, or injured, any information of an archaeological, historical, or cultural nature.

§ 767.18 Notice of Violation and Assessment (NOVA).

(a) A NOVA will be issued by the Director of NHHC and served in person or by registered, certified, return receipt requested, or express mail, or by commercial express package service, upon the respondent, or in the case of a vessel respondent, the owner of the vessel. A copy of the NOVA will be similarly served upon the permit holder, if the holder is not the respondent. The NOVA will contain:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provision(s) of the SMCA, regulation, or permit violated;

(3) The findings and conclusions upon which the Director of NHHC bases the assessment;

(4) The amount of civil penalty, enforcement costs and/or liability for damages assessed; and

(5) An advisement of the respondent's rights upon receipt of the NOVA, including a citation to the regulations governing the proceedings.

(b) The NOVA may also contain a proposal for compromise or settlement of the case.

(c) Prior to assessing a civil penalty or liability for damages, the Director of NHHC will take into account information available to the Agency concerning any factor to be considered under the SMCA and any other information required by law or in the interests of justice. The respondent will have the opportunity to review information considered and present information, in writing, to the Director of NHHC. At the discretion of the Director of NHHC, a respondent will be allowed to present information in person.

§ 767.19 Procedures regarding service.

(a) Whenever this Part requires service of a document, such service may effectively be made on the respondent, the respondent's agent for service of process or on a representative designated by that agent for receipt of service. Refusal by the respondent, the respondent's agent, or other designated representative to be served, or refusal by his or her designated representative of service of a document will be considered effective service of the document as of the date of such refusal. Service will be considered effective on the date the document is mailed to an addressee's last known address.

(b) Any document served upon a respondent must be signed by:

(1) The person or persons serving the same; or

(2) Other person having authority to sign.

(c) A document will be considered served and/or filed as of the date of the postmark; or (if not mailed) as of the date actually delivered in person; or as shown by electronic mail transmission.

(d) Time periods begin to run on the day following service of the document or date of the event. Saturdays, Sundays, and Federal holidays will be included in computing such time, except that when such time expires on a Saturday, Sunday, or Federal holiday, such period will be extended to include the next business day. This method of computing time periods also applies to any act, such as paying a civil penalty or liability for damages, required by this part to take place within a specified period of time.

§ 767.20 Requirements of respondent or permit holder upon service of a NOVA.

(a) The respondent or permit holder has 45 days from service receipt of the NOVA in which to reply. During this time the respondent or permit holder may:

(1) Accept the penalty or compromise penalty, if any, by taking the actions specified in the NOVA;

(2) Seek to have the NOVA amended, modified, or rescinded under paragraph (b) of this section;

(3) Request a hearing before a DOHA Administrative Judge under paragraph (f) of this section;

(4) Request an extension of time to respond under paragraph (c) of this section; or

(5) Take no action, in which case the NOVA becomes final in accordance with § 767.22(a) of this part.

(b) The respondent or permit holder may seek amendment, modification, or

rescindment of the NOVA to conform to the facts or law as that person sees them by notifying the Director of NHHC in writing at the address specified in the NOVA. If amendment or modification is sought, the Director of NHHC will either amend the NOVA or decline to amend it, and so notify the respondent, permit holder, or vessel owner, as appropriate.

(c) The respondent or permit holder may, within the 45-day period specified in paragraph (a) of this section, request in writing an extension of time to respond. The Director of NHHC may grant an extension in writing of up to 30 days unless he or she determines that the requester could, exercising reasonable diligence, respond within the 45-day period.

(d) The Director of NHHC may, for good cause, grant an additional extension beyond the 30-day period specified in paragraph (c) of this section.

(e) Any denial, in whole or in part, of any request under this section that is based upon untimeliness will be in writing.

(f) If the respondent or permit holder desires a hearing, the request must be in writing, dated and signed, and must be sent by mail to the Director, Defense Office of Hearings and Appeals, 875 North Randolph St., Suite 8000, Arlington VA, 22203. The Director, Defense Office of Hearings and Appeals may, at his or her discretion, treat any communication from a respondent or a permit holder as a proper request for a hearing. The requester must attach a copy of the NOVA. A single hearing will be held for all parties named in a NOVA and who timely request a hearing.

§ 767.21 Hearings.

(a) Hearings before a DOHA Administrative Judge are *de novo* reviews of the circumstances alleged in the NOVA and penalties assessed. Hearings are governed by procedures established by the Defense Office of Hearings and Appeals. Hearing procedures will be provided in writing to the parties and may be accessed on-line at *http://www.dod.mil/dodgc/doha/.* Hearings shall be held at the Defense Office of Hearings and Appeals, Arlington VA, either in person or by Video Teleconference. Each party shall bear their own costs.

(b) In any DOHA hearing held in response to a request under § 767.20(f) of this part, the Administrative Judge will render a final written Decision which is binding on all parties.

§ 767.22 Final administrative decision.

If no request for a hearing is timely filed as provided in § 767.20(f) of this part, the NOVA becomes effective as the final administrative decision and order of the Agency on the 45th day after service of the NOVA or on the last day of any delay period granted.

§ 767.23 Payment of final assessment.

(a) Respondent must make full payment of the civil penalty, enforcement costs and/or liability for damages assessed within 30 days of the date upon which the assessment becomes effective as the final administrative decision and order of the Agency. Payment must be made by mailing or delivering to the Agency at the address specified in the NOVA a check or money order made payable in U.S. currency in the amount of the assessment to the ''Treasurer of the United States,'' or as otherwise directed.

(b) Upon any failure to pay the civil penalty, enforcement costs and/or liability for damages assessed, the Agency may request the Department of Justice to recover the amount assessed in any appropriate district court of the United States, or may act under any law or statute that permits recovery, arrest, attachment, or garnishment of property and/or funds to satisfy a debt owed to the United States.

§ 767.24 Compromise of civil penalty, enforcement costs and/or liability for damages.

(a) The Director of NHHC, in his/her sole discretion, may compromise, modify, remit, or mitigate, with or without conditions, any civil penalty or liability for damages imposed, or which is subject to imposition, except as provided in this Subpart.

(b) The compromise authority of the Director of NHHC under this section is in addition to any similar authority provided in any applicable statute or regulation, and may be exercised either upon the initiative of the Director of NHHC or in response to a request by the respondent or other interested person. Any such request should be sent to the Director of NHHC at the address specified in the NOVA.

(c) Neither the existence of the compromise authority of the Director of NHHC under this section nor the Director's exercise thereof at any time changes the date upon which an assessment is final or payable.

§ 767.25 Factors considered in assessing penalties.

(a) Factors to be taken into account in assessing a penalty may include the nature, circumstances, extent, and gravity of the alleged violation; the respondent's degree of culpability; any history of prior offenses; ability to pay; and such other matters as justice may require.

(b) The Director of NHHC may, in consideration of a respondent's ability to pay, increase or decrease a penalty from an amount that would otherwise be warranted by other relevant factors. A penalty may be increased if a respondent's ability to pay is such that a higher penalty is necessary to deter future violations, or for commercial violators, to make a penalty more than the profits received from acting in violation of the SMCA, or any regulation or permit issued thereunder. A penalty may be decreased if the respondent establishes that he or she is unable to pay an otherwise appropriate penalty amount.

(c) Except as provided in paragraph (d) of this section, if a respondent asserts that a penalty should be reduced because of an inability to pay, the respondent has the burden of proving such inability by providing verifiable, complete, and accurate financial information to the Director of NHHC. The Director of NHHC will not consider a respondent's inability to pay unless the respondent, upon request, submits such financial information as the Director of NHHC determines is adequate to evaluate the respondent's financial condition. Depending on the circumstances of the case, the Director of NHHC may require the respondent to complete a financial information request form, answer written interrogatories, or submit independent verification of his or her financial information. If the respondent does not submit the requested financial information, he or she will be presumed to have the ability to pay the penalty.

(1) Financial information relevant to a respondent's ability to pay includes, but is not limited to, the value of respondent's cash and liquid assets and non-liquid assets, ability to borrow, net worth, liabilities, income, prior and anticipated profits, expected cash flow, and the respondent's ability to pay in installments over time. A respondent will be considered able to pay a penalty even if he or she must take such actions as pay in installments over time, borrow money, liquidate assets, or reorganize his or her business. The Director of NHHC's consideration of a respondent's ability to pay does not preclude an assessment of a penalty in an amount that would cause or contribute to the bankruptcy or other discontinuation of the respondent's business.

(2) Financial information regarding respondent's ability to pay should be

submitted to the Director of NHHC as soon after receipt of the NOVA as possible. In deciding whether to submit such information, the respondent should keep in mind that the Director of NHHC may assess de novo a civil penalty, enforcement costs and/or liability for damages either greater or smaller than that assessed in the NOVA.

§ 767.26 Criminal law.

Nothing in these regulations is intended to prevent the United States from pursuing criminal sanctions for plundering of wrecks, larceny of Government property, or violation of applicable criminal law, whether the infringement pertains to a sunken military craft, a terrestrial military craft or other craft under the jurisdiction of the DoN.

§ 767.27 References.

References for submission of permit application, including but not limited to, and as may be further amended:

(a) NHPA of 1966, as amended, 16 U.S.C. 470 et seq. (1999), and Protection of Historic Properties, 36 CFR part 800. These regulations govern the section 106 review process established by the NHPA.

(b) National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq., and Protection of the Environment, 40 CFR 1500–1508. These regulations require agencies to consider the effects of their actions on the human environment.

(c) Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, available at *http://www.cr.nps.gov/local-law/arch_stnds_0.htm.* These guidelines establish standards for the preservation planning process with guidelines on implementation.

(d) ARPA of 1979, as amended, 16 U.S.C. 470aa-mm, and the Uniform Regulations, 43 CFR part 7, subpart A. These regulations establish basic government-wide standards for the issuance of permits for archaeological research, including the authorized excavation and/or removal of archaeological resources on public lands or Indian lands.

(e) Secretary of the Interior's regulations, Curation of Federally-Owned and Administered Archaeological Collections, 36 CFR part 79. These regulations establish standards for the curation and display of federally-owned artifact collections.

(f) Antiquities Act of 1906, Public Law 59–209, 34 Stat. 225 (codified at 16 U.S.C. 431 et seq. (1999)).

(g) Executive Order 11593, 36 FR 8291, 3 CFR, 1971–1975 Comp., p. 559 (Protection and Enhancement of the Cultural Environment).

(h) Department of Defense Instruction 4140.21M (DoDI 4140.21M, August 1998). Subject: Defense Disposal Manual.

(i) Secretary of the Navy Instruction 4000.35A (SECNAVINST 4000.35A, 9 April 2001). Subject: Department of the Navy Cultural Resources Program.

(j) Naval History and Heritage Command Instruction 5510.4. (NAVHISTCENINST 5510.4, 14 December 1995). Subject: Disclosure of Information from the Naval Shipwreck Database.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2013–31068 Filed 1–3–14; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2006–0593; FRL–9905–06–Region–6]

Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution by Permits for New Construction or Modification; Permits for Specific Designated Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: On November 21, 2013, the Environmental Protection Agency (EPA) published a direct final rule and accompanying proposal approving portions of two revisions to the Texas State Implementation Plan (SIP) concerning the Permits for Specific Designated Facilities Program, also referred to as the FutureGen 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 December 23, 2013, EPA would publish a timely withdrawal in the **Federal Register**. EPA received a letter dated December 19, 2013, from the Texas Commission on Environmental Quality stating that the March 9, 2006 and July 2, 2010 SIP revisions specific to the FutureGen program have been withdrawn from our consideration as revisions to the Texas SIP. Accordingly, EPA is withdrawing our proposed approval of the Texas FutureGen program and in a separate rulemaking in today's **Federal Register** we are also withdrawing the corresponding direct final approval. We find that no further action is necessary on the Texas FutureGen Program March 9, 2006 and July 2, 2010 SIP revisions. The State's action also withdraws from EPA's review the FutureGen Program component of the January 22, 2010 Consent Decree between EPA and the BCCA Appeal Group, Texas Association of Business, and Texas Oil and Gas Association. This withdrawal is being taken under section 110 and parts C and D of the Federal Clean Air Act.

DATES: The proposed rule published on November 21, 2013 (78 FR 69812) is withdrawn as of January 6, 2014.

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: December 20, 2013.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2013–31434 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2013–0132]

Public Meeting of the U.S.-Canada Regulatory Cooperation Council (RCC) Motor Vehicles Working Group

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

ACTION: Announcement of public meeting.

SUMMARY: The U.S.-Canada Regulatory Cooperation Council (RCC) was created on February 4, 2011. After private sector consultations and bilateral negotiations, the RCC released the Joint Action Plan on Regulatory Cooperation on December 7, 2011. The Joint Action Plan is a practical first step to increased regulatory cooperation between the United States and Canada. In order to

implement the initiatives identified in the Joint Action Plan, bilateral working groups led by senior officials from regulatory agencies have developed work plans with concrete objectives, deliverables and milestones for tangible progress within the RCC's two-year mandate. This notice announces a public meeting of the RCC Motor Vehicles Working Group.

DATES: The public meeting will be held on January 14, 2014. The meeting will start at 9:30 a.m. and continue until 4:30 p.m., local time, or until all registered speakers have been heard.

ADDRESSES: The January 14, 2014 public meeting will be held at the Patrick V. McNamara Federal Building, 11th Floor, 477 Michigan Avenue, Detroit, Michigan 48226. The meeting site is accessible to individuals with disabilities.

FOR FURTHER INFORMATION CONTACT: If you would like to attend the public meeting, please contact Lashawn Keeve, NHTSA Office of Rulemaking, by email at *lashawn.keeve@dot.gov*, by telephone at (202) 366–1740, or by fax at (202) 366–5930. Please contact Ms. Keeve at least ten days before the meeting date of January 14, 2014. Please provide the following information: name, affiliation, address, email address, and telephone number. For other questions regarding the RCC Motor Vehicles Working Group, in the United States, you may contact Mr. Ezana Wondimneh, Chief of the NHTSA International Harmonization Division, by email at *ezana.wondimneh@dot.gov*, by telephone at (202) 366–0846, or by fax at (202) 366–5930. In Canada you may contact Mr. Merz Rustom, Director, Motor Vehicle Standards, Research and Development at Transport Canada, by email at *merz.rustom@tc.gc.ca*, by telephone at (613) 998–2268, or by fax at (613) 990–2913.

SUPPLEMENTARY INFORMATION: The U.S.-Canada Regulatory Cooperation Council (RCC) was created on February 4, 2011. After private sector consultations and bilateral negotiations, the RCC released the Joint Action Plan on Regulatory Cooperation on December 7, 2011. For more information on the Joint Action Plan on Regulatory Cooperation, see *http://www.trade.gov/rcc/rcc-summary.asp.* The Joint Action Plan is a practical first step to increased regulatory cooperation between the United States and Canada. In order to implement the initiatives identified in the Joint Action Plan, bilateral working groups led by senior officials from regulatory agencies have developed work plans with concrete objectives, deliverables and milestones for tangible progress within the RCC's two-year mandate.

The January 14, 2014 public meeting is being held pursuant to the RCC Motor Vehicles Working Group Work Plan. For more information on the Work Plans, see *http://www.trade.gov/rcc/documents/Existing-Motor-Vehicle-Safety-Standards.pdf, or http://www.trade.gov/rcc/* for future Work Plans.

Public Meeting Procedures. The public meeting provides a forum for the public to speak about topics within the mandate of the RCC Motor Vehicles Working Group. In order to comply with the occupancy limits of the meeting space, attendance is limited to 100 persons, and preregistration is required. For space reasons, it is asked that you consider limiting your company's or association's delegation to 3–5 persons. If you would like to attend the public meeting as a speaker or as an observer, please contact the person identified under **FOR FURTHER INFORMATION CONTACT** at least ten days before the hearing. Depending on the available space, registration for persons attending the public hearing as observers may be accepted after that date.

For planning purposes, each speaker should anticipate speaking for approximately ten minutes, although we may need to shorten that time if a large number of people wish to make presentations. Once we learn how many people have registered to speak at the meeting, we will allocate an appropriate amount of time to each participant, allowing time for necessary breaks. In addition, we will reserve a block of time for anyone else in the audience who wishes to give an oral presentation.

We request that you bring three copies of your statement or other material to the meeting. To accommodate as many speakers as possible, we prefer that speakers not use any audio-visual aids or computer slideshows; however, if you plan to use such aids, you must provide those materials in advance of the meeting and notify the contact person in the **FOR FURTHER INFORMATION CONTACT** section above.

NHTSA and Transport Canada will conduct the meeting informally. Presenters wishing to provide supplementary information should submit it to the contact person in the **FOR FURTHER INFORMATION CONTACT** section above.

For security purposes, government-issued photo identification is required to enter the Patrick V. McNamara Federal Building. Non-U.S. citizens may be required to show passports. To allow sufficient time to clear security and enter the building, NHTSA recommends that participants arrive 30 to 60 minutes prior to the start of the event, and that luggage, laptop computers, and personal effects be kept to a minimum.

David Hines,

Director, Office of Crash Avoidance Standards.

[FR Doc. 2013–31507 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 79, No. 3

Monday, January 6, 2014

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. FSIS–2012–0026]

Notice of Availability and Opportunity for Comments (Compliance Guideline for Controlling Salmonella in Market Hogs)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of availability and opportunity for comments.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of a compliance guideline for official establishments to control and reduce the spread of *Salmonella* in hog slaughter facilities. The guidance provides information on best practices that may be applied at a hog slaughter facility to prevent, eliminate, or reduce levels of *Salmonella* on hogs at all stages of slaughter and dressing. This guideline will help hog slaughter establishments better comply with the relevant regulatory requirements. FSIS has posted this guideline on its Web page *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/compliance-guides-index*.

DATES: Written comments may be submitted until March 7, 2014.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by either of the following methods:

Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.

Mail, including CD-ROMs, etc.: Send to Docket Room Manager, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW., Mailstop 3782, Room 8–163B, Washington, DC 20250–3700.

Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E Street SW., Room 8–163B, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2012–0026. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E Street SW., Room 8–164, Washington, DC 20250–3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Liza Murray, DVM, Risk, Innovations, and Management Staff, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., Patriots Plaza 3, Mail Stop 3782, Room 8–126A, Washington, DC 20024; Phone: (301) 504–0845; Email: *liza.murray@fsis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

FSIS is issuing a guidance document to provide information on best practices that may be used by hog slaughter facilities in controlling and reducing the spread of *Salmonella* on market hogs.

An establishment that slaughters and processes market hogs, under HACCP, is to operate in a manner that prevents or reduces contamination at every step in the process. The establishment is to use decontamination and antimicrobial intervention treatments as necessary to remove contamination that may result from slaughtering or dressing or otherwise occurs on carcasses. The best practices outlined in this guidance are recommendations for establishments to improve their slaughter management practices to reduce levels of *Salmonella* on carcasses. The establishment that improves contamination control at appropriate processing locations will likely produce raw pork products that have fewer pathogens, including *Salmonella.*

FSIS urges the regulated industry to review the guidance and the scientific studies referenced in it. FSIS recommends that hog establishments follow this guidance to control and reduce the incidence and spread of *Salmonella.* The resulting improvements will also help establishments to better comply with the relevant regulatory requirements (9 CFR parts 310.7, 310.10, 310.11, 310.12, 310.18, 310.25, 416 and 417).

This guidance also discusses the Nationwide Microbiological Baseline Data Collection Program: Market Hog Survey that was conducted from August 2010–August 2011. The data collected and discussed in the guidance will enable the Agency to work more effectively with industry to reduce the risk of foodborne pathogens in FSIS regulated products.

FSIS welcomes comment on this compliance guidance, which will be revised as needed.

USDA Nondiscrimination Statement

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's Target Center at (202) 720–2600 (voice and TTY).

To file a written complaint of discrimination, write USDA, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410 or call (202) 720–5964 (voice and TTY). USDA is an equal opportunity provider and employer.

Additional Public Notification

FSIS will announce this notice online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register*.

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and

stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service.* Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Done at Washington, DC, on: December 23, 2013.

Alfred V. Almanza,

Administrator.

[FR Doc. 2013–31488 Filed 1–3–14; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–967, C–570–968]

Aluminum Extrusions From the People's Republic of China: Final Results of Changed Circumstances Reviews; Partial Revocation of Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* November 12, 2010, for the antidumping duty order; September 7, 2010, for the countervailing duty order.

SUMMARY: On November 7, 2013, the Department of Commerce (the Department) published the notice of preliminary results of changed circumstances reviews and intent to revoke, in part, the antidumping (AD) and countervailing duty (CVD) orders on aluminum extrusions from the People's Republic of China (PRC),[1] with respect to certain rectangular wire. We invited interested parties to comment on the *Preliminary Results* and received no comments other than support for partial revocation of the orders. Therefore, the final results do not differ from the preliminary results of reviews and we are revoking the orders with respect to certain rectangular wire. The partial revocations are effective November 12, 2010 (for AD) and September 7, 2010 (for CVD).

FOR FURTHER INFORMATION CONTACT: James Terpstra, Office III, Antidumping and Countervailing Duty Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–3965.

Background

On May 26, 2011, the Department published the AD and CVD orders in the **Federal Register**.[2] On June 20, 2013, the Department received a request on behalf of 3M Company (3M) for changed circumstances reviews to revoke, in part, the *Orders* with respect to certain rectangular wire imported by 3M. In its request, 3M attached a letter submitted on behalf of the Aluminum Extrusion Fair Trade Committee (AEFTC), the petitioners in the less-than-fair-value and CVD investigations, and the Aluminum Extrusion Council (AEC), in which representatives of the AEFTC and AEC stated that they no longer have interest in maintaining the *Orders* with respect to certain rectangular wire identified in 3M's request for the changed circumstances reviews. On July 2, 2013, 3M filed a letter containing a clarification from the AEFTC and AEC in which they stated that they no longer have interest in maintaining the *Orders* with respect to certain rectangular wire, regardless of whether 3M or another party imports it.

On August 20, 2013, we published a notice of initiation of these changed circumstances reviews.[3] Because the statement provided by the AEC and offered in support of 3M's request for changed circumstances reviews did not indicate whether the AEC accounts for substantially all of domestic aluminum extrusion production, in the *Initiation Notice,* we invited interested parties to comment on the Department's initiation. We received no comments from interested parties.

On November 7, 2013, we published the notice of preliminary results of changed circumstances reviews, and intent to revoke the *Orders* in part.[4] We received no comments or briefs in opposition from interested parties.[5]

Scope of the Orders

The merchandise covered by these *Orders* is aluminum extrusions which are shapes and forms, produced by an extrusion process, made from aluminum alloys having metallic elements corresponding to the alloy series designations published by The Aluminum Association commencing with the numbers 1, 3, and 6 (or proprietary equivalents or other certifying body equivalents). Specifically, the subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 1 contains not less than 99 percent aluminum by weight. The subject merchandise made from aluminum alloy with an Aluminum Association series designation commencing with the number 3 contains manganese as the major alloying element, with manganese accounting for not more than 3.0 percent of total materials by weight. The subject merchandise is made from an aluminum alloy with an Aluminum Association series designation commencing with the number 6 contains magnesium and silicon as the major alloying elements, with magnesium accounting for at least 0.1 percent but not more than 2.0 percent of total materials by weight, and silicon accounting for at least 0.1 percent but not more than 3.0 percent of total materials by weight. The subject aluminum extrusions are properly identified by a four-digit alloy series without either a decimal point or leading letter. Illustrative examples from among the approximately 160 registered alloys that may characterize the subject merchandise are as follows: 1350, 3003, and 6060.

Aluminum extrusions are produced and imported in a wide variety of shapes and forms, including, but not limited to, hollow profiles, other solid profiles, pipes, tubes, bars, and rods. Aluminum extrusions that are drawn subsequent to extrusion (drawn aluminum) are also included in the scope.

[1] *See Aluminum Extrusions From the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013) (*Preliminary Results*).

[2] *See Aluminum Extrusions from the People's Republic of China: Antidumping Duty Order,* 76 FR 30650 (May 26, 2011) and *Aluminum Extrusions From the People's Republic of China: Countervailing Duty Order,* 76 FR 30653 (May 26, 2011) (together, the *Orders*).

[3] *See Aluminum Extrusions from the People's Republic of China: Initiation of Changed Circumstance Reviews and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part,* 78 FR 51143 (August 20, 2013) (*Initiation Notice*).

[4] *See Preliminary Results.*

[5] On November 21, 2013, 3M submitted comments in which it stated that it supports the Department's partial revocation of the *Orders.*

Aluminum extrusions are produced and imported with a variety of finishes (both coatings and surface treatments), and types of fabrication. The types of coatings and treatments applied to subject aluminum extrusions include, but are not limited to, extrusions that are mill finished (*i.e.,* without any coating or further finishing), brushed, buffed, polished, anodized (including bright-dip anodized), liquid painted, or powder coated. Aluminum extrusions may also be fabricated, *i.e.,* prepared for assembly. Such operations would include, but are not limited to, extrusions that are cut-to-length, machined, drilled, punched, notched, bent, stretched, knurled, swedged, mitered, chamfered, threaded, and spun. The subject merchandise includes aluminum extrusions that are finished (coated, painted, *etc.*), fabricated, or any combination thereof.

Subject aluminum extrusions may be described at the time of importation as parts for final finished products that are assembled after importation, including, but not limited to, window frames, door frames, solar panels, curtain walls, or furniture. Such parts that otherwise meet the definition of aluminum extrusions are included in the scope. The scope includes the aluminum extrusion components that are attached (*e.g.,* by welding or fasteners) to form subassemblies, *i.e.,* partially assembled merchandise unless imported as part of the finished goods 'kit' defined further below. The scope does not include the non-aluminum extrusion components of subassemblies or subject kits.

Subject extrusions may be identified with reference to their end use, such as fence posts, electrical conduits, door thresholds, carpet trim, or heat sinks (that do not meet the finished heat sink exclusionary language below). Such goods are subject merchandise if they otherwise meet the scope definition, regardless of whether they are ready for use at the time of importation.

The following aluminum extrusion products are excluded: aluminum extrusions made from aluminum alloy with an Aluminum Association series designations commencing with the number 2 and containing in excess of 1.5 percent copper by weight; aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 5 and containing in excess of 1.0 percent magnesium by weight; and aluminum extrusions made from aluminum alloy with an Aluminum Association series designation commencing with the number 7 and containing in excess of 2.0 percent zinc by weight.

The scope also excludes finished merchandise containing aluminum extrusions as parts that are fully and permanently assembled and completed at the time of entry, such as finished windows with glass, doors with glass or vinyl, picture frames with glass pane and backing material, and solar panels. The scope also excludes finished goods containing aluminum extrusions that are entered unassembled in a ''finished goods kit.'' A finished goods kit is understood to mean a packaged combination of parts that contains, at the time of importation, all of the necessary parts to fully assemble a final finished good and requires no further finishing or fabrication, such as cutting or punching, and is assembled 'as is' into a finished product. An imported product will not be considered a 'finished goods kit' and therefore excluded from the scope of the investigation merely by including fasteners such as screws, bolts, *etc.* in the packaging with an aluminum extrusion product.

The scope also excludes aluminum alloy sheet or plates produced by other than the extrusion process, such as aluminum products produced by a method of casting. Cast aluminum products are properly identified by four digits with a decimal point between the third and fourth digit. A letter may also precede the four digits. The following Aluminum Association designations are representative of aluminum alloys for casting: 208.0, 295.0, 308.0, 355.0, C355.0, 356.0, A356.0, A357.0, 360.0, 366.0, 380.0, A380.0, 413.0, 443.0, 514.0, 518.1, and 712.0. The scope also excludes pure, unwrought aluminum in any form.

The scope also excludes collapsible tubular containers composed of metallic elements corresponding to alloy code 1080A as designated by the Aluminum Association where the tubular container (excluding the nozzle) meets each of the following dimensional characteristics: (1) Length of 37 millimeters (mm) or 62 mm, (2) outer diameter of 11.0 mm or 12.7 mm, and (3) wall thickness not exceeding 0.13 mm.

Also excluded from the scope of these *Orders* are finished heat sinks. Finished heat sinks are fabricated heat sinks made from aluminum extrusions the design and production of which are organized around meeting certain specified thermal performance requirements and which have been fully, albeit not necessarily individually, tested to comply with such requirements.

Also excluded from the scope of the order is certain rectangular wire produced from continuously cast rolled aluminum wire rod, which is subsequently extruded to dimension to form rectangular wire. The product is made from aluminum alloy grade 1070 or 1370, with no recycled metal content allowed. The dimensions of the wire are 5 mm (+/− 0.05 mm) in width and 1.0 mm (+/− 0.02 mm) in thickness. Imports of rectangular wire are provided for under HTSUS category 7605.19.000.

Imports of the subject merchandise are provided for under the following categories of the Harmonized Tariff Schedule of the United States (HTSUS): 7604.21.0000, 7604.29.1000, 7604.29.3010, 7604.29.3050, 7604.29.5030, 7604.29.5060, 7608.20.0030, and 7608.20.0090. The subject merchandise entered as parts of other aluminum products may be classifiable under the following additional Chapter 76 subheadings: 7610.10, 7610.90, 7615.19, 7615.20, and 7616.99 as well as under other HTSUS chapters. In addition, fin evaporator coils may be classifiable under HTSUS numbers: 8418.99.80.50 and 8418.99.80.60.

Additional subject products may be classifiable under the following HTSUS categories: 7615.19.10, 7615.19.30, 7615.19.50, 7615.19.70, 7615.19.90, 7616.99.10, 7616.99.50, 8302.10.3000, 8302.10.6030, 8302.10.6060, 8302.10.6090, 8302.30.3010, 8302.30.3060, 8302.41.3000, 8302.41.6015, 8302.41.6045, 8302.41.6050, 8302.41.6080, 8302.42.3010, 8302.42.3015, 8302.42.3065, 8302.49.6035, 8302.49.6045, 8302.49.6055, 8302.49.6085, 8302.50.0000, 8302.60.9000, 8306.30.0000, 8419.90.1000, 8479.89.98, 8479.90.94, 8513.90.20, 9403.10.00, 9403.20.00, 9403.90.1040, 9403.90.1050, 9403.90.1085, 9403.90.2540, 9403.90.2580, 9403.90.4005, 9403.90.4010, 9403.90.4060, 9403.90.5005, 9403.90.5010, 9403.90.5080, 9403.90.6005, 9403.90.6010, 9403.90.6080, 9403.90.7005, 9403.90.7010, 9403.90.7080, 9403.90.8010, 9403.90.8015, 9403.90.8020, 9403.90.8030, 9403.90.8041, 9403.90.8051, 9403.90.8061, 9506.11.4080, 9506.51.4000, 9506.51.6000, 9506.59.4040, 9506.70.2090, 9506.91.0010, 9506.91.0020, 9506.91.0030, 9506.99.0510, 9506.99.0520, 9506.99.0530, 9506.99.1500, 9506.99.2000, 9506.99.2580, 9506.99.2800, 9506.99.6080, 9507.30.2000, 9507.30.4000, 9507.30.6000, and 9507.90.6000.

While HTSUS subheadings are provided for convenience and customs

purposes, the written description of the scope of these *Orders* is dispositive.

Final Results of Changed Circumstance Reviews and Revocation, In Part, of the Orders

Based on the Department's analysis in the *Preliminary Results* (which we incorporate herein by reference) and in light of the fact that no interested parties submitted any comments on the Department's *Preliminary Results* other than to express support for the partial revocation, the Department hereby determines to revoke, in part, the *Orders* with respect to the certain rectangular wire that is the subject of 3M's request, pursuant to sections 751(d)(1) and 782(h)(2) of the Tariff Act of 1930, as amended (''the Act'') and 19 CFR 351.222(g).[6] In addition, the Department has modified the scope of the AD and CVD orders, as reflected above, consistent with these final results.

We will instruct U.S. Customs and Border Protection (CBP) to liquidate without regard to ADs and CVDs, and to refund any estimated ADs and CVDs collected, on all unliquidated entries of the product in question that are not covered by the final results of an administrative review or automatic liquidation. Specifically, because there has been no completed administrative review of the *Orders,* we will instruct CBP to terminate suspension of liquidation of all unliquidated entries of aluminum extrusions meeting the specifications of the product in question, entered or withdrawn from warehouse, for consumption, on or after November 12, 2010 (for ADs) and September 7, 2010 (for CVDs) and liquidate such entries without regard to ADs and CVDs. Furthermore, the Department will instruct CBP to refund estimated ADs and CVDs collected on such entries, pursuant to 19 CFR 351.222(g)(4).

This notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: December 24, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–31277 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See Preliminary Results,* 78 FR at 66897.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–820]

Certain Small Diameter Carbon and Alloy Seamless Standard, Line, and Pressure Pipe From Germany: Rescission of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

DATES: January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Patrick Edwards or Angelica Mendoza, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–8029 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2013, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on certain small diameter carbon and alloy seamless standard, line, and pressure pipe (seamless pressure pipe) from Germany for the period of review (POR) of August 1, 2012, through July 31, 2013.[1] The Department received a timely request from United States Steel Corporation (petitioner), filed in accordance with 19 CFR 351.213(b), for an administrative review of sales, shipments, or entries by certain companies subject to the antidumping duty order on seamless pressure pipe from Germany. On October 2, 2013, the Department published a notice of initiation of an administrative review of the antidumping duty order on seamless pressure pipe from Germany with respect to four companies: (1) Benteler Stahl/Rohr GmbH (also known as Benteler Steel/Tube GmbH); (2) ESW Roehrenwerke GmbH; (3) Vallourec & Mannesmann Tubes—V & M Deutschland GmbH; and (4) Voestalpine AG and all affiliates (including, but not limited to, Voestalpine Tubulars GmbH & Co. KG and Voestalpine Rotec GmbH & Co. KG).[2]

The Department stated in its initiation of this review that it intended to rely on U.S. Customs and Border Protection (CBP) data to select respondents.[3] We released the results of our CBP data query to the petitioners and one other interested party, Voestalpine AG, and invited them to comment on the CBP data.[4] We received no comments on the CBP data. We did, however, receive a certification of no shipments from Voestalpine AG.[5]

Rescission of Review

19 CFR 351.213(d)(1) stipulates that the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As the only party that requested a review (the petitioners) withdrew the request within 90 days of the date of publication of the notice of initiation of the requested review, we are rescinding this review of the antidumping duty order on seamless pressure pipe from Germany pursuant to 19 CFR 351.213(d)(1).[6]

Assessment of Antidumping Duties

We intend to issue assessment instructions to CBP 15 days after the date of publication of this notice of rescission of administrative review. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

Notifications

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the presumption that reimbursement of antidumping duties

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 78 FR 46573 (August 1, 2013).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 60834 (October 2, 2013); *see also, Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 67104 (November 8, 2013).

[3] *Id.*

[4] *See* Letter to All Interested Parties, from Angelica Mendoza, Program Manager, regarding ''Request for Comments on CBP Data,'' dated November 7, 2013.

[5] *See* Letter to the Secretary of Commerce, from Voestalpine AG, titled ''Voestalpine No Shipment Letter,'' dated November 17, 2013.

[6] *See* Letter to the Secretary of Commerce, from Petitioner, titled ''Withdrawal of Request for Administrative Review,'' dated December 5, 2013.

occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: December 23, 2013.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2013–31489 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD056

Endangered Species; File No. 18600

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Hudson River Sloop Clearwater, Incorporated (hereinafter 'Clearwater') has applied in due form for a permit pursuant to the Endangered Species At of 1973, as amended (ESA). The permit application is for the incidental take of Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*) and shortnose sturgeon (*A. brevirostrum*) associated with the otherwise lawful environmental education program conducted on the Hudson River, New York. The education program uses small otter trawls and beach seines to collect fish and invertebrate specimens that are held onboard the vessels for educational purposes. The duration of the proposed permit is 10 years. NMFS is providing this notice in order to allow other agencies and the public an opportunity to review and comment on the application materials. All comments received will become part of the public record and will be available for review.

DATES: Written comments must be received at the appropriate address or fax number (see **ADDRESSES**) on or before February 5, 2014.

ADDRESSES: The application is available for download and review at *http://www.nmfs.noaa.gov/pr/permits/esa_review.htm* under the section heading ESA Section 10(a)(1)(B) Permits and Applications. The application is also available upon written request or by appointment in the following office: Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; phone (301) 427–8403; fax (301) 713–4060.

You may submit comments, identified by the following document number, NOAA–NMFS–2013–0104, by any of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0182.* click the ''Comment Now'' icon, complete the required fields, and enter or attach your comments.
- *Fax:* (301) 713–4060; Attn: Therese Conant.
- *Mail:* Submit written comments to Endangered Species Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13535, Silver Spring, MD 20910; Attn: Therese Conant.

Instructions: You must submit comments by one of the above methods to ensure that we receive, document, and consider them. 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. All comments received are a part of the public record and will generally be posted for public viewing on *http://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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Therese Conant, (301) 427–856.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulations prohibit the 'taking' of a species listed as endangered or threatened. The ESA defines ''take'' to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. NMFS may issue permits, under limited circumstances to take listed species incidental to, and not the purpose of, otherwise lawful activities. Section 10(a)(1)(B) of the ESA provides for authorizing incidental take of listed species. NMFS governing permits for threatened and endangered species are promulgated at 50 CFR 222.307.

Background

NMFS received a draft permit application from Clearwater on April 16, 2013. Based on our review of the draft application, we requested further information and clarification. On December 18, 2013, Clearwater submitted an updated draft application. Based on review of the updated draft, NMFS requested clarification on lethal take and alternatives considered. On December 23, 2013, Clearwater submitted a redraft, and based on review of the draft, NMFS determined that the application contained sufficient information for review and consideration under section 10(a)(1)(B) of the ESA.

Clearwater is requesting incidental take of two sturgeon (either or combination of Atlantic and shortnose sturgeon) each year from 2014 through 2023 that may be caught in trawl or seine gear used to collect fish and invertebrate specimens from the Hudson River, New York. The take of ESA-listed Atlantic sturgeon is largely anticipated to be the New York Bight Distinct Population Segment (98 percent), but individuals may also originate from the Gulf of Maine, Chesapeake, Carolina, and South Atlantic Distinct Population Segments. Of the total 20 individual sturgeon anticipated to be taken for the duration of the permit, Clearwater does not anticipate lethal takes, but has applied for 2 lethal takes for the duration of the permit in the event that encounter conditions that lead to a mortality.

Conservation Plan

Clearwater's conservation plan describes measures to minimize, monitor, and mitigate the incidental take of ESA-listed Atlantic and shortnose sturgeon. Clearwater will regularly communicate New York State Department of Environmental Conservation to avoid known sturgeon habitat and spawning grounds. Clearwater will use small otter trawls (95.52 by 45.72 cm doors and weigh less than 0.45 kg) and short tow times (= ≤ 5 minutes). Beach seines, which allow for targeted catch, will be used where practicable (e.g, away from urban areas and where tides allow). If Clearwater incidentally captures a sturgeon in their

sets, they will follow protocols for safe handling (*http://www.nmfs.noaa.gov/pr/pdfs/species/kahn_mohead_2010.pdf*), and immediately release any sturgeon caught. Clearwater will maintain a detailed log of all gear sets and will submit to the NMFS incident and annual reports of incidental capture, if any, of listed sturgeon.

Clearwater considered and rejected the use of beach seines only. Beach seines are not always practicable in areas of high urban use and strong currents.

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA), as implemented by 40 CFR parts 1500–1508 and NOAA Administrative Order 216–6, Environmental Review Procedures for Implementing the National Policy Act (1999), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Next Steps

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and comments received during the comment period to determine whether the application meets the requirements of section 10(a) of the ESA. If NMFS determines that the requirements are met, a permit will be issued for incidental takes of ESA-listed sturgeon. The final NEPA and permit determinations will not be made until after the end of the comment period. NMFS will publish a record of its final action in the **Federal Register**.

Dated: December 31, 2013.

Angela Somma,

Chief, Endangered Species Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2013–31563 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD043

Pacific Fishery Management Council; Online Webinar

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

ACTION: Notice of online webinar.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council's) Groundfish Endangered Species Work Group (ESWG) will hold an online webinar to orient members of this newly-formed committee, and to discuss future workload and process issues. The webinar is open to the public.

DATES: The ESWG webinar will commence at 9 a.m. PST, Thursday, January 23, 2014 and continue until noon, or as necessary to complete business for the day.

ADDRESSES: To attend the ESWG webinar, please join online at *https://www.joinwebinar.com* and enter the webinar ID: 628–107–399, as well as your name and email address. Once you have joined the webinar, choose either your computer's audio or select ''Use Telephone.'' To join the audio teleconference using a telephone, call the toll number 1–619–550–0004 and enter 628–107–399 when prompted for the audio code. If you do not select ''Use Telephone,'' you will be connected to audio using your computer's microphone and speakers (VolP). A headset is recommended. System requirements for PC-based attendees: Windows 7, Vista, or XP; for Mac-based attendees: Mac OS X 10.5 or newer; and for mobile attendees: iPhone, iPad, Android phone, or Android tablet (see the GoToMeeting Webinar Apps). If you experience technical difficulties and would like assistance, please contact Mr. Kris Kleinschmidt at 503–820–2280. Public comments during the webinar will be received from attendees at the discretion of the ESWG Chair.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The specific objectives of the ESWG webinar are to introduce the members to each other, elect officers, review the ESWG terms of reference, and set out expectations for future work and how that work will be accomplished. No management actions will be decided in this webinar.

Although non-emergency issues not identified in the webinar agenda may come before the webinar participants for discussion, those issues may not be the subject of formal action during this webinar. Formal action at the webinar will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the webinar participants' intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the webinar date.

Dated: December 31, 2013.

William D. Chappell,

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

[FR Doc. 2013–31532 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD059

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council's (Council) Recreational Advisory Panel and their Groundfish Oversight Committee will meet to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

DATES: The meetings will be held on Wednesday, January 22, 2014 at 9 a.m. and Thursday, January 23, 2014 at 9 a.m.

ADDRESSES:

Meeting address: The meetings will be held at the DoubleTree Hotel Boston North Shore, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500; fax: (978) 750–7991.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The items of discussion in the committee's agenda are as follows:

Wednesday, January 22, 2014
Beginning at 9 a.m.

The Recreational Advisory Panel (RAP) will meet to have a discussion of Habitat Omnibus Amendment 2 management alternatives related to the

recreational groundfish fishery. Also on the agenda will be a discussion of recreational accountability measures for Gulf of Maine cod and haddock. The Committee will receive a presentation from NERO staff on alternatives for an omnibus amendment to simplify vessel baseline restrictions. They will discuss and provide input on proposed analysis of the alternatives for the Environmental Assessment. Other business may be discussed.

Thursday, January 23, 2014 Beginning at 9 a.m.

The Groundfish Oversight Committee will meet to review groundfish fishery management plan priorities for 2014. Also on the agenda is to review Plan Development Team work related to the development of Amendment 18 and discuss potential measures. Other business may be discussed as necessary.

Although non-emergency issues not contained in this agenda may come before these groups for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: December 30, 2013.

William D. Chappell,

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

[FR Doc. 2013–31522 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 131219999–3999–02]

RIN 0660–XC008

First Responder Network Authority; National Environmental Policy Act Implementing Procedures and Categorical Exclusions

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice, Request for Public Comment.

SUMMARY: The First Responder Network Authority (FirstNet) publishes this notice to request public comments on proposed categorical exclusions (CEs) of actions that FirstNet has determined do not individually or cumulatively have a significant effect on the human environment and, thus, should be categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* (NEPA).

DATES: Comments on the proposed list categorical exclusions must be received by February 5, 2013.

ADDRESSES: The ''Draft FirstNet Administrative Record'' for the proposed categorical exclusions is available at: *http://www.ntia.doc.gov/category/firstnet.* The public is invited to submit written comments via email to *FirstNetNEPAcomments@ntia.doc.gov* or mail (to the address listed below). All comments submitted in electronic form should be in a standard format such as Word or PDF. All comments submitted via mail should include, to the extent available, an electronic copy of the submission. However paper copies of comments will be accepted. All comments received will be made a part of the public record and may be posted to NTIA's Web site (*http://www.ntia.doc.gov/category/firstnet*) without change. All personally identifiable information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Eli Veenendaal, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., HCHB Room 4713, Washington, DC 20230; (202) 482–2188; or *eveenendaal@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION:

I. National Environmental Policy Act

The National Environmental Policy Act of 1969 (42 U.S.C. 321–4347) (NEPA) requires federal agencies to undertake an assessment of environmental effects of their proposed actions prior to making a final decision and implementing the action. NEPA requirements apply to any federal project, decision or action that may have a significant impact on the quality of the human environment. NEPA also establishes the Council on Environmental Quality (CEQ), which issued regulations implementing the procedural provisions of NEPA. Among other considerations, CEQ regulations require federal agencies to adopt their own implementing procedures to supplement the Council's regulations, and to establish and use ''categorical exclusions'' to define categories of actions that do not individually or cumulatively have a significant effect on the human environment. Such actions do not require preparation of an environmental assessment or an environmental impact statement as required by NEPA.

The Middle Class Tax Relief and Job Creation Act of 2012 (Pub. L. No. 112–96, 126 Stat. 156 (2012) (Act) creates and authorizes FirstNet to take all actions necessary to ensure that the design, construction, and operation of a nationwide interoperable public safety broadband network (PSBN) based on a single, national network architecture. The Act meets a long-standing and critical national infrastructure need, to create a single, nationwide interoperable PSBN that will, for the first time, allow police officers, fire fighters, emergency medical service professionals, and other public safety officials to effectively communicate with each other across agencies and jurisdictions.

As a newly created entity, FirstNet does not have any existing CEs. The proposed CEs are necessary to assist FirstNet in applying the appropriate level of NEPA review for activities undertaken by FirstNet in the design, construction, and operation of the PSBN. Accordingly, FirstNet is requesting public comment on the following CEs (as well as the administrative records supporting each exclusion) before utilizing them as part of its NEPA review process.

II. Development Process for Establishing FirstNet CEs

FirstNet is responsible for, at a minimum, ensuring nationwide

standards for the use of and access to the network; issuing open, transparent, and competitive requests for proposals (RFPs) to build, operate, and maintain the network; encouraging these RFPs to leverage, to the maximum extent economically desirable, existing commercial wireless infrastructure to speed deployment of the network; and overseeing contracts with non-federal entities to build, operate, and maintain the network.

Due to the similarity in project activities and scope, FirstNet is seeking to establish its CEs based primarily on the existing CEs that were approved and applied by NTIA in the implementation of the Broadband Technology and Opportunities Program (BTOP); a program that provided grant funding for the deployment of broadband infrastructure throughout the country. The list of CEs that were developed for the BTOP were compiled at the Department of Commerce (DOC) through a joint effort with the U.S. Department of Agriculture's Rural Utilities Service (RUS); NTIA; DOC's Energy, Safety, and Environment Division; and the National Oceanic and Atmospheric Administration (NOAA). The BTOP CEs were approved by DOC Office of General Counsel and the designated Senior Agency Official for NEPA at NOAA.

Each proposed BTOP CE was reviewed and deliberated in concept, coverage, applicability, and wording by members of the review panel. The panel carefully reviewed the Administrative Record on each of the CEs to ensure they fulfilled the goal of balancing increased administrative efficiency in NEPA compliance with avoidance of misinterpretations and misapplications of exclusionary language that could lead to non-compliance with NEPA requirements. The review panel concurred that the below listed BTOP CEs meet both objectives.

The proposed FirstNet CEs are currently in use by other agencies and are comparable to those applied by NTIA as part of BTOP. Specifically, these CEs are comparable because they (1) relate to planning, deployment, and construction of broadband infrastructure; (2) utilize the same methods and equipment of installing broad infrastructure; (3) are not restricted to an environmental setting or geographic region of the country; and (4) subject to review for extraordinary circumstances.

NTIA, through BTOP, provided over $4 billion in federal funding to 233 projects to construct and expand telecommunications infrastructure and increase broadband adoption throughout all U.S. states, territories and the District of Columbia. BTOP projects were funded in four categories. These four categories included (1) Broadband Infrastructure—Last Mile; (2) Broadband Infrastructure—Middle Mile; (3) Public Computer Centers; and (4) Sustainable Broadband Adoption. BTOP infrastructure projects typically required the deployment of broadband equipment including the installation of fiber optic cables, cell towers, antenna colocations, buildings, and power units. The methods used for deploying this equipment varied depending on the individual project plan and location but in general followed standard commercial approaches for completing such work (*e.g.,* the use of trenching and plowing methods construction methods to install buried fiber, aerial installation of fiber cables on existing poles, or collocating antenna equipment on existing towers). These projects were initially required to be complete within three years of the original award date and intended to be self-sustaining at the end of the award period. The nationwide scope of BTOP resulted in projects being implemented in wide range of environmental settings (*e.g.,* varying biological, cultural, or socio-economic conditions) each requiring a detailed environmental review focusing on the unique characteristics of a specific project area and type of proposed project.

Each BTOP project was individually reviewed for NEPA compliance prior to funding. Based on NTIA's review, the CEs below applied to 133 projects and 100 projects, primarily the infrastructure projects, were required to complete an Environmental Assessment (EA) due to the potential existence of extraordinary circumstances. Typically, these extraordinary circumstance included project implementation activities in locations where NTIA could not reasonably determine a project's potential effect on environmentally or culturally sensitive resources (*i.e.,* project activities occurring on or near endangered habitat or species, water resources, historic properties, or tribal country) based on its review of an applicant's responses to the environmental questionnaire and project descriptions and mapping submitted as part of the BTOP application. To date, NTIA has reviewed and adopted 99 EAs and issued a Finding of No Significant Impact (FONSI) for each of those projects, with the completion and review of one EA still in process. When evaluating the effects of the completed projects where an EA was prepared and reviewed and a FONSI was issued, NTIA has consistently found that the actions resulted in no significant environmental impacts.

FirstNet, similar to BTOP, is mandated to plan and construct telecommunication and broadband infrastructure across the United States and its territories. The specific activities anticipated to be undertaken by FirstNet are comparable to BTOP project implementation activities and will primarily include the installation of cables, cell tower, antenna colocations, buildings, and power units as defined in the following examples:

(a) *Buried Plant/Facilities:* The construction of buried outside plant facilities generally consists of plowing or trenching cable at a depth of approximately 36″ to 48″ alongside the road usually in a utility corridor or within public road rights-of-way.

(b) *Aerial Plant/Facilities:* The construction of aerial facilities is either done by installing new poles and hanging cables on it on public rights-of-way or by installing cables using existing poles lines from a third party.

(c) *Towers:* The construction of towers for cell sites and/or microwave dishes. Tower construction is typically done by installing a concrete foundation and building the tower on it. The heights of the towers vary from 120 feet to 400 feet.

(d) *Co-Locations:* The mounting or installation of an antenna on an existing tower, building, or structure for the purpose of transmitting and/or receiving radio frequency signal for communication purposes.

(e) Building construction generally consists of installing small pre-fabricated shelters on tower sites that are used for housing electronic equipment. These shelters are usually placed on concrete pads and generally require very minimal disturbance of the land. On an extremely rare occasion, the construction of a headquarters and/or warehouse building may be necessary. The amount of land disturbance resulting from this type of construction can vary depending on the size of the proposed building.

(f) *Power Units:* The installation of power units, such as an uninterruptible power supply (UPS), could be added to existing third party tower sites either on the existing concrete pad or by adding a new concrete pad if required at the site.

FirstNet is also required to leverage, to the maximum extent economically possible, existing commercial infrastructure in its deployment and operation of the PSBN.

The geographic scope of the PSBN will, like BTOP, encompass all U.S. states and territories. Thus, FirstNet actions will likely occur in a wide range of environmental settings and require FirstNet to establish a process akin to that instituted by BTOP for analyzing proposed actions and making NEPA determinations based on the specific location and type of proposed project activities of which the proposed CEs would be an integral part. Accordingly, because the characteristics of the actions in deploying and operating the PSBN are comparable in intensity, scope, and geography to BTOP projects and based on the outcomes of NTIA applying these CEs to BTOP projects, FirstNet has determined that the proposed CEs will not have significant impacts on the human environment.

III. Proposed FirstNet Categorical Exclusions

Certain types of actions undertaken by FirstNet will not normally require the completion of an environmental assessment or an environmental impact statement. These proposed categorical exclusions include:

A–1: The issuance of bulletins and information publications that do not concern environmental matters or substantial facility design, construction or maintenance practices. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of Homeland Security, Federal Emergency Management Agency, U.S. Coast Guard, U.S. Navy, U.S. Air Force, U.S. General Administrative Services and the U.S. Department of the Interior.

A–2: Procurement activities related to the day-to-day operation of FirstNet including routine procurement of goods and services. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of Homeland Security, U.S. Coast Guard, U.S. Navy and U.S. Air Force.

A–3: Personnel and Administrative Actions. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of Homeland Security, U.S. Coast Guard and U.S. Army.

A–4: Purchase of existing facilities or a portion thereof where use or operation will remain unchanged. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Homeland Security.

A–5: Internal modifications or equipment additions (*e.g.,* computer facilities, relocating interior walls) to structures or buildings. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Homeland Security.

A–6: Construction of buried and aerial telecommunications lines, cables and related facilities. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Department of the Interior and U.S. Department of Energy.

A–7: Construction of microwave facilities involving no more than five acres (2 hectares) of physical disturbance at any single site. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–8: Construction of cooperative or company headquarters, maintenance facilities, or other buildings involving no more than 10 acres (4 hectares) of physical disturbance or fenced property. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture, U.S. Navy and National Aeronautics and Space Administration (NASA).

A–9: Changes to existing transmission lines that involve less than 20 percent pole replacement, or the complete rebuilding of existing distribution lines within the same right of way. Changes to existing transmission lines that require 20 percent or greater pole replacement will be considered the same as new construction. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–10: Changes or additions to existing substations, switching stations, telecommunications switching or multiplexing centers, or external changes to buildings or small structures requiring one acre (0.4 hectare) or more but no more than five acres (2 hectares) of new physically disturbed land or fenced property. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

A–11: Construction of substations, switching stations, or telecommunications switching or multiplexing centers requiring no more than five acres (2 hectares) of new physically disturbed land or fenced property. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

A–12. Changes or additions to microwave sites, substations, switching stations, telecommunications switching or multiplexing centers, buildings, or small structures requiring new physical disturbance or fencing of less than one acre (0.4 hectare). This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

A–13: Ordinary maintenance or replacement of equipment or small structures (*e.g.,* line support structures, line transformers, microwave facilities, telecommunications remote switching and multiplexing sites). This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–14: The construction of telecommunications facilities within the fenced area of an existing substation, switching station, or within the boundaries of an existing electric generating facility site. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–15: Testing or monitoring work (*e.g.,* soil or rock core sampling, monitoring wells, air monitoring). This

categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–16: Studies and engineering undertaken to define proposed actions or alternatives sufficiently so that environmental effects can be assessed. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–17: Rebuilding of power lines or telecommunications cables where road or highway reconstruction requires the applicant to relocate the lines either within or adjacent to the new road or highway easement or right-of-way. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–18: Phase or voltage conversions, reconductoring, or upgrading of existing electric Distribution lines, or telecommunication facilities. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce, U.S. Department of Agriculture and U.S. Department of Energy.

A–19: Construction of standby diesel electric generators (one megawatt or less total capacity) and associated facilities, for the primary purpose of providing emergency power, at an existing applicant headquarters or district office, telecommunications switching or multiplexing site, or at an industrial, commercial or agricultural facility served by the applicant. This categorical exclusion is supported by long-standing categorical exclusions and administrative records. In particular, these include exclusions from the U.S. Department of Commerce and U.S. Department of Agriculture.

IV. Paperwork Reduction Act

The notice does not contain collection-of-information requirements subject to the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). Notwithstanding any other provisions of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a collection of information subject to the requirements of PRA unless that collection of information displays a currently valid OMB control number.

Dated: December 30, 2013.

Stuart Kupinsky,

Chief Counsel, First Responder Network Authority.

[FR Doc. 2013–31493 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2013–0061]

Extension of the Extended Missing Parts Pilot Program

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: The United States Patent and Trademark Office (USPTO) implemented a pilot program (Extended Missing Parts Pilot Program) in which an applicant, under certain conditions, can request a twelve-month time period to pay the search fee, the examination fee, any excess claim fees, and the surcharge (for the late submission of the search fee and the examination fee) in a nonprovisional application. The Extended Missing Parts Pilot Program benefits applicants by permitting additional time to determine if patent protection should be sought—at a relatively low cost—and by permitting applicants to focus efforts on commercialization during this period. The Extended Missing Parts Pilot Program benefits the USPTO and the public by adding publications to the body of prior art, and by removing from the USPTO's workload those nonprovisional applications for which applicants later decide not to pursue examination. The USPTO is extending the Extended Missing Parts Pilot Program until December 31, 2014, to better gauge whether the Extended Missing Parts Program offers sufficient benefits to the patent community for it to be made permanent.

DATES: *Duration:* The Extended Missing Parts Pilot Program will run through December 31, 2014. Therefore, any certification and request to participate in the Extended Missing Parts Pilot Program must be filed before December 31, 2014. The USPTO may further extend the pilot program (with or without modifications) depending on the feedback received and the continued effectiveness of the pilot program.

FOR FURTHER INFORMATION CONTACT: Eugenia A. Jones, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272–7727, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Eugenia A. Jones.

Inquiries regarding this notice may be directed to the Office of Patent Legal Administration, by telephone at (571) 272–7701, or by electronic mail at *PatentPractice@uspto.gov*.

SUPPLEMENTARY INFORMATION: On December 8, 2010, the USPTO implemented a change to missing parts practice in certain nonprovisional applications as a pilot program (*i.e.,* Extended Missing Parts Pilot Program) after considering written comments from the public. *See Pilot Program for Extended Time Period To Reply to a Notice to File Missing Parts of Nonprovisional Application,* 75 FR 76401 (Dec. 8, 2010), 1362 *Off. Gaz. Pat. Office* 44 (Jan. 4, 2011). The USPTO has twice extended the Extended Missing Parts Pilot Program. *See Extension of the Extended Missing Parts Pilot Program,* 76 FR 78246 (Dec. 16, 2011), 1374 *Off. Gaz. Pat. Office* 113 (Jan. 10, 2012), and *Extension of the Extended Missing Parts Pilot Program,* 78 FR 2256 (Jan. 10, 2013), 1387 *Off. Gaz. Pat. Office* 46 (Feb. 5, 2013).

The USPTO is further extending the Extended Missing Parts Pilot Program until December 31, 2014. The USPTO may further extend the Extended Missing Parts Pilot Program, or may discontinue the pilot program after December 31, 2014, depending on the results of the program. The requirements of the program, which have not been modified, are reiterated below. Applicants are strongly cautioned to review the pilot program requirements before making a request to participate in the Extended Missing Parts Pilot Program.

The USPTO cautions all applicants that, in order to claim the benefit of a prior provisional application, the statute requires a nonprovisional application filed under 35 U.S.C. 111(a) to be filed within twelve months after the date on which the corresponding provisional application was filed. *See* 35 U.S.C. 119(e). It is essential that applicants understand that the Extended Missing Parts Pilot Program cannot and does not change this statutory requirement. Title II of the Patent Law Treaties Implementation Act of 2012 (PLTIA) amends the provisions of title 35, United States Code, to implement the Patent Law Treaty (PLT). *See* Public

Law 112–211, sections 20 through 203, 126 Stat. 1527, 1533–37 (2012). In the rulemaking to implement the PLT and title II of the PLTIA, the Office provided that an applicant may file a petition to restore the benefit of a provisional application filed up to fourteen months earlier. *See Changes To Implement the Patent Law Treaty,* 78 FR 62367, 62368–69 (Oct. 21, 2013) (final rule). Any petition to restore the benefit of a provisional application must include the benefit claim, the petition fee and a statement that the delay in filing the subsequent application was unintentional. This change is effective December 18, 2013, and applies to any application filed before, on, or after December 18, 2013. However, if a petition to restore the benefit claim of a prior provisional application is required, the application is not eligible for participation in the Extended Missing Parts Pilot Program.

I. *Requirements:* In order for an applicant to be provided a twelve-month (non-extendable) time period to pay the search and examination fees and any required excess claims fees in response to a Notice to File Missing Parts of Nonprovisional Application under the Extended Missing Parts Pilot Program, the applicant must satisfy the following conditions: (1) Applicant must submit a certification and request to participate in the Extended Missing Parts Pilot Program with the nonprovisional application on filing, preferably by using Form PTO/AIA/421 titled ''Certification and Request for Extended Missing Parts Pilot Program;'' (2) the application must be an original (*i.e.,* not a Reissue) nonprovisional utility or plant application filed under 35 U.S.C. 111(a) within the duration of the pilot program; (3) the nonprovisional application must directly claim the benefit under 35 U.S.C. 119(e) and 37 CFR 1.78 of a prior provisional application filed within the previous twelve months; the specific reference to the provisional application must be in an application data sheet under 37 CFR 1.76 (*see* 37 CFR 1.78(a)(3)); and (4) applicant must not have filed a nonpublication request.

As required for all nonprovisional applications, applicant will need to satisfy filing date requirements and publication requirements. In the rulemaking to implement the PLT and title II of the PLTIA, the Office provided that an application (other than an application for a design patent) filed on or after December 18, 2013, is not required to include a claim to be entitled to a filing date. *See Changes To Implement the Patent Law Treaty,* 78 FR 62367, 62638 (Oct. 21, 2013) (final rule). This change is effective December 18, 2013, and applies to any application filed under 35 U.S.C. 111 on or after December 18, 2013. However, if an application is filed without any claims, the Office of Patent Application Processing (OPAP) will issue a notice giving the applicant a two-month (extendable) time period within which to submit at least one claim in order to avoid abandonment (see 37 CFR 1.53(f)). The Extended Missing Parts Pilot Program does not change this time period. In accordance with 35 U.S.C. 122(b), the USPTO will publish the application promptly after the expiration of eighteen months from the earliest filing date for which benefit is sought. Therefore, the nonprovisional application should also be in condition for publication as provided in 37 CFR 1.211(c). The following are required in order for the nonprovisional application to be in condition for publication: (1) The basic filing fee; (2) the executed inventor's oath or declaration in compliance with 37 CFR 1.63 or an application data sheet containing the information specified in 37 CFR 1.63(b); (3) a specification in compliance with 37 CFR 1.52; (4) an abstract in compliance with 37 CFR 1.72(b); (5) drawings in compliance with 37 CFR 1.84 (if applicable); (6) any application size fee required under 37 CFR 1.16(s); (7) any English translation required by 37 CFR 1.52(d); and (8) a sequence listing in compliance with 37 CFR 1.821–1.825 (if applicable). The USPTO also requires any compact disc requirements to be satisfied, and an English translation of the provisional application to be filed in the provisional application if the provisional application was filed in a non-English language and a translation has not yet been filed. If the requirements for publication are not met, applicant will need to satisfy the publication requirements within a two-month extendable time period.

As noted above, applicants should request participation in the Extended Missing Parts Pilot Program by using Form PTO/AIA/421. For utility patent applications, applicant may file the application and the certification and request electronically using the USPTO electronic filing system, EFS-Web, and selecting the document description of ''Certification and Request for Missing Parts Pilot'' for the certification and request on the EFS-Web screen. Form PTO/AIA/421 is available on the USPTO Web site at *http://www.uspto.gov/forms/aia0421.pdf.* Information regarding EFS-Web is available on the USPTO Web site at *http://www.uspto.gov/ebc/index.jsp.*

The utility application including the certification and request to participate in the pilot program may also be hand-carried to the USPTO or filed by mail, for example, by ''Express Mail'' (now ''Priority Mail Express'') in accordance with 37 CFR 1.10. However, applicants are advised that, effective November 15, 2011, as provided in the Leahy-Smith America Invents Act, a new additional fee of $400.00 for a non-small entity ($200.00 for a small entity) is due for any nonprovisional utility patent application that is not filed by EFS-Web. *See* Public Law 112–29, § 10(h), 125 Stat. 283, 319 (2011). This non-electronic filing fee is due on filing of the utility application or within the two-month (extendable) time period to reply to the Notice to File Missing Parts of Nonprovisional Application. Applicants will not be given the twelve-month time period to pay the non-electronic filing fee. Therefore, utility applicants are strongly encouraged to file their utility applications via EFS-Web to avoid this additional fee.

For plant patent applications, applicant must file the application including the certification and request to participate in the pilot program by mail or hand-carried to the USPTO since plant patent applications cannot be filed electronically using EFS-Web. *See Legal Framework for Electronic Filing System Web* (EFS-Web), 74 FR 55200 (Oct. 27, 2009), 1348 *Off. Gaz. Pat. Office* 394 (Nov. 24, 2009).

II. *Processing of Requests:* If applicant satisfies the requirements (discussed above) on filing of the nonprovisional application and the application is in condition for publication, the USPTO will send applicant a Notice to File Missing Parts of Nonprovisional Application that sets a twelve-month (non-extendable) time period to submit the search fee, the examination fee, any excess claims fees (under 37 CFR 1.16(h)-(j)), and the surcharge under 37 CFR 1.16(f) (for the late submission of the search fee and examination fee). The twelve-month time period will run from the mailing date, or notification date for e-Office Action participants, of the Notice to File Missing Parts. For information on the e-Office Action program, *see Electronic Office Action,* 1343 *Off. Gaz. Pat. Office* 45 (June 2, 2009), and *http://www.uspto.gov/patents/process/status/e-Office_Action.jsp.* After an applicant files a timely reply to the Notice to File Missing Parts within the twelve-month time period and the nonprovisional application is completed, the nonprovisional application will be

placed in the examination queue based on the actual filing date of the nonprovisional application.

For a detailed discussion regarding treatment of applications that are not in condition for publication, processing of improper requests to participate in the program, and treatment of authorizations to charge fees, *see Pilot Program for Extended Time Period To Reply to a Notice to File Missing Parts of Nonprovisional Application,* 75 FR 76401, 76403–04 (Dec. 8, 2010), 1362 *Off. Gaz. Pat. Office* 44, 47–49 (Jan. 4, 2011).

III. *Important Reminders:* Applicants are reminded that the disclosure of an invention in a provisional application should be as complete as possible because the claimed subject matter in the later-filed nonprovisional application must have support in the provisional application in order for the applicant to obtain the benefit of the filing date of the provisional application.

Furthermore, the nonprovisional application as originally filed must have a complete disclosure that complies with 35 U.S.C. 112(a) which is sufficient to support the claims submitted on filing and any claims submitted later during prosecution. New matter cannot be added to an application after the filing date of the application. *See* 35 U.S.C. 132(a). In the rulemaking to implement the PLT and title II of the PLTIA, the Office provided that in order to be accorded a filing date, a nonprovisional application (other than an application for a design patent) must include a specification with or without claims. *See Changes To Implement the Patent Law Treaty,* 78 FR 62367, 62369 (Oct. 21, 2013) (final rule). This change is effective December 18, 2013, and applies to any application filed under 35 U.S.C. 111 on or after December 18, 2013. Although a claim is not required in a nonprovisional application (other than an application for a design patent) for filing date purposes *and* applicant may file an amendment adding additional claims as prescribed by 35 U.S.C. 112 and drawings as prescribed by 35 U.S.C. 113 later during prosecution, applicant should consider the benefits of submitting a complete set of claims and any necessary drawings on filing of the nonprovisional application. This would reduce the likelihood that any claims and/or drawings added later during prosecution might be found to contain new matter. Also, if a patent is granted and the patentee is successful in litigation against an infringer, provisional rights to a reasonable royalty under 35 U.S.C. 154(d) may be available only if the claims that are published in the patent application publication are substantially identical to the patented claims that are infringed, assuming timely actual notice is provided. Thus, the importance of the claims that are included in the patent application publication should not be overlooked.

Applicants are also advised that the extended missing parts period does not affect the twelve-month priority period provided by the Paris Convention for the Protection of Industrial Property (Paris Convention). Accordingly, any foreign filings must still be made within twelve months of the filing date of the provisional application if applicant wishes to rely on the provisional application in the foreign-filed application or if protection is desired in a country requiring filing within twelve months of the earliest application for which rights are left outstanding in order to be entitled to priority.

For additional reminders, see *Pilot Program for Extended Time Period To Reply to a Notice to File Missing Parts of Nonprovisional Application,* 75 FR 76401, 76405 (Dec. 8, 2010), 1362 *Off. Gaz. Pat. Office* 44, 50 (Jan. 4, 2011).

Dated: December 31, 2013.

Margaret A. Focarino,

Commissioner for Patents, Performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2013–31574 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No.: PTO–P–2013–0064]

Request for Comments Regarding Prior Art Resources for Use in the Examination of Software-Related Patent Applications

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) has formed a partnership with the software community to enhance the quality of software-related patents (Software Partnership). The Software Partnership is an opportunity to bring stakeholders together through a series of roundtable discussions to share ideas, feedback, experiences, and insights on software-related patents. On December 5, 2013, as part of the Software Partnership, the USPTO hosted a roundtable discussion on the USPTO's prior art searching techniques and tools. At the roundtable, the USPTO spoke on the prior art resources currently utilized by examiners and listened to external speakers and the public on additional prior art resources and improved search techniques. In order to receive further feedback from stakeholders, the USPTO is requesting comments on the questions regarding prior art resources and search techniques set forth below.

DATES: *Comment Deadline:* To be ensured of consideration, written comments must be received on or before March 14, 2014. No public hearing will be held.

Addresses for Comments: Written comments should be sent by electronic mail addressed to *SoftwareRoundtable2013@uspto.gov*. Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450, marked to the attention of Seema Rao, Director, Technology Center 2100. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the USPTO Internet Web site at *http://www.uspto.gov*. Because comments will be available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments. Parties who would like to rely on confidential information to illustrate a point are requested to summarize or otherwise submit the information in a way that will permit its public disclosure.

FOR FURTHER INFORMATION CONTACT: Seema Rao, Director, Technology Center 2100, by telephone at 571–272–0800, or by electronic mail message at *seema.rao@uspto.gov*.

SUPPLEMENTARY INFORMATION: The USPTO conducted a Software Partnership meeting on December 5, 2013, in Alexandria, Virginia, focused on the topic of prior art resources for use during the examination of software-related applications. The meeting featured both internal and external stakeholders' presentations, along with an open discussion session aimed to collect input on how the agency can enhance prior art searching through the use of search strategies, tools, and databases. Details of the meeting along with all presentation materials can be

found on the Prior Art Search micro-site available at *http://www.uspto.gov/patents/init_events/prior_art_search.jsp*.

Currently, the Office has access to a variety of internal and external resources for searching and accessing prior art. Internally, the Office utilizes the Examiner's Automated Search Tool (EAST), Web Examiner Search Tool (WEST), and a variety of vendor databases to provide examiners with access to U.S. and foreign patents and patent application publications using both classification and textual searching. Externally, the Scientific and Technical Information Center (STIC) provides examiners with access to non-patent literature in several art-specific print collections and electronic resources totaling over 500 databases, 59,000 electronic journals and 175,000 e-books. A listing of the Office's prior art resources may be found at *http://www.uspto.gov/patents/resources/priorart.jsp*.

As a follow-up to the Prior Art Software Partnership Meeting, the Office is asking stakeholders for further ideas to improve the quality and efficiency of searching software-related inventions. In particular, the Office seeks comments on the following questions:

1. What specific databases, Web sites, tools and other resources do you find useful in searching for software-related inventions? Please indicate strengths and limitations of each resource.

2. What are your concerns regarding the manner in which USPTO examiners formulate and implement search strategies to identify prior art for software related inventions? How should these concerns be addressed?

Date: December 30, 2013.

Margaret A. Focarino,

Commissioner for Patents, Performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2013–31492 Filed 1–3–14; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Addition to the Procurement List.

SUMMARY: The Committee is proposing to add a product to the Procurement List that will be furnished by nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: *Comments Must Be Received On Or Before:* 2/6/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 USC 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed action.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the product listed below from the nonprofit agency employing persons who are blind or have other severe disabilities.

The following product is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Product:

CD–R Silver w/Jewel Case, 10pk

NSN: 7045–01–482–7540.
NPA: North Central Sight Services, Inc., Williamsport, PA.
Contracting Activity: DEFENSE LOGISTICS AGENCY TROOP SUPPORT, PHILADELPHIA, PA.
Coverage: B-List for the Broad Government Requirement as aggregated by Defense Logistics Agency Troop Support, Philadelphia, PA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–31529 Filed 1–3–14; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions And Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds products to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes services from the Procurement List previously provided by such agencies.

DATES: *Effective Date:* 2/6/2014.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 11/8/2013 (78 FR 67129–67130) and 11/15/2013 (78 FR 68823–68824), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and impact of the additions on the current or most recent contractors, the Committee has determined that the products listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. The action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products:

Pen, Roller Ball, Liquid Ink, Retractable, Needle Point, Airplane Safe

NSN: 7520–00–NIB–1932—0.5 mm, Refillable, Black
NSN: 7520–00–NIB–1933—0.5 mm, Refillable, Blue
NSN: 7520–00–NIB–1934—0.7 mm,

Refillable, Black
NSN: 7520–00–NIB–1935—0.7 mm, Refillable, Blue
Coverage: A-List for the Total Government Requirement as aggregated by the General Services Administration.

Refill, Roller Ball, Liquid Ink, Airplane Safe

NSN: 7510–00–NIB–2241—0.5 mm, Black
NSN: 7510–00–NIB–9896—0.5 mm, Blue
NSN: 7510–00–NIB–9897—0.7 mm, Black
NSN: 7510–00–NIB–9898—0.7 mm, Blue
Coverage: B-List for the Broad Government Requirement as aggregated by the General Services Administration.
NPA: San Antonio Lighthouse for the Blind, San Antonio, TX
Contracting Activity: GENERAL SERVICES ADMINISTRATION, NEW YORK, NY
NSN: 8950–01–E62–2180—Pepper, Crushed Red, 12 oz. Bottle, 6/CS
NPA: CDS Monarch, Webster, NY
Contracting Activity: DEFENSE LOGISTICS AGENCY TROOP SUPPORT, PHILADELPHIA, PA
Coverage: C-List for 100% of the requirement of the Department of Defense as aggregated by the Defense Logistics Agency Troop Support, Philadelphia, PA.

Deletions

On 11/22/2013 (78 FR 70022–70023), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to provide the services to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the services deleted from the Procurement List.

End of Certification

Accordingly, the following services are deleted from the Procurement List:

Services:

Service Type/Location: Janitorial/Custodial Service, Social Security Administration: 4020 Durand Avenue, Racine, WI.
NPA: Lakeside Curative Services, Inc., Racine, WI.
Contracting Activity: GSA/PUBLIC BUILDINGS SERVICE, PROPERTY MANAGEMENT SERVICE CENTER, MILWAUKEE, WI.
Service Type/Location: Janitorial/Custodial Service, Naval Reserve Center, La Crosse, WI.
NPA: Riverfront Activity Center, Inc., La Crosse, WI.
Contracting Activity: DEPT OF THE NAVY, NAVAL FAC ENGINEEERING CMD MIDWEST, GREAT LAKES, IL.
Service Type/Location: Shelf Stocking Service, Brunswick Naval Air Station, 35 Dominion Avenue, Building 335, Topsham, ME.
NPA: Pathways, Inc., Auburn, ME.
Contracting Activity: DEFENSE COMMISSARY AGENCY, FORT LEE, VA.

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2013–31528 Filed 1–3–14; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Meeting of Technology Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on January 21, 2014, the CFTC's Technology Advisory Committee (TAC) will hold a public meeting at the CFTC's Washington, DC, headquarters from 10:00 a.m. to 5:00 p.m. The TAC will focus on swap data repository reporting; the Commission's concept release on automated trading environments; and swap execution facilities.

DATES: The meeting will be held on January 21, 2014. Members of the public who wish to submit written statements in connection with the meeting should submit them by January 14, 2014.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Written statements should be submitted by electronic mail to: *secretary@cftc.gov.* Statements may also be submitted by mail to: Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, attention: Office of the Secretary. Please use the title ''Technology Advisory Committee'' in any written statement you submit. Any statements submitted in connection with the committee meeting will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Amir Zaidi, TAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, (202) 418–6770.

SUPPLEMENTARY INFORMATION: The CFTC TAC will hold a public meeting on Tuesday, January 21, 2014, from 10 a.m. to 5 p.m. at the CFTC's Washington, DC, headquarters. The TAC meeting will focus on significant issues facing the futures and swaps industries as the Commission continues to implement rules under the Dodd-Frank Act. These issues include: (1) Data standardization in the context of swap data repository reporting; (2) the Commission's concept release on automated trading environments; and (3) various issues surrounding the operation of swap execution facilities.

The meeting will be open to the public with seating on a first-come, first-served basis. Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person listed above.

Members of the public may also listen to the meeting by telephone by calling a toll-free telephone line to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation. The call-in information is as follows:

Domestic Toll Free: 1–866–844–9416.

International Toll and Toll Free: Will be posted on the CFTC's Web site, *http://www.cftc.gov,* on the page for the meeting, under Related Documents.

Conference ID: 3246665.

Pass Code/Pin Code: 7985569.

After the meeting, a transcript of the meeting will be published through a link on the CFTC's Web site, *http://www.cftc.gov.* All written submissions provided to the CFTC in any form will also be published on the CFTC's Web site.

Authority: 5 U.S.C. Appendix, Federal Advisory Committee Act, Sec. 10(a)(2).

Dated: January 2, 2014.

Christopher J. Kirkpatrick,

Deputy Secretary of the Commission.

[FR Doc. 2014–00019 Filed 1–3–14; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

U.S. Air Force Academy Board of Visitors Notice of Meeting

AGENCY: U.S. Air Force Academy Board of Visitors.

ACTION: Meeting notice.

SUMMARY: In accordance with 10 U.S.C. 9355, the U.S. Air Force Academy (USAFA) Board of Visitors (BoV) will hold a meeting in the Longworth House Office Building, Room 1310 in Washington, DC, on January 14, 2014. The meeting will begin at 10:00 a.m. The purpose of this meeting is to review morale and discipline, social climate, curriculum, instruction, infrastructure, fiscal affairs, academic methods, and other matters relating to the Academy. Specific topics for this meeting include a Superintendent's Update; an Honor Oath discussion; OSI Confidential Informants discussion; an USAFA Personnel Hiring Process discussion; and one closed session to discuss Status of Discipline/Investigations. In accordance with 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, one session of this meeting shall be closed to the public because they involve matters covered by subsection (c)(6) of 5 U.S.C. 552b. Public attendance at the open portions of this USAFA BoV meeting shall be accommodated on a first-come, first-served basis up to the reasonable and safe capacity of the meeting room. In addition, any member of the public wishing to provide input to the USAFA BoV should submit a written statement in accordance with 41 CFR 102–3.140(c) and section 10(a)(3) of the Federal Advisory Committee Act and the procedures described in this paragraph. Written statements must address the following details: The issue, discussion, and a recommended course of action. Supporting documentation may also be included as needed to establish the appropriate historical context and provide any necessary background information. Written statements can be submitted to the Designated Federal Officer (DFO) at the Air Force address detailed below at any time. However, if a written statement is not received at least 10 calendar days before the first day of the meeting which is the subject of this notice, then it may not be provided to or considered by the BoV until its next open meeting. The DFO will review all timely submissions with the BoV Chairman and ensure they are provided to members of the BoV before the meeting that is the subject of this notice. For the benefit of the public, rosters that list the names of BoV members and any releasable materials presented during the open portions of this BoV meeting shall be made available upon request.

If after review of timely submitted written comments and the BoV Chairman and DFO deem appropriate, they may choose to invite the submitter of the written comments to orally present the issue during an open portion of the BoV meeting that is the subject of this notice. Members of the BoV may also petition the Chairman to allow specific personnel to make oral presentations before the BoV. In accordance with 41 CFR 102–3.140(d), any oral presentations before the BoV shall be in accordance with agency guidelines provided pursuant to a written invitation and this paragraph. Direct questioning of BoV members or meeting participants by the public is not permitted except with the approval of the DFO and Chairman.

Contact Information: For additional information or to attend this BoV meeting, contact Maj Mark Cipolla, Accessions and Training Division, AF/A1PT, 1040 Air Force Pentagon, Washington, DC 20330, (703) 695–4066.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2013–31534 Filed 1–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Notice for the Great Lakes and Mississippi River Interbasin Study (GLMRIS)

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The U.S. Army Corps of Engineers (USACE), Chicago District has posted on *http://glmris.anl.gov* the Great Lakes and Mississippi River Interbasin Study (GLMRIS) Report. The GLMRIS Report presents a range of options and technologies that could be applied to prevent aquatic nuisance species (ANS) transfer between the Great Lakes and Mississippi River basins through aquatic connections. Through a structured study process, USACE identified thirteen ANS of Concern established in one basin that posed a high or medium risk of adverse impacts by transfer and establishment in the opposite basin. USACE analyzed and evaluated available controls to address these ANS, and formulated alternatives specifically for the Chicago Area Waterway System (CAWS) with the goal of preventing ANS transfer between the two basins.

USACE conducted GLMRIS in consultation with other federal agencies, Native American tribes, state agencies, local governments and non-governmental organizations. For additional information regarding GLMRIS, please refer to the project Web site *http://glmris.anl.gov*.

This notice announces a comment period during which USACE is seeking public comment on the alternatives presented in the report. This notice also announces the dates and times of public meetings hosted by USACE for the purpose of providing the public an opportunity to comment on alternatives and ask questions regarding the GLMRIS Report.

DATES: USACE announces a public comment period beginning Monday, January 6, 2014, through Monday, March 3, 2014. Please refer to the "*GLMRIS Report*" section below for instructions on comment submittal.

USACE will be hosting seven (7) public meetings to present information on the GLMRIS Report and seek comment on alternatives presented in the document. These meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: For further information and/or questions about GLMRIS, please contact USACE, Chicago District, Project Manager, Mr. David Wethington, *by mail:* USACE, Chicago District, 231 S. LaSalle, Suite 1500, Chicago, IL 60604, *by phone:* 312–846–5522 or *by email: david.m.wethington@usace.army.mil*.

For media inquiries, please contact USACE, Chicago District, Public Affairs Officer, Ms. Lynne Whelan, *by mail:* USACE, Chicago District, 231 S. LaSalle, Suite 1500, Chicago, IL 60604, *by phone:* 312–846–5330 or *by email: lynne.e.whelan@usace.army.mil*.

SUPPLEMENTARY INFORMATION:

1. *Background:* USACE conducted GLMRIS in consultation with other federal agencies, Native American tribes, state agencies, local governments and non-governmental organizations. The GLMRIS authority directed USACE to identify the range of options and technologies available to prevent the spread of aquatic nuisance species (ANS) between the Great Lakes and Mississippi River Basins through the Chicago Sanitary and Ship Canal and other aquatic pathways. In GLMRIS, USACE has identified thirteen ANS of Concern established in one basin with the risk for transfer to the other, analyzed and evaluated available ANS

controls, and formulated alternatives specifically for the Chicago Area Waterway System (CAWS) with the goal of preventing ANS transfer between the two basins.

2. *The GLMRIS Report:* The GLMRIS Report identifies eight potential alternatives—from continuing current efforts to complete separation of the watersheds, and evaluates the potential of these alternatives to control the inter-basin spread of thirteen ANS, which include fish (such as Asian carp), algae, crustaceans, plants and viruses. The report also identifies potential significant adverse impacts that alternatives may have on existing uses and users of the waterways, such as flood risk management, navigation, and water quality, and identifies mitigation measures that could be implemented to minimize these impacts.

3. *The GLMRIS Report Comment Period:* The comment period runs from January 06, 2014 through March 03, 2014. Comments may be submitted in the following ways:

- GLMRIS project Web site: Use the web form found at *http://glmris.anl.gov* through March 03, 2014;
- Mail: Send written information to 'U. S. Army Corps of Engineers, Chicago District, GLMRIS ANS Control Comments, 231 S. LaSalle, Suite 1500, Chicago, IL 60604'. Comments must be postmarked by March 03, 2014;
- Hand Delivery: Comments may be hand delivered to the USACE, Chicago District office located at 231 S. LaSalle St., Suite 1500, Chicago, IL 60604 between 8:00 a.m. and 4:30 p.m. Comments must be received by March 03, 2014; and
- At Public Meetings: All meetings are from 4 p.m. to 7 p.m. local time at the following locations:

1. Thursday, January 9, 2014: Gleacher Center, University of Chicago Booth School of Business, 450 North Cityfront Plaza Drive, Chicago, IL 60611.
2. Tuesday, January 13, 2014: Milwaukee Area Technical College, T Building Auditorium, 700 West State Street, Milwaukee, WI 53233.
3. Thursday, January 16, 2014: Cleveland Public Library, 325 Superior Ave. NE., Cleveland, OH 44114.
4. Tuesday, January 21, 2014: University of Michigan League, 911 N University Ave., Ann Arbor, MI 48109.
5. Thursday, January 2014: The Hagerty Conference Center, Northwestern Michigan College—Great Lakes Campus, 715 E. Front Street, Traverse City, MI 49686.
6. Monday, January 27, 2014: Bloomington Education and Visitor Center, 3815 American Blvd. East, Bloomington, MN 55425.
7. Thursday, January 30, 2014: National Great Rivers Museum, #2 Locks and Dam Way, Alton, IL 62002.

Please see the GLMRIS project Web site at *http://glmris.anl.gov* if you wish to register to make an oral comment at one of these meetings, and for more information regarding the meeting including a meeting agenda. Those pre-registering to make oral comments through the project Web site may be given a preference over those that register to make oral comments at the meeting. The on-line pre-registration for each individual meeting will close at approximately noon, central time, on that meeting date. Each individual wishing to make oral comments shall be given three (3) minutes, and a stenographer will document oral comments. If you require assistance under the Americans with Disabilities Act, please contact Ms. Lynne Whelan via email at *lynne.e.whelan@usace.army.mil* or phone at (312) 846–5330 at least seven (7) working days prior to the meeting to request arrangements.

Comments received during the comment period will be posted on the GLMRIS project Web site. You may indicate that you do not wish to have your name or other personal information made available on the Web site. However, USACE cannot guarantee that information withheld from the Web site will be maintained as confidential. Requests for disclosure of collected information will be handled through the Freedom of Information Act. Comments and information, including the identity of the submitter, may be disclosed, reproduced, and distributed. Submissions should not include any information that the submitter seeks to preserve as confidential.

4. *Authority:* This action is being undertaken pursuant to the Water Resources and Development Act of 2007, Section 3061, Pub. L. 110–114, and Section 1538 of Public Law 112–141 of the Moving Ahead for Progress in the 21st Century Act.

Dated: December 27, 2013.

Susanne J. Davis,

Chief, Planning Branch, Chicago District, Corps of Engineers.

[FR Doc. 2013–31496 Filed 1–3–14; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

Membership of the Performance Review Board

Correction

In notice document 2013–30136 appearing on pages 76598 through 76599 in the issue of Wednesday, December 18, 2013, make the following correction:

On page 76598, the list appearing in columns two and three is corrected to read as set forth below.

ANDERSON, JO
ANDERSON, MARGO K.
ANTHONY, PERRY E.
BAKER, JEFFREY S.
BATTLE, SANDRA G.
BETKA, SUE E.
BUCKLEY, SEAN P.
CANELLOS, ERNEST C.
CARR, PEGGY G.
CARTER, DENISE L.
CHAVEZ, ANTHONY S.
CHISM, MONIQUE M.
CONATY, JOSEPH C.
CULATTA, RICHARD
DANN-MESSIER, BRENDA J.
DAVIS, CONSTANCE T.
DELISLE, DEBORAH S.
EASTON, JOHN Q.
ELIADIS, PAMELA D.
ELLIS, KATHRYN A.
FEELY, HARRY M.
GALANTER, SETH M.
GARLAND, TERESA A.
GIL, LIBIA S.
GOMEZ, GABRIELLA
GONIPROW, ALEXANDER
GRAHAM, DARRELL W.
GREWAL, SATYAMDEEP S.
HALL, LINDA W.
HAMMOND, PEIRCE A. III
HARRIS, DANNY A.
HURT, JOHN W. III
JENKINS, HAROLD B.
KANTER, MARTHA JANE
KEAN, LARRY G.
KIM, ROBERT
KOEPPEL, DENNIS
LABRECK, JANET L.
LAKIN, KENNETH CHARLES
LHAMON, CATHERINE E.
LIM, JEANETTE J.
LUCZAK, RONALD J.
MAESTRI, PHILIP A.
MALAM, PAMELA R.
MANNING, JAMES F.
MARIANI, TYRA A.
MCFADDEN, ELIZABETH
MCLAUGHLIN, MAUREEN A.
MICELI, JULIE
MOORE, KENNETH R.
MUSGROVE, MELODY B.
OSGOOD, DEBORA L.
PENDLETON, AUDREY J.
PEPIN, ANDREW J.
REYNOLDS, CYNTHIA L.

RIDDLE, PAUL N.
ROPELEWSKI, JAMES LYNCH
ROSENFELT, PHILIP H.
RYDER, RUTH E.
SANTY, ROSS C. JR.
SASSER, TRACEY L.
SHELTON, JAMES H.
SKELLY, THOMAS P.
SOLTIS, TIMOTHY F.
STRACKE, LINDA A.
STUDLEY, JAMIENNE S.
STYLES, KATHLEEN M.
SWENSON, SUE ELLEN
THOMAS, MILTON L. JR.
UVIN, JOHAN E.
VADEHRA, EMMA
WANG, SHANWEI
WEKO, THOMAS J.
WHALEN, ANTONIA
WILBANKS, LINDA R.
WILLIAMS, JERRY E.
WILLS, RANDOLPH E.
WINCHELL, SUSAN A.
WOOD, GARY H.
WOOD, HAMILTON E. JR.
EL KEITH
YUDIN, MICHA

[FR Doc. C1–2013–30136 Filed 1–3–14; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Revision of a Currently Approved Information Collection for the Weatherization Assistance Program Sub-Programs

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites public comment on an extension of a currently approved collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The Department of Energy (DOE) has submitted an information collection request to the OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Weatherization Assistance Program, OMB Control Number 1910–5157. The proposed collection will collect information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously.

Comments are invited on: (a) Whether the currently approved collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden pertaining to the approved collection of information, including the validity of the methodology and assumptions used; (c) ways to further enhance the quality, utility, and clarity of the information being collected; and (d) ways to further minimize the burden regarding the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this revision to an approved information collection must be received on or before March 7, 2014. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Christine Platt Patrick, EE–2K, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Email: *Christine.Platt@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Lauren Hall, EE–2K, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585–1290, Phone: (202) 287–1870, Fax: (202) 287–1745, Email: *Lauren.Hall@ee.doe.gov.*

Additional information and reporting guidance concerning the Weatherization Assistance Program (WAP) is available for review at the following Web site: *http://www1.eere.energy.gov/wip/wap.html.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–5157; (2) Information Collection Request Title: ''Weatherization Assistance Program (WAP) Sub-Programs''; (3) Type of Review: Revision of a Currently Approved Information Collection; (4) Purpose: To collect information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously (5) Annual Estimated Number of Respondents: 17; (6) Annual Estimated Number of Total Responses: 68; (7) Annual Estimated Number of Burden Hours: 816; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $32,640.00

Statutory Authority: Title V, Subtitle E of the Energy Independence and Security Act (EISA), Pub. L. 110–140 as amended (42 U.S.C. 17151 et seq.).

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

AnnaMaria Garcia,

Program Manager, Office of Weatherization and Intergovernmental Programs, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2013–31539 Filed 1–3–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1836–005; ER10–2005–005; ER11–26–005; ER10–1849–004; ER10–1847–005; ER13–1992–002; ER13–1991–002; ER10–1846–004; ER10–1845–005; ER10–1844–005; ER10–1843–005; ER13–712–004; ER10–1841–005; ER12–569–005; ER10–1915–004; ER10–2551–004; ER10–1838–004; ER12–631–006; ER10–1995–004; ER10–2078–006; ER10–1994–004; ER10–1993–004; ER10–1992–005; ER11–4678–006; ER10–1971–014; ER10–1972–005; ER10–1973–004; ER10–1951–005; ER10–1974–012; ER10–1975–012; ER12–2444–005; ER10–1976–005; ER10–1983–005; ER10–1984–005; ER11–2365–005; ER10–1985–005; ER10–1986–004; ER12–676–005; ER11–2192–006; ER10–1989–005; ER10–1990–004; ER13–2474–001; ER10–1991–005; ER12–1660–005; ER10–1925–005; ER10–1920–006; ER10–1918–005; ER10–1907–005; ER10–1906–004; ER10–1905–005; ER11–2160–005; ER10–1903–004; ER10–1902–004; ER10–1899–004; ER11–2037–004; ER13–752–003; ER12–2227–004; ER10–1851–004; ER10–1852–005; ER10–1855–004; ER10–1856–005; ER10–1857–004; ER10–1887–004; ER10–1890–005; ER10–1897–005; ER10–1927–005; ER10–1928–006; ER11–2642–005; ER10–1930–004; ER10–1931–005; ER11–4677–006; ER10–1970–005; ER11–4462–007; ER14–21–002; ER12–895–004; ER12–1880–005; ER11–4428–006; ER10–2720–006; ER10–1968–004; ER10–1967–004; ER10–1966–005; ER12–2225–004; ER12–2226–004; ER10–1965–005; ER10–1964–005; ER10–1963–004; ER12–1228–004; ER10–1962–005; ER12–1228–005; ER10–1961–004; ER10–2006–006; ER11–3635–005; ER10–1952–004; ER13–2112–001; ER10–1950–005; ER10–1935–004; ER10–1932–004.

Applicants: Ashtabula Wind, LLC, Ashtabula Wind II, LLC, Ashtabula Wind III, LLC, Backbone Mountain

Windpower LLC, Baldwin Wind, LLC, Bayswater Peaking Facility, LLC, Blackwell Wind, LLC, Butler Ridge Wind Energy Center, LLC, Cimarron Wind Energy, LLC, Crystal Lake Wind, LLC, Crystal Lake Wind II, LLC, Crystal Lake Wind III, LLC, Day County Wind, LLC, Desert Sunlight 250, LLC, Desert Sunlight 300, LLC, Diablo Winds, LLC, Elk City Wind, LLC, Elk City II Wind, LLC, Energy Storage Holdings, LLC, Ensign Wind, LLC, ESI Vansycle Partners, L.P., Florida Power & Light Company, FPL Energy Burleigh County Wind, LLC, FPL Energy Cabazon Wind, LLC, FPL Energy Cape, LLC, FPL Energy Cowboy Wind, LLC, FPL Energy Green Power Wind, LLC, FPL Energy Hancock County Wind, LLC, FPL Energy Illinois Wind, LLC, FPL Energy Marcus Hook, L.P., FPL Energy MH50 L.P., FPL Energy Montezuma Wind, LLC, FPL Energy Mower County, LLC, FPL Energy New Mexico Wind, LLC, FPL Energy North Dakota Wind, LLC, FPL Energy North Dakota Wind II, LLC, FPL Energy Oklahoma Wind, LLC, FPL Energy Oliver Wind I, LLC, FPL Energy Oliver Wind II, LLC, FPL Energy Sooner Wind, LLC, FPL Energy South Dakota Wind, LLC, FPL Energy Stateline II, Inc., FPL Energy Vansycle, L.L.C., FPL Energy Wyman, LLC, FPL Energy Wyman IV, LLC, Garden Wind, LLC, Genesis Solar, LLC, Gray County Wind Energy, LLC, Hatch Solar Energy Center I, LLC, Hawkeye Power Partners, LLC, High Majestic Wind Energy Center, LLC, High Majestic Wind II, LLC, High Winds, LLC, Jamaica Bay Peaking Facility, LLC, Lake Benton Power Partners II, LLC, Langdon Wind, LLC, Limon Wind, LLC, Limon Wind II, LLC, Logan Wind Energy LLC, Meyersdale Windpower LLC, Mill Run Windpower, LLC, Minco Wind, LLC, Minco Wind II, LLC, Minco Wind III, LLC, Minco Wind Interconnection Services, LLC, Mountain View Solar, LLC, NEPM II, LLC, NextEra Energy Duane Arnold, LLC, NextEra Energy Montezuma II Wind, LLC, NextEra Energy Power Marketing, LLC, NextEra Energy Point Beach, LLC, NextEra Energy Seabrook, LLC, NextEra Energy Services Massachusetts, LLC, Northeast Energy Associates, A Limited Partnership, North Jersey Energy Associates, A Limited Partnership, North Sky River Energy, LLC, Northern Colorado Wind Energy, LLC, Osceola Windpower, LLC, Osceola Windpower II, LLC, Paradise Solar Urban Renewal, L.L.C., Peetz Table Wind Energy, LLC, Pennsylvania Windfarms, Inc., Perrin Ranch Wind, LLC, Red Mesa Wind, LLC, Sky River LLC, Somerset Windpower, LLC, Steele Flats Wind Projects, LLC, Story Wind, LLC, Tuscola Bay Wind, LLC, Vasco Winds, LLC, Waymart Wind Farm, L.P., Wessington Wind Energy Center, LLC, White Oak Energy LLC, Wilton Wind II, LLC, Windpower Partners 1993, LLC.

Description: NextEra Resources Entities Notification of Non-Material Change in Status One Day Out-of-Time.

Filed Date: 12/23/13.

Accession Number: 20131223–5280.

Comments Due: 5 p.m. ET 1/13/14.

Docket Numbers: ER10–3145–005; ER10–3147–005; ER13–442–002; ER10–3120–005; ER11–2036–005; ER13–1544–002; ER10–3128–005; ER11–3131–002; ER13–1139–005; ER10–1800–005; ER10–3136–005; ER11–2701–007; ER10–1728–005; ER10–2491–005; ER97–2904–013; ER97–4222–004; ER10–3116–005.

Applicants: The AES Corporation, AES Armenia Mountain Wind, LLC, AES Beaver Valley, LLC, AES Energy Storage, LLC, AES Huntington Beach, L.L.C., AES Laurel Mountain, LLC, AES ES Tait, LLC, AES Redondo Beach, L.L.C., Condon Wind Power, LLC, Imperial Valley Solar 1, LLC, Indianapolis Power & Light Company, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, The Dayton Power and Light Company, DPL Energy, LLC, Lake Benton Power Partners LLC, Storm Lake Power Partners II, LLC.

Description: Triennial Market Power Update for the Northeast Region of AES MBR Affiliates.

Filed Date: 12/26/13.

Accession Number: 20131226–5072.

Comments Due: 5 p.m. ET 2/25/14.

Docket Numbers: ER14–840–000.

Applicants: APDC, Inc.

Description: Tariff Amendment—Order No. 784 to be effective 12/27/2013.

Filed Date: 12/26/13.

Accession Number: 20131226–5057.

Comments Due: 5 p.m. ET 1/16/14.

Docket Numbers: ER14–841–000.

Applicants: Atlantic Power Energy Services (US) LLC.

Description: Atlantic Power Energy Services (US) LLC submits tariff filing per 35: Tariff Amendment—Order No. 784 to be effective 12/27/2013.

Filed Date: 12/26/13.

Accession Number: 20131226–5059.

Comments Due: 5 p.m. ET 1/16/14.

Docket Numbers: ER14–842–000.

Applicants: Manchief Power Company LLC.

Description: Manchief Power Company LLC submits tariff filing per 35: Tariff Amendment—Order No. 784 to be effective 12/27/2013.

Filed Date: 12/27/13.

Accession Number: 20131227–5000.

Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–843–000.

Applicants: Meadow Creek Project Company LLC.

Description: Meadow Creek Project Company LLC submits tariff filing per 35: Tariff Amendment—Order No. 784 to be effective 12/27/2013.

Filed Date: 12/27/13.

Accession Number: 20131227–5001.

Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–844–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits tariff filing per 35: Order No. 676–G Compliance Filing to be effective 5/6/2013.

Filed Date: 12/27/13.

Accession Number: 20131227–5019.

Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–845–000.

Applicants: El Paso Electric Company.

Description: El Paso Electric Company submits tariff filing per 35: OATT Order No. 784 Compliance Filing to be effective 2/25/2014.

Filed Date: 12/27/13.

Accession Number: 20131227–5020.

Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–846–000.

Applicants: Northern States Power Company, a Minnesota Corporation.

Description: Northern States Power Company, a Minnesota corporation submits tariff filing per 35.13(a)(2)(iii): 2013–12–27_NSP Interchange Agrmt Amended Exhibits Filing to be effective 1/1/2013.

Filed Date: 12/27/13.

Accession Number: 20131227–5029.

Comments Due: 5 p.m. ET 1/17/14.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC14–12–000.

Applicants: Tropical BioEnergia S.A.

Description: Self-Certification of Foreign Utility Company Status of Tropical BioEnergia S.A.

Filed Date: 12/27/13.

Accession Number: 20131227–5026.

Comments Due: 5 p.m. ET 1/17/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–31577 Filed 1–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–323–000.
Applicants: Texas Eastern Transmission, LP.
Description: ConocoPhillips 1–01–2014 Releases to be effective 1/1/2014.
Filed Date: 12/26/13.
Accession Number: 20131226–5052.
Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: PR14–12–000.
Applicants: UGI Penn Natural Gas, Inc.
Description: Tariff filing per 284.123(b)(1): Baseline Filing to be effective 12/26/2013.
Filed Date: 12/26/13.
Accession Number: 20131226–5024.
Comments Due: 5 p.m. ET 1/16/14.
284.123(g) Protests Due: 5 p.m. ET 2/24/14.

Docket Numbers: RP14–297–000.
Applicants: Equitrans, L.P.
Description: tariff filing per 154.601: Non-conforming Service Rate Agreements—EGC to be effective 12/17/2013.
Filed Date: 12/18/13.
Accession Number: 20131218–5175.
Comment Due: 5 p.m. ET 12/30/13.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–31580 Filed 1–3–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–39–000.
Applicants: ITC Midwest LLC.
Description: Application for Approval of Transaction Pursuant to FPA Section 203 of ITC Midwest LLC (CIPCO OPGW).
Filed Date: 12/26/13.
Accession Number: 20131226–5042.
Comments Due: 5 p.m. ET 1/16/14.

Docket Numbers: EC14–40–000.
Applicants: Castlebridge Energy Group LLC.
Description: Application of Castlebridge Energy Group LLC for Authorization to Dispose of Jurisdictional Facilities, Request for Expedited Consideration, Request for Waiver and Request for Confidential Treatment.
Filed Date: 12/24/13.
Accession Number: 20131224–5111.
Comments Due: 5 p.m. ET 1/14/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1789–003; ER10–1768–002; ER10–1793–002; ER10–1770–002; ER10–1771–002; ER12–1250–002.
Applicants: PSEG Energy Resources & Trade LLC, PSEG Fossil LLC, PSEG New Haven LLC, PSEG Nuclear LLC, PSEG Power Connecticut LLC, Public Service Electric and Gas Company.
Description: Updated Market Analysis Update for Northeast Region of the PSEG Companies.
Filed Date: 12/23/13.
Accession Number: 20131223–5279.
Comments Due: 5 p.m. ET 2/21/14.

Docket Numbers: ER10–2124–005.
Applicants: Spring Canyon Energy LLC.
Description: Triennial Report of Spring Canyon Energy LLC.
Filed Date: 12/24/13.
Accession Number: 20131224–5108.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER10–2125–005.
Applicants: Judith Gap Energy LLC.
Description: Triennial Report of Judith Gap Energy LLC.
Filed Date: 12/24/13.
Accession Number: 20131224–5103.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER10–2128–005.
Applicants: Wolverine Creek Energy LLC.
Description: Triennial Report of Wolverine Creek Energy LLC.
Filed Date: 12/24/13.
Accession Number: 20131224–5104.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER10–2129–004.
Applicants: Grays Harbor Energy LLC.
Description: Triennial Report of Grays Harbor Energy LLC.
Filed Date: 12/24/13.
Accession Number: 20131224–5107.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER10–2135–004.
Applicants: Spindle Hill Energy LLC.
Description: Triennial Report of Spindle Hill Energy LLC.
Filed Date: 12/24/13.
Accession Number: 20131224–5105.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER14–824–000; ER14–825–000.
Applicants: National Grid-Glenwood Energy Center, LLC, National Grid-Port Jefferson Energy Center, LLC.
Description: Niagara Mohawk Power Corporation et al submit their updated Triennial Market Power Analysis.
Filed Date: 12/24/13.
Accession Number: 20131226–0004.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER14–828–000.
Applicants: Kansas City Power & Light Company.
Description: KCP&L SPP Integrated Marketplace Filing to be effective 3/1/2014.
Filed Date: 12/24/13.
Accession Number: 20131224–5077.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–829–000.
Applicants: KCP&L Greater Missouri Operations Company.
Description: Triennial SPP Filing to be effective 3/1/2014.
Filed Date: 12/24/13.
Accession Number: 20131224–5078.
Comments Due: 5 p.m. ET 2/24/14.

Docket Numbers: ER14–830–000.
Applicants: Grays Harbor Energy LLC.
Description: Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/25/2013.

Filed Date: 12/24/13.
Accession Number: 20131224–5082.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–831–000.
Applicants: Judith Gap Energy LLC.
Description: Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/25/2013.
Filed Date: 12/24/13.
Accession Number: 20131224–5083.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–832–000.
Applicants: Spindle Hill Energy LLC.
Description: Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/25/2013.
Filed Date: 12/24/13.
Accession Number: 20131224–5084.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–833–000.
Applicants: Spring Canyon Energy LLC.
Description: Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/25/2013.
Filed Date: 12/24/13.
Accession Number: 20131224–5085.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–834–000.
Applicants: Wolverine Creek Energy LLC.
Description: Revised Market-Based Rate Tariff Pursuant to Order No. 784 to be effective 12/25/2013.
Filed Date: 12/24/13.
Accession Number: 20131224–5086.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–835–000.
Applicants: PacifiCorp.
Description: Cost Based Rate Schedule to be effective 12/25/2013.
Filed Date: 12/24/13.
Accession Number: 20131224–5088.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–836–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 12–26–2013 SA 2622 Courtenay & OTP J262/3 E&P to be effective 12/27/2013.
Filed Date: 12/26/13.
Accession Number: 20131226–5033.
Comments Due: 5 p.m. ET 1/16/14.

Docket Numbers: ER14–837–000.
Applicants: Trademark Merchant Energy, LLC.
Description: Trademark Merchant Energy, LLC submits tariff filing per 35: Tariff Amendment—Order No. 784 to be effective 12/27/2013.
Filed Date: 12/26/13.
Accession Number: 20131226–5035.
Comments Due: 5 p.m. ET 1/16/14.

Docket Numbers: ER14–838–000.
Applicants: Pacific Gas and Electric Company.
Description: Notice of Termination of Pacific Gas and Electric Company for the El Peco Energy SGIA, Service Agreement No. 218 under PG&E FERC Electric Tariff Volume No. 5.
Filed Date: 12/24/13.
Accession Number: 20131224–5109.
Comments Due: 5 p.m. ET 1/14/14.

Docket Numbers: ER14–839–000.
Applicants: Frederickson Power L.P.
Description: Frederickson Power L.P. submits tariff filing per 35: Tariff Amendment—Order No. 784 to be effective 12/27/2013.
Filed Date: 12/26/13.
Accession Number: 20131226–5051.
Comments Due: 5 p.m. ET 1/16/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–10–000.
Applicants: Portland General Electric Company.
Description: Supplement to November 11, 2013 Application of Portland General Electric Company for Authority to Issue Short-Term Debt Securities.
Filed Date: 12/23/13.
Accession Number: 20131223–5274.
Comments Due: 5 p.m. ET 1/2/14.

Docket Numbers: ES14–19–000.
Applicants: New York State Electric & Gas Corporation.
Description: Application for Authorization to Issue Short-Term Debt Securities under FPA Section 204 of New York State Electric & Gas Corporation.
Filed Date: 12/24/13.
Accession Number: 20131224–5094.
Comments Due: 5 p.m. ET 1/14/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 26, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–31579 Filed 1–3–14; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3079–006; ER12–126–008; ER11–2539–003; ER11–2540–003; ER11–2542–003.
Applicants: Tyr Energy, LLC, Trademark Merchant Energy, LLC, Plains End, LLC, Plains End II, LLC, Rathdrum Power, LLC.
Description: Updated Market Power Analysis for Northwest Region of Tyr Energy, LLC, et al.
Filed Date: 12/27/13.
Accession Number: 20131227–5096.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER12–540–005; ER12–539–005; ER10–1414–005; ER10–1346–005; ER10–1348–005; ER12–2205–004; ER10–1821–008; ER11–4475–008.
Applicants: APDC, Inc., Atlantic Power Energy Services (US) LLC, Frederickson Power L.P., Manchief Power Company LLC, Meadow Creek Project Company LLC, Rockland Wind Farm LLC, Goshen Phase II LLC.
Description: Updated Market Power Analysis of APDC, Inc., et. al.
Filed Date: 12/27/13.
Accession Number: 20131227–5101.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER13–2233–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 12–26–2013 Order 764 Compliance Filing to be effective 1/6/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5031.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER13–2490–002.
Applicants: Simon Solar, LLC.
Description: Name Change/Correction to be effective 10/1/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5042.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–846–000.
Applicants: Northern States Power Company, a Minnesota Corporation.
Description: 2013–12–27_NSP Interchange Agrmt Amended Exhibits Filing to be effective 1/1/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5029.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–847–000.
Applicants: Burley Butte Wind Park, LLC.
Description: Burley Triennial to be effective 12/27/2013.

Filed Date: 12/27/13.
Accession Number: 20131227–5036.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–848–000.
Applicants: Camp Reed Wind Park, LLC.
Description: Camp Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5037.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–849–000.
Applicants: Golden Valley Wind Park, LLC.
Description: Golden Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5038.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–850–000.
Applicants: Milner Dam Wind Park, LLC.
Description: Milner Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5039.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–851–000.
Applicants: Oregon Trail Wind Park, LLC.
Description: Oregon Triennial & Update to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5040.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–852–000.
Applicants: Pilgrim Stage Station Wind Park, LLC.
Description: Pilgrim Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5041.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–853–000.
Applicants: Payne's Ferry Wind Park, LLC.
Description: Payne's Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5043.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–854–000.
Applicants: Salmon Falls Wind Park, LLC.
Description: Salmon Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5044.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–855–000.
Applicants: Thousand Springs Wind Park, LLC.
Description: Thousand Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5045.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–856–000.
Applicants: Tuana Gulch Wind Park, LLC.
Description: Tuana Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5046.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–857–000.
Applicants: Yahoo Creek Wind Park, LLC.
Description: Yahoo Triennial to be effective 12/27/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5047.
Comments Due: 5 p.m. ET 2/26/14.

Docket Numbers: ER14–858–000.
Applicants: Norwalk Power LLC.
Description: Amendment to Tariff to be effective 12/28/2013.
Filed Date: 12/27/13.
Accession Number: 20131227–5072.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–859–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 12–27–13 SPP JOA Amendment 3 to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5083.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–860–000.
Applicants: Public Service Company of Colorado.
Description: 2013–12–27_Amended JOA Agrmt Filing to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5085.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–861–000.
Applicants: Public Service Company of Colorado.
Description: 20131227 PSCo MBR Filing to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5086.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–862–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 12–27–13 MISO–PJM JOA to be effective 2/26/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5094.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–863–000.
Applicants: Southwest Power Pool, Inc.
Description: SPP–MISO JOA Emergency Energy Assistance Revisions to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5099.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–864–000.
Applicants: New York Independent System Operator, Inc.
Description: NYISO Tariff Filing to Implement Improved Proxy Gen Bus Pricing Rules to be effective 4/8/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5100.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–865–000.
Applicants: Southwestern Public Service Company.
Description: 2013–12–27_SPS SPP MBR Filing to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5119.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–866–000.
Applicants: Southwest Power Pool, Inc.
Description: Order No. 784 Compliance to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5117.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–867–000.
Applicants: AEP Energy, Inc.
Description: AEP Energy MBR Revision to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5121.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–868–000.
Applicants: AEP Retail Energy Partners.
Description: AEP Retail Energy Partners MBR Revision to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5122.
Comments Due: 5 p.m. ET 1/17/14.

Docket Numbers: ER14–869–000.
Applicants: AEP Texas Central Company.
Description: CSW Oper Co MBR Revision to be effective 3/1/2014.
Filed Date: 12/27/13.
Accession Number: 20131227–5123.
Comments Due: 5 p.m. ET 1/17/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–31578 Filed 1–3–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ14–5–000]

City of Banning, California; Notice of Filing

Take notice that on December 20, 2013, the City of Banning, California submitted its tariff filing per 35.28(e): Filing 2014 TRBAA and ETC Update to be effective 1/1/2014.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 10, 2014.

Dated: December 27, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–31581 Filed 1–3–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9905–10–OSWER]

Twenty-Sixth Update of the Federal Agency Hazardous Waste Compliance Docket

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Since 1988, the Environmental Protection Agency (EPA) has maintained a Federal Agency Hazardous Waste Compliance Docket (''Docket'') under Section 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Section 120(c) requires EPA to establish a Docket that contains certain information reported to EPA by Federal facilities that manage hazardous waste or from which a reportable quantity of hazardous substances has been released. As explained further below, the Docket is used to identify Federal facilities that should be evaluated to determine if they pose a threat to public health or welfare and the environment and to provide a mechanism to make this information available to the public.

Today's notice identifies the Federal facilities not previously listed on the Docket and reported to EPA since the last update of the Docket on March 18, 2013. In addition to the list of additions to the Docket, this notice includes a section with revisions of the previous Docket list. Thus, the revisions in this update include 36 additions and two deletions, as well as one correction to the Docket since the previous update. At the time of publication of this notice, the new total number of Federal facilities listed on the Docket is 2,382.

DATES: This list is current as of December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Electronic versions of the Docket and more information on its implementation can be obtained at *http://www.epa.gov/fedfac/documents/docket.htm* by clicking on the link for *Update #26 to the Federal Agency Hazardous Waste Compliance Docket* or by contacting Tim Mott, Federal Agency Hazardous Waste Compliance Docket Coordinator, Federal Facilities Restoration and Reuse Office (Mail Code 5106P), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

Table of Contents

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2.0 Regional Docket Coordinators
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7.0 Information Contained on Docket Listing

1.0 Introduction

Section 120(c) of CERCLA, 42 United States Code (U.S.C.) 9620(c), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires EPA to establish the Federal Agency Hazardous Waste Compliance Docket. The Docket contains information on Federal facilities that manage hazardous waste and such information is submitted by Federal agencies to EPA under Sections 3005, 3010, and 3016 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6925, 6930, and 6937. Additionally, the Docket contains information on Federal facilities with a reportable quantity of hazardous substances that has been released and such information is submitted by Federal agencies to EPA under Section 103 of CERCLA, 42 U.S.C. 9603. Specifically, RCRA Section 3005 establishes a permitting system for certain hazardous waste treatment, storage, and disposal (TSD) facilities; RCRA Section 3010 requires waste generators, transporters and TSD facilities to notify EPA of their hazardous waste activities; and RCRA Section 3016 requires Federal agencies to submit biennially to EPA an inventory of their Federal hazardous waste facilities. CERCLA Section 103(a) requires the owner or operator of a vessel or onshore or offshore facility to notify the National Response Center (NRC) of any spill or other release of a hazardous substance that equals or exceeds a reportable quantity (RQ), as defined by CERCLA Section 101. Additionally, CERCLA Section 103(c) requires facilities that have ''stored, treated, or disposed of'' hazardous wastes and where there is ''known, suspected, or likely releases'' of hazardous substances to report their activities to EPA.

CERCLA Section 120(d) requires EPA to take steps to assure that a Preliminary Assessment (PA) be completed for those sites identified in the Docket and that the evaluation and listing of sites with

a PA be completed within a reasonable time frame. The PA is designed to provide information for EPA to consider when evaluating the site for potential response action or inclusion on the National Priorities List (NPL).

The Docket serves three major purposes: (1) To identify all Federal facilities that must be evaluated to determine whether they pose a risk to human health and the environment sufficient to warrant inclusion on the National Priorities List (NPL); (2) to compile and maintain the information submitted to EPA on such facilities under the provisions listed in Section 120(c) of CERCLA; and (3) to provide a mechanism to make the information available to the public.

The initial list of Federal facilities to be included on the Docket was published in the **Federal Register** on February 12, 1988 (53 FR 4280). Since then, updates to the Docket have been published on November 16, 1988 (54 FR 46364); December 15, 1989 (54 FR 51472); August 22, 1990 (55 FR 34492); September 27, 1991 (56 FR 49328); December 12, 1991 (56 FR 64898); July 17, 1992 (57 FR 31758); February 5, 1993 (58 FR 7298); November 10, 1993 (58 FR 59790); April 11, 1995 (60 FR 18474); June 27, 1997 (62 FR 34779); November 23, 1998 (63 FR 64806); June 12, 2000 (65 FR 36994); December 29, 2000 (65 FR 83222); October 2, 2001 (66 FR 50185); July 1, 2002 (67 FR 44200); January 2, 2003 (68 FR 107); July 11, 2003 (68 FR 41353); December 15, 2003 (68 FR 240); July 19, 2004 (69 FR 42989); December 20, 2004 (69 FR 75951); October 25, 2005 (70 FR 61616); August 17, 2007 (72 FR 46218); November 25, 2008 (73 FR 71644); October 13, 2010 (75 FR 62810); November 6, 2012 (77 FR 66609), and March 18, 2013 (78 FR 16668). This notice constitutes the twenty-sixth update of the Docket.

Today's notice provides some background information on the Docket. Additional information on the Docket requirements and implementation are found in the Docket Reference Manual, Federal Agency Hazardous Waste Compliance Docket found at *http://www.epa.gov/fedfac/documents/docket.htm* or obtained by calling the Regional Docket Coordinators listed below. Today's notice also provides changes to the list of sites included on the Docket in three areas: (1) Additions, (2) Deletions, and (3) Corrections. Specifically, additions are newly identified Federal facilities that have been reported to EPA since the last update and now are included on the Docket; the deletions section lists Federal facilities that EPA is deleting from the Docket; and the corrections section lists changes in the information about the Federal facilities already listed on the Docket.[1] The information submitted to EPA on each Federal facility is maintained in the Docket repository located in the EPA Regional office of the Region in which the Federal facility is located; for a description of the information required under those provisions, *see* 53 FR 4280 (February 12, 1988). Each repository contains the documents submitted to EPA under the reporting provisions and correspondence relevant to the reporting provisions for each Federal facility.

In prior updates, information was also provided regarding No Further Remedial Action Planned (NFRAP) status changes. However, information on NFRAP and NPL status is no longer being provided separately in the Docket update as it is now available at: *http://www.epa.gov/fedfac/documents/docket.htm* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

2.0 Regional Docket Coordinators

Contact the following Docket Coordinators for information on Regional Docket repositories:

Martha Bosworth (HBS), US EPA Region 1, 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston MA 02109–3912, (617) 918–1407 or Maggie Morris, US EPA Region 1, 5 Post Office Square, Suite 100, Mail Code: OSRR07–2, Boston, MA 02109, (617) 918–1092.

Helen Shannon (ERRD), US EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4260 or Alida Karas (ERRD), US EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–4276.

Joseph Vitello (3HS12), US EPA Region 3, 1650 Arch Street, Philadelphia, PA 19107, (215) 814–3354.

Dawn Taylor (4SF–SRSEB), US EPA Region 4, 61 Forsyth St. SW., Atlanta, GA 30303, (404) 562–8575.

Michael Chrystof (SR–6J), US EPA Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–3705.

Philip Ofosu (6SF–RA), US EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–3178.

Todd H. Davis (ERNB), US EPA Region 7, 11201 Renner Blvd., Lenexa, KS 66219, (913) 551–7749.

Ryan Dunham (EPR–F), US EPA Region 8, 1595 Wynkoop Street, Denver, CO 80202, (303) 312–6627.

Leslie Ramirez (SFD–6–1), US EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3978.

Monica Lindeman (ECL, ABU), US EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 553–5113 or Ken Marcy (ECL, ABU), US EPA Region 10, 1200 Sixth Avenue, Suite 900, ECL–112, Seattle, WA 98101, (206) 890–0591.

3.0 Revisions of the Previous Docket

This section includes a discussion of the additions, deletions, and corrections to the list of Docket facilities since the previous Docket update.

3.1 Additions

Today, 36 Federal facilities are being added to the Docket, primarily because of new information obtained by EPA (for example, recent reporting of a facility pursuant to RCRA Sections 3005, 3010, or 3016 or CERCLA Section 103). CERCLA Section 120, as amended by the Defense Authorization Act of 1997, specifies that EPA take steps to assure that a Preliminary Assessment (PA) be completed within a reasonable time frame for those Federal facilities that are included on the Docket. Among other things, the PA is designed to provide information for EPA to consider when evaluating the site for potential response action or listing on the NPL.

3.2 Deletions

Today, two Federal facilities are being deleted from the Docket. There are no statutory or regulatory provisions that address deletion of a facility from the Docket. However, if a facility is incorrectly included on the Docket, it may be deleted from the Docket. The criteria EPA uses in deleting sites from the Docket include: a facility for which there was an incorrect report submitted for hazardous waste activity under RCRA (e.g., 40 CFR § 262.44); a facility that was not Federally-owned or operated at the time of the listing; a facility included more than once (i.e., redundant listings); or when multiple facilities are combined under one listing. (See Docket Codes (*Categories for Deletion of Facilities*) for a more refined list of the criteria EPA uses for deleting sites from the Docket. Facilities being deleted no longer will be subject to the requirements of CERCLA Section 120(d).

3.3 Corrections

Changes necessary to correct the previous Docket are identified by both EPA and Federal agencies. The corrections section may include changes in addresses or spelling, and corrections of the recorded name and ownership of

[1] See Section 3.2 for the criteria for being deleted from the Docket.

a Federal facility. In addition, changes in the names of Federal facilities may be made to establish consistency in the Docket or between the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS) and the Docket. For the Federal facility for which a correction is entered, the original entry (designated by an ''o''), as it appeared in previous Docket updates, is shown directly below the corrected entry (designated by a ''c'') for easy comparison. Today, information is being corrected for one facility.

4.0 Process for Compiling the Updated Docket

In compiling the newly reported Federal facilities for the update being published today, EPA extracted the names, addresses, and identification numbers of facilities from four EPA databases—the Emergency Response Notification System (ERNS), the Biennial Inventory of Federal Agency Hazardous Waste Activities, the Resource Conservation and Recovery Information System (RCRAInfo), and CERCLIS—that contain information about Federal facilities submitted under the four provisions listed in CERCLA Section 120(c).

EPA assures the quality of the information on the Docket by conducting extensive evaluation of the current Docket list with the information obtained from the databases identified above to determine which Federal facilities were, in fact, newly reported and qualified for inclusion on the update. EPA is also striving to correct errors for Federal facilities that were previously reported. For example, state-owned or privately-owned facilities that are not operated by the Federal government may have been included. Such problems are sometimes caused by procedures historically used to report and track Federal facilities data. Representatives of Federal agencies are asked to write to the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice if revisions of this update information are necessary.

5.0 Facilities Not Included

Certain categories of facilities may not be included on the Docket, such as: (1) Federal facilities formerly owned by a Federal agency that at the time of consideration was not Federally-owned or operated; (2) Federal facilities that are small quantity generators (SQGs) that have never generated more than 1,000 kg of hazardous waste in any month; (3) Federal facilities that are solely hazardous waste transportation facilities, as reported under RCRA Section 3010; and (4) Federal facilities that have mixed mine or mill site ownership.

An EPA policy issued in June 2003 provided guidance for a site-by-site evaluation as to whether ''mixed ownership'' mine or mill sites, typically created as a result of activities conducted pursuant to the General Mining Law of 1872 and never reported under Section 103(a), should be included on the Docket. For purposes of that policy, mixed ownership mine or mill sites are those located partially on private land and partially on public land. This policy is found at *http://www.epa.gov/fedfac/pdf/mixownrshpmine.pdf*. The policy for not including these facilities may change; facilities now not included may be added at some point if EPA determines that they should be included.

6.0 Facility NPL Status Reporting, Including NFRAP Status

EPA typically tracks the NPL status of Federal facilities listed on the Docket. An updated list of the NPL status of all Docket facilities, as well as their NFRAP status, is available at *http://www.epa.gov/fedfac/documents/docket.htm* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. In prior updates, information regarding NFRAP status changes was provided separately.

7.0 Information Contained on Docket Listing

The updated information is provided in three tables. The first table is a list of new Federal facilities that are being added to the Docket; the second table is a list of Federal facilities that are being deleted from the Docket and the third table contains corrections of information included on the Docket.

The Federal facilities listed in each table are organized by state and then grouped alphabetically within each state by the Federal agency responsible for the facility. Under each state heading is listed the name and address of the facility, the Federal agency responsible for the facility, the statutory provision(s) under which the facility was reported to EPA, and a code.[2] The code key precedes the lists.

The statutory provisions under which a Federal facility is reported are listed in a column titled ''Reporting Mechanism.'' Applicable mechanisms are listed for each Federal facility: for example, Sections 3005, 3010, 3016, 103(c), or Other. ''Other'' has been added as a reporting mechanism to indicate those Federal facilities that otherwise have been identified to have releases or threat of releases of hazardous substances. The National Contingency Plan 40 CFR § 300.405 addresses discovery or notification, outlines what constitutes discovery of a hazardous substance release, and states that a release may be discovered in several ways, including: (1) A report submitted in accordance with Section 103(a) of CERCLA, i.e., reportable quantities codified at 40 CFR part 302; (2) a report submitted to EPA in accordance with Section 103(c) of CERCLA; (3) investigation by government authorities conducted in accordance with Section 104(e) of CERCLA or other statutory authority; (4) notification of a release by a Federal or state permit holder when required by its permit; (5) inventory or survey efforts or random or incidental observation reported by government agencies or the public; (6) submission of a citizen petition to EPA or the appropriate Federal facility requesting a preliminary assessment, in accordance with Section 105(d) of CERCLA; (7) a report submitted in accordance with Section 311(b)(5) of the Clean Water Act; and (8) other sources. As a policy matter, EPA generally believes it is appropriate for Federal facilities identified through the CERCLA discovery and notification process to be included on the Docket.

The complete list of Federal facilities that now make up the Docket and the NPL and NFRAP status are available to interested parties and can be obtained at *http://www.epa.gov/fedfac/documents/docket.htm* by clicking on the link for *Federal Agency Hazardous Waste Compliance Docket Update #26* or by contacting the EPA HQ Docket Coordinator at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice. As of today, the total number of Federal facilities that appear on the Docket is 2,382.

Dated: December 23, 2013.

Reggie Cheatham,

Director, Federal Facilities Restoration and Reuse Office, Office of Solid Waste and Emergency Response.

Docket Codes

Categories for Deletion of Facilities

(1) Small-Quantity Generator.

(2) Never Federally Owned and/or Operated.

(3) Formerly Federally Owned and/or Operated but not at time of listing.

[2] Each Federal facility listed in the update has been assigned a code that indicates a specific reason for the addition or deletion. The code precedes this list.

(4) No Hazardous Waste Generated.

(5) (This code is no longer used.)

(6) Redundant Listing/Site on Facility.

(7) Combining Sites Into One Facility/Entries Combined.

(8) Does Not Fit Facility Definition.

Categories for Addition of Facilities

(15) Small-Quantity Generator with either a RCRA 3016 or CERCLA 103 Reporting Mechanism.

(16) One Entry Being Split Into Two (or more)/Federal Agency Responsibility Being Split.

(17) New Information Obtained Showing That Facility Should Be Included.

(18) Facility Was a Site on a Facility That Was Disbanded; Now a Separate Facility.

(19) Sites Were Combined Into One Facility.

(19A) New currently Federally owned and/or operated Facility site.

Categories for Corrections of Information About Facilities

(20) Reporting Provisions Change.

(20A) Typo Correction/Name Change/Address Change.

(21) Changing Responsible Federal Agency. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)

(22) Changing Responsible Federal Agency and Facility Name. (If applicable, new responsible Federal agency submits proof of previously performed PA, which is subject to approval by EPA.)

(24) Reporting Mechanism Determined To Be Not Applicable After Review of Regional Files.

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #26—ADDITIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
Transportation Security Administration.	E Sky Harbor Blvd, Ste 4206.	Phoenix	AZ	85034	Transportation Security Administration.	3010	19A
Naval Medical Center San Diego (Balboa Hospital).	Bob Wilson Drive	San Diego	CA	92147	Dept of the Navy	3010	19A
San Diego V.A. Healthcare System.	La Jolla Village Drive.	San Diego	CA	92161–0002	Veterans Affairs	3010	19A
VA Long Beach Healthcare System VALBHS.	5901 E 7th St	Long Beach	CA	90822	Veterans Affairs	3010	19A
Department of Veteran Affairs	E Colfax	Aurora	CO	80045	Veterans Affairs	3010	19A
US Customs House	19th St	Denver	CO	80202	General Services Administration.	3010	19A
VA Ct Health Care System	Willard Ave	Newington	CT	6111	Veterans Affairs	3010	19A
US Secret Service—Ariel Rios Bldg.	Pennsylvania Avenue NW.	Washington	DC	20004	Homeland Security	3010	19A
Transportation Security Administration.	NW 20th St Bldg 3050.	Miami	FL	33142	Transportation Security Administration.	3010	19A
TSA Orlando International Airport.	Jeff Fuqua Blvd	Orlando	FL	32822	Transportation Security Administration.	3010	19A
Transportation Security Agency (TSA) At Guam International Airport (GUM).	Chalan Pasaheru Street.	Tamuning	GU	96913	Transportation Security Administration.	3010	19A
USDA Aphis WS Pocatello Supply Depot.	238 E Dillon Street	Pocatello	ID	83201	Agriculture	3010	19A
Leavenworth VA CMOP	S 13th St	Leavenworth	KS	66048	Veterans Affairs	3010	19A
Louisville Veterans Affairs Medical Center.	Zorn Avenue	Louisville	KY	40202	Veterans Affairs	3010	19A
AEX ARSR	FAA Ave	Alexandria	LA	71311	Federal Aviation Administration.	3010	19A
Southeast Louisiana Veterans Healthcare System/Replace New Orleans VA Medical CE.	Canal Street	New Orleans	LA	70119	US Department of Veterans Affairs.	3010	19A
U.S. Army	Warrior Avenue	Alexandria	LA	71311	US Army	3010	19A
US Coast Guard Air Station Cape Cod.	Bldg 5216 Bryan Rd	Bourne	MA	2542	US Coast Guard	3010	19A
US FDA Office Of Criminal Investigation.	11750 Beltsville Dr Suite 200.	Beltsville	MD	20705	Health And Human Services.	3010	19A
Charles Evans Whittaker US Federal Courthouse.	400 E 9th St	Kansas City	MO	64106–2607	General Services Administration.	3010	19A
General Services Administration Former Federal Center.	607 Hardesty Ave	Kansas City	MO	64124–3032	General Services Administration.	3010	19A
VA Mt Hlth Care Systems Fort Harrison.	Veterans Dr	Fort Harrison	MT	59636	Veterans Affairs	3010	19A
NIEHS & EPA Waste Handling Facility.	TW Alexander Drive	Durham	NC	27709–2233	Dept. of Health and Human Services.	3010	19A
US Department of Veterans Affairs Nebraska-Western Iowa Health Care System.	Woolworth	Omaha	NE	68105	Veterans Affairs	3010	19A
US Coast Guard Training Center.	1 Munro Avenue	Cape May	NJ	8204	US Coast Guard	3010	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #26—ADDITIONS—Continued

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
Former Red Rocks Mine	37 51' 23 N Lat 118 14' 34 W L.	Dyer	NV	89010	US Dept of Agriculture.	3010	19A
Canandaigua VA Medical Center.	400 Foot Hill Avenue.	Canandaigua	NY	14424	Veterans Affairs	3010	19A
Louis Stokes Cleveland VAMC	10701 East Blvd	Cleveland	OH	44106	Veterans Affairs	3010	19A
TSA Portland International Airport.	7000 NE Airport WY Lwr Lvl SE.	Portland	OR	97218	Transportation Security Administration.	3010	19A
US Navy Naval Station Newport.	1 Simonpietri Drive	Newport	RI	2841	US Navy	3010	19A
NASA Ellington Field	SW 36th St	Houston	TX	77058	National Aeronautics and Space Administration.	3010	19A
TCR Composites (Prev. Atk Space System).	530 West	Ogden	UT	84404	Department of Army	3010	19A
TSA Seatac Airport	17801 Intl Blvd, Rm 6631.	Seattle	WA	98158	Transportation Security Administration.	3010	19A
USDHS CG Alki Point Lighthouse.	3201 Alki Ave SW	Seattle	WA	98116	Dept of Homeland Security.	3010	19A
USDHS CG North Head Lighthouse.	N North Head Lighthouse Road, 2 Mi SW of Ilwaco/ 46.29891 N, 124.07805 W.	Ilwaco	WA	98624	Dept of Homeland Security.	Other	19A
Natl Coldwater Aquaculture Ctr	11861 Leetown Rd	Kearneysville	WV	25430	Dept of Agriculture	3010	19A

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #26—DELETIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
Lewis University Correctional Center.	1125 N Collins	Joliet	IL	60436	Justice	3010	2
Engineering District Lou Monroe.	1620 E Monroe Dam Ct.	Bloomington	IN	47401	Army	3010	1

FEDERAL AGENCY HAZARDOUS WASTE COMPLIANCE DOCKET UPDATE #26—CORRECTIONS

Facility name	Address	City	State	Zip code	Agency	Reporting mechanism	Code
c—FWS-Hawaiian Islands National Wildlife Refuge: Tern Island.	French Frigate Shoals.		HI		Interior	3016	20A
o—FWS-Hawaiian Islands National Wildlife Refuge.	French Frigate Shoals, Tern Island.		HI		Interior	3016	20A

[FR Doc. 2013–31568 Filed 1–3–14; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act, of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 9, 2014, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. Submit attendance requests via email to *VisitorRequest@FCA.gov.* See **SUPPLEMENTARY INFORMATION** for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to *VisitorRequest@FCA.gov* at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance

for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit Administration Board, at (703) 883–4009. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

• December 12, 2013

B. New Business

• Standards of Conduct—Proposed Rule

C. Reports

• Equal Employment Opportunity and Inclusion Update

• Auditor's Report on FCA FY 2013/2012 Financial Statements

Closed Session *

• Executive Meeting with Auditors

Dated: January 2, 2014.

Dale L. Aultman,

Secretary, Farm Credit Administration Board

[FR Doc. 2014–00024 Filed 1–2–14; 4:15 pm]

BILLING CODE 6705–01–P

* Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(2).

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 Program Project: Pain and Drug Abuse.

Date: January 22–23, 2014.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: John Bishop, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, (301) 408–9664, *bishopj@csr.nih.gov*.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group Lung Injury, Repair, and Remodeling Study Section.

Date: February 3–4, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Ghenima Dirami, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4122, MSC 7814, Bethesda, MD 20892, 240–498–7546, *diramig@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group Arthritis, Connective Tissue and Skin Study Section.

Date: February 3–4, 2014.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, 301–237–9931, *ansaria@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: December 30, 2013.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–31494 Filed 1–3–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2014 Funding Opportunity

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of intent to award a single source grant to the National Association of State Alcohol and Drug Abuse Directors (NASADAD).

SUMMARY: This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA) intends to award $1.162 million (total costs) for up to three years to NASADAD for Technical Assistance to States for Implementation of the Substance Abuse Block Grant (SABG) for Prevention and Treatment (Short Title: SABG–TA). The purpose of this program is to provide technical assistance (TA) to substance abuse Single State Agencies (SSAs) to increase service capacity, including recovery support services, develop integrated systems of care, improve behavioral health outcomes, and support strategies for addressing health disparities in use of the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care. In addition, the program will provide TA support to the National Prevention Network (NPN) leadership in support of the further development of state prevention systems as it relates to the implementation of the SABG program. SABG–TA funds will be used to assist states in responding to emerging issues, such as the Affordable Care Act, parity, information technology innovations, implementation of evidence-based practices, and issues related to program integrity. These funds are used for prevention, treatment, recovery support, and other services that will assist in the development, implementation, and management of the SABG program.

Funding Opportunity Title: TI–14–002.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Authority: Section 1935 of the Public Health Services Act, as amended.

Justification: Eligibility for this award is limited to NASADAD. NASADAD is in the unique position to facilitate these activities because:

• NASADAD is the sole and unique organization with a direct official relationship with the SSAs and is the only agency of its type representing all the SSAs for substance use disorder treatment and primary prevention activities.

• NASADAD has helped to professionalize the field, and support the systematic development of evidence-based models of screening, assessment, treatment, and recovery support services. Such interventions yield favorable outcomes, are cost-effective, scalable, and sustainable. Significant investments in training and workforce development have made these interventions accessible to providers of treatment and prevention services around the country.

• Over the years, NASADAD has built an extensive array of constituency groups and has maintained these ongoing memberships in order to coordinate group activities via teleconference, net conference, or in person meetings, as necessary for the

purpose of educating the public about the value and importance of substance use disorder treatment and prevention.

• NASADAD is the sole organization that has been utilizing a Web-based process to facilitate SSA dialogue on SSA management, clinical program and research issues practices within the SSAs/NPNs, and recognizes and promotes a number of critical prevention research products.

• NASADAD's constituency and staff are a repository of knowledge on state issues related to substance abuse treatment indicators and are accountable for performance in the SABG grant. This knowledge is critical to the grant project.

As a result, NASADAD is uniquely qualified and positioned to carry out the requirements of this announcement.

Contact: Cathy Friedman, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 8–1097, Rockville, MD 20857; telephone: (240) 276–2316; email: *cathy.friedman@samhsa.hhs.gov.*

Cathy J. Friedman,

SAMHSA Public Health Analyst.

[FR Doc. 2013–31583 Filed 1–3–14; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Internal Agency Docket No. FEMA–4158–DR; Docket ID FEMA–2013–0001]

California; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of California (FEMA–4158–DR), dated December 13, 2013, and related determinations.

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

FOR FURTHER INFORMATION CONTACT: Dean Webster, Office of Response and Recovery, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2833.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated December 13, 2013, the President issued a major disaster declaration under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 *et seq.* (the ''Stafford Act''), as follows:

I have determined that the damage in certain areas of the State of California resulting from the Rim Fire during the period of August 17 to October 24, 2013, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq. (the ''Stafford Act''). Therefore, I declare that such a major disaster exists in the State of California.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance also will be limited to 75 percent of the total eligible costs, with the exception of projects that meet the eligibility criteria for a higher Federal cost-sharing percentage under the Public Assistance Alternative Procedures Pilot Program for Debris Removal implemented pursuant to section 428 of the Stafford Act.

Further, you are authorized to make changes to this declaration for the approved assistance to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, Stephen M. DeBlasio Sr., of FEMA is appointed to act as the Federal Coordinating Officer for this major disaster.

The following area of the State of California has been designated as adversely affected by this major disaster:

Tuolumne County for Public Assistance.

All counties within the State of California are eligible to apply for assistance under the Hazard Mitigation Grant Program.

The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund; 97.032, Crisis Counseling; 97.033, Disaster Legal Services; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance Grant; 97.048, Disaster Housing Assistance to Individuals and Households in Presidentially Declared Disaster Areas; 97.049, Presidentially Declared Disaster Assistance—Disaster Housing Operations for Individuals and Households; 97.050, Presidentially Declared Disaster Assistance to Individuals and Households—Other Needs; 97.036, Disaster Grants—Public Assistance (Presidentially Declared Disasters); 97.039, Hazard Mitigation Grant.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2013–31501 Filed 1–3–14; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5684–N–09]

60-Day Notice of Proposed Information Collection: Congressional Earmark Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

The Department's Congressional Grants Division administers congressionally mandated grants, known as earmarks. These projects have been identified in the annual appropriation of funds to the Department and in the accompanying conference reports or congressional record accompanying each appropriation. Earmarks generally fall into two categories: Economic Development Initiative–Special Project (EDI–SP) and Neighborhood Initiative (NI) grants.

DATES: *Comments Due Date:* March 7, 2014.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management

Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected and (4) Minimize the burden of collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

A. Overview of Information Collection

Title of Information Collection: Congressional Earmark Grants.

OMB Approval Number: 2506–0179.

Type of Request (i.e. new, revision or extension of currently approved collection): extension of a currently approved collection.

Form Number: SF–424; SF–LLL; SF–1199A; HUD–27054; SF–425; HUD 27053, HUD–27056.

Description of the need for the information and proposed use: HUD's Congressional Grants Division and its Environmental Officers in the field use this information to make funds available to entities directed to receive funds appropriated by Congress. This information is used to collect, receive, review and monitor program activities through applications, semi-annual reports, and close out reports. The information that is collected is used to assess performance. Grantees are units of state and local government, nonprofits and Indian tribes. Respondents are initially identified by congress and generally fall into two categories: Economic Development Initiative—Special Project (EDI–SP) grantees and Neighborhood Initiative (NI) grantees. The agency has used the application, semi-annual reports and close out reports to track grantee performance in the implementation of approved projects.

Respondents (i.e. affected public): local and state governments, nonprofits and Indian tribes.

Estimated Number of Respondents: 1400.

Estimated Number of Responses: 2800.

Frequency of Response: 2.

Average Hours per Response: .5.

Total Estimated Burdens: 1400.

Note: *Preparer of this notice may substitute the chart for everything beginning with estimated number of respondents above:*

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
	1400	2	2800	.5	1400	33.50	$46,900
Total	.....	.....	.....	.....	.....	.....	.....

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 27, 2013.

Mark Johnston,

Deputy Assistant Secretary for Special Needs Program.

[FR Doc. 2013–31573 Filed 1–3–14; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R2–ES–2013–N275; FXES11130200000C2–112–FF02ENEH00]

Endangered and Threatened Wildlife and Plants; Final Recovery Plan for the Gulf Coast Jaguarundi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of our final recovery plan for the Gulf Coast jaguarundi under the Endangered Species Act of 1973, as amended (Act). We have developed this final recovery plan to comply with a September 16, 2010, Stipulated Settlement Agreement between WildEarth Guardians and the Secretary of the Interior. This species historically occurred in southern Texas in the United States, and is currently known to occur in eastern Mexico as far south as Veracruz.

ADDRESSES: If you wish to review the final recovery plan, you may obtain a copy by any one of the following methods:

- *Internet: http://www.fws.gov/endangered/species/recovery-plans.html;*
- *U.S. mail:* South Texas Refuges Complex Headquarters, Attn: Mitch Sternberg, 3325 Green Jay Road, Alamo, TX 78516;
- *Telephone:* (956) 784–7500;
- *Fax:* (956) 787–8338; or
- *Email: Mitch_Sternberg@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Mitch Sternberg, at the above address, phone number, or email.

SUPPLEMENTARY INFORMATION: We announce the availability of our final recovery plan for the Gulf Coast jaguarundi (*Puma yagouaroundi*

cacomitli). The recovery plan was prepared by biologists from the United States, with input from experts in Mexico. We made the draft recovery plan available via a **Federal Register** notice published on December 26, 2012 (77 FR 76066); this notice opened a comment period that ran through February 22, 2013, and requested comments from local, State, and Federal agencies; and the public. We considered information we received from these entities, as well as that obtained from two independent peer reviewers, in finalizing this revised recovery plan.

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program and the Act (16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria set out in section 4(a)(1) of the Act. The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species.

Species' History

We listed the Gulf Coast jaguarundi as an endangered species under the Act on June 14, 1976 (41 FR 24062). The Listed Cats of Texas and Arizona Recovery Plan (With Emphasis on the Ocelot) was completed in 1990, and it briefly addressed the jaguar, jaguarundi, and margay, but focused on the ocelot, primarily in Texas. The Final Gulf Coast Jaguarundi Recovery Plan only applies to the Gulf Coast subspecies of jaguarundi.

The jaguarundi was originally included in the genus *Felis,* and the Gulf Coast jaguarundi was originally listed under the Act as *Felis yagouaroundi cacomitli* in 1976. Later, genus classification was changed from *Felis* to *Herpailurus,* and this widely accepted change was subsequently made to the listing. Thus, this subspecies is currently listed under the Act as *Herpailurus (=Felis) yagouaroundi cacomitli.* However, more recent genetic work assigns the jaguarundi to the genus *Puma,* and this has become the generally accepted nomenclature. Therefore, in keeping with this current information, we refer to the Gulf Coast jaguarundi subspecies as *Puma yagouaroundi cacomitili* throughout this recovery plan, and we officially accept the new scientific name of the jaguarundi as *Puma yagouaroundi.*

The Sinaloan jaguarundi (*Puma yagouaroundi tolteca*) was originally listed under the Act at the same time as the Gulf Coast subspecies. Because all of the current information indicates that the *tolteca* subspecies occurs entirely outside the United States and has never been confirmed within the United States, the Sinaloan jaguarundi was exempted from recovery planning on June 7, 2011.

The Gulf Coast jaguarundi is found in the Tamaulipan Biotic Province of northeast Mexico and south Texas. Within Mexico it occurs in the eastern lowlands and has not been recorded in the Central Highlands. In southern Texas, jaguarundis used dense thorny shrublands. Jaguarundis will use bunchgrass pastures if dense brush or woody cover is nearby.

The primary known threats to the Gulf Coast jaguarundi are habitat destruction, degradation, and fragmentation associated with agriculture and urbanization, and, to some extent, border security activities. Mortality from collisions with vehicles is also a threat.

Recovery Plan Goals

The objective of an agency recovery plan is to provide a framework for the recovery of a species so that protection under the Act is no longer necessary. A recovery plan includes scientific information about the species and provides criteria and actions necessary for us to be able to reclassify the species to threatened status or remove it from the Federal List of Endangered and Threatened Wildlife and Plants (List). Recovery plans help guide our recovery efforts by describing actions we consider necessary for the species' conservation, and by estimating time and costs for implementing needed recovery measures. To achieve its goals, this final recovery plan identifies the following objectives:

- Support efforts to develop more effective survey techniques for jaguarundis and to ascertain the status, better understand ecological and conservation needs, and promote conservation of the Gulf Coast jaguarundi and its habitats.
- Assess, protect, and restore sufficient habitat and connectivity to support viable populations and genetic exchange of the Gulf Coast jaguarundi in southern Texas and in Mexico.
- Reduce the effects of human population growth and development on potential Gulf Coast jaguarundi habitat in the United States and on the jaguarundi's potential survival and mortality.
- Assure the long-term viability of jaguarundi conservation through partnerships, the development and application of incentives for landowners, application of existing regulations, and public education and outreach.
- Practice adaptive management, in which recovery is monitored and recovery tasks are revised by the FWS as new information becomes available.

The draft revised recovery plan contains recovery criteria based on maintaining and increasing population numbers and habitat quality and quantity. The revised recovery plan focuses on protecting populations, managing threats, maintaining habitat, monitoring progress, and building partnerships to facilitate recovery.

As the subspecies meets recovery criteria, we will review the subspecies' status and consider removal from the List.

Authority

We developed our final recovery plan under the authority of section 4(f) of the Act, 16 U.S.C. 1533(f). We publish this notice under section 4(f) Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

Dated: December 20, 2013.

Joy E. Nicholopoulos,

Acting Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2013–31533 Filed 1–3–14; 8:45 am]

BILLING CODE 4310–55–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 Electronic Hand-Held Pulse Massagers and Components Thereof,* DN 2997; 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 Prospera Corporation on December 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 electronic hand-held pulse massagers and components thereof. The complaint names as respondents Sanjay Gupta d/b/a Santa Medical, Tustin, CA; BeautyKo, LLC, Great Neck, NY; Bia Health Technologies Ltd. d/b/a/Mapleaf, Ontario, Canada; Sunpentown International, Inc. (SPT), City of Industry, CA; TruCore Distributors, Inc., Farmingville, NY; SIM Trading Corporation, Halladale, FL; and K.S. Choi, Corporation, Los Angeles, CA. The complainant requests that the Commission issue a permanent limited exclusion order, cease-and-desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

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 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. 2997'') 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: December 30, 2013.

William R. Bishop,
Supervisory Hearings and Information Officer.

[FR Doc. 2013–31526 Filed 1–3–14; 8:45 am]

BILLING CODE 7020–02–P

[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.*

[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

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 Non-Volatile Memory Chips and Products Containing Same, DN 2996;* 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

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

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 behalf of Macronix International Co., Ltd. and Macronix America, Inc. on December 27, 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 non-volatile memory chips and products containing same. The complaint name as respondents Spansion Inc., Sunnyvale, CA, Spansion LLC, Sunnyvale, CA, Spansion (Thailand) Ltd., Thailand, Beats Electronics LLC, Santa Monica, CA, Delphi Automotive PLC, United Kingdom, Delphi Automotive Systems, LLC, Troy, MI, Harman International Industries, Inc., Stamford, CT, Harman Becker Automotive Systems, Inc., Farmington Hills, MI, Harman Becker Automotive Systems GmbH, Germany, Ruckus Wireless, Inc., Sunnyvale, CA, and Tellabs, Inc., Naperville, IL. The complainant requests that the Commission issue a permanent general exclusion order and a permanent cease and desist order.

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 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. 2996'') 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: December 30, 2013.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2013–31523 Filed 1–3–14; 8:45 am]

BILLING CODE 7020–02–P

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov*.

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov*.

[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*.

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 01–14]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

Wednesday, January 15, 2014: 11:00 a.m.—Issuance of Proposed Decision in claims against Iraq.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2014–00037 Filed 1–2–14; 4:15 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2014 Adverse Effect Wage Rates

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2014 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform agricultural labor or services.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment for a particular occupation and area so that the wages of similarly employed U.S. workers will not be adversely affected. 20 CFR 655.100(b). In this notice, the Department announces the AEWRs for calendar year 2014.

DATES: Effective Date: This notice is effective *January 6, 2014.*

FOR FURTHER INFORMATION CONTACT: William L. Carlson, Ph.D., Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C–4312, 200 Constitution Avenue NW., Washington, DC 20210. Telephone: 202–693–3010 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H–2A labor certification. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5).

Adverse Effect Wage Rates for 2014

The Department's H–2A regulations at 20 CFR 655.120(l) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate, if applicable; or (v) the Federal or State minimum wage rate, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations deemed inappropriate under the special procedure provisions of 20 CFR 655.102) for which temporary H–2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the State or region as published annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice.

Accordingly, the 2014 AEWRs to be paid for agricultural work performed by H–2A and U.S. workers on or after the effective date of this notice are set forth in the table below:

TABLE—2014 ADVERSE EFFECT WAGE RATES

State	2014 AEWRs
Alabama	$10.00
Arizona	9.97
Arkansas	9.87
California	11.01
Colorado	10.89
Connecticut	11.22
Delaware	11.06
Florida	10.26
Georgia	10.00
Hawaii	12.91
Idaho	10.69
Illinois	11.63
Indiana	11.63
Iowa	12.22
Kansas	13.41
Kentucky	10.10
Louisiana	9.87
Maine	11.22
Maryland	11.06
Massachusetts	11.22
Michigan	11.49
Minnesota	11.49
Mississippi	9.87
Missouri	12.22
Montana	10.69
Nebraska	13.41
Nevada	10.89
New Hampshire	11.22
New Jersey	11.06
New Mexico	9.97
New York	11.22
North Carolina	9.87
North Dakota	13.41
Ohio	11.63
Oklahoma	10.86
Oregon	11.87
Pennsylvania	11.06
Rhode Island	11.22
South Carolina	10.00
South Dakota	13.41
Tennessee	10.10
Texas	10.86
Utah	10.89
Vermont	11.22
Virginia	9.87
Washington	11.87
West Virginia	10.10
Wisconsin	11.49
Wyoming	10.69

Pursuant to the H–2A regulations at 20 CFR 655.173, the Department will publish a separate **Federal Register** notice in early 2014 to announce (1) The allowable charges for 2014 that employers seeking H–2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2014.

Signed in Washington, DC, this 18th day of December 2013.

Eric M. Seleznow,

Acting Assistant Secretary, Employment and Training Administration.

[FR Doc. 2013–31555 Filed 1–2–14; 11:15 am]

BILLING CODE 4510–FN–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Adrian Dahood, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On November 20,2013 the National Science Foundation published a notice in the **Federal Register** of a permit modification application received. The permit modification was issued on December 21 2013 to:

George Watters	Permit No. 2012–WM–001-Mod 1

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2013–31530 Filed 1–3–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Adrian Dahood, ACA Permit Officer, Division of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Or by email: *ACApermits@nsf.gov*

SUPPLEMENTARY INFORMATION: On November 22, 2013 the National Science Foundation published a notice in the **Federal Register** of a permit application received. After considering all comments received, the permit was issued on December 23, 2013 to:

Paul Koch ..... Permit No. 2014–025

In issuing this permit, the National Science Foundations in cancelling and replacing a previously issued permit to the same permit holder for very similar activities:

Paul Koch ..... Permit No. 2013–027

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2013–31531 Filed 1–3–14; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Mathematical and Physical Sciences (#66).

Date/Time: January 14, 2014: 1:00 p.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1235, Arlington, Virginia 22230.

To help facilitate your entry into the building, contact Caleb Autrey (*cautery@nsf.gov*). Your request should be received on or prior to January 9, 2013.

To attend virtually via WebEx video: the phone-in number is: 1–866–844–9416 (operator password: mpsac) The web address is: *https://nsf.webex.com/nsf/j.php?ED=33883333&UID=501830907&PW=NNTVkZWU1MjAx&RT=MiMxMQ%3D%3D*.

Operated Assisted teleconference service is available for this meeting. Call 1–888–393–0286. (password: mpsac). You will be connected to the audio portion of the meeting.

Type of Meeting: Open.

Contact Person: Kelsey Cook, National Science Foundation, 4201 Wilson Boulevard, Suite 1005, Arlington, Virginia 22230, 703–292–7490 AND Caleb Autrey, National Science Foundation, 4201 Wilson Boulevard, Suite 1005, Arlington, Virginia 22230, 703–292–5137.

Minutes: Meeting minutes and other information may be obtained from the Staff Associate and MPSAC Designated Federal Officer at the above address or the Web site at *http://www.nsf.gov/mps/advisory.jsp*.

Purpose of Meeting: To study data, programs, policies, and other information pertinent to the National Science Foundation and to provide advice and recommendations concerning research in mathematics and physical sciences.

Agenda

State of the Directorate for Mathematical and Physical Sciences (MPS): Challenges for the OAD.

Report from the StatsNSF Subcommittee.

Update from Subcommittee on Optics and Photonics.

Report on CHE Virtual Panels (preparatory to broader discussion of merit review in April).

BRAIN initiative.

Planning for April joint session with ACCI, and other April topics.

Dated: December 31, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–31524 Filed 1–3–14; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0282; IA–13–038]

In the Matter of Joseph S. Shepherd; Order Conditioning Involvement in NRC-Licensed Activities

I

Joseph S. Shepherd is the President and Owner of Foss Therapy Services, Incorporated (FTS) in North Hollywood, California. FTS does not possess a license issued by the Nuclear Regulatory Commission pursuant to 10 CFR Part 30. However, FTS is the holder of a State of California materials license, which authorizes the use of radioactive material for the maintenance, repair, and installation of self-shielded irradiators. The holder of a State license may perform work authorized by the license in other state or federal jurisdictions provided the State licensee files for reciprocity with the appropriate regulatory authority.

On September 8, 2008, the NRC issued Mr. Shepherd an Order, ''Order Prohibiting Involvement in 10 CFR Part 71 Activities and Conditioning Other NRC Licensed Activities'' (IA–08–014). The NRC issued the Order to Mr. Shepherd after he committed multiple violations of 10 CFR 110.7b, ''Deliberate Misconduct.'' These violations arose out of Mr. Shepherd's employment by Source Production and Equipment Company, Inc. (SPEC), of St. Rose, Louisiana. SPEC, an NRC licensee, hired Mr. Shepherd to perform certain maintenance inspections required by the NRC Certificate of Compliance for Model No. 5979 shipping casks prior to shipping NRC-licensed radioactive material to Mexico. The NRC determined through inspection and an investigation that, on three separate occasions, Mr. Shepherd deliberately provided materially inaccurate information to SPEC concerning the inspection of Model No. 5979 packages. Mr. Shepherd provided the inaccurate information in various documents, such as checklists and bills of lading. By deliberately providing materially inaccurate information, Mr. Shepherd caused SPEC to violate 10 CFR 71.3, ''Requirement for License'' and 10 CFR 71.17m ''General License; NRC-approved package.'' For that reason, Mr. Shepherd's actions violated 10 CFR 110.7b, ''Deliberate Misconduct.''

The September 8, 2008, NRC Order, in part, prohibited Mr. Shepherd indefinitely from packaging any Type B shipments and from preparing any paperwork for a Type B shipment in any area of NRC jurisdiction. The Order required Mr. Shepherd to notify the NRC in writing at least 5 business days before conducting licensed activities in NRC jurisdiction, a condition designed to facilitate NRC inspection of Mr. Shepherd's activities. The Order also required that, prior to conducting licensed activities in NRC jurisdiction, Mr. Shepherd notify the customer, that the NRC had issued the Order to him and make the Order available to the customer. These notifications were

required for a period of 5 years from the date of the September 8, 2008, Order; that is, until September 8, 2013.

II

In early 2012, the Uniformed Services University of the Health Sciences (USU) in Bethesda, Maryland hired FTS to remove a Mark I Model 68A irradiator from a facility in North Carolina and install the irradiator at USU. Although USU is affiliated with the United States military services, it is under NRC jurisdiction. FTS's contract with USU originally involved a joint venture with another company, but FTS became the sole contractor after the other company was unable to fulfill the contract. On April 4, 2012, FTS submitted to the NRC's Region IV an NRC Form 241, ''Report of Proposed Activities in Non-Agreement States, Areas of Exclusive Federal Jurisdiction, or Offshore Waters.'' With this form, FTS provided notification of their intent to conduct work at USU under reciprocity; that is, under FTS's California license.

On April 13, 2012, the NRC inspected FTS's work on the self-shielded irradiator at USU. After observing the activities of the day and watching FTS finish loading radioactive sources into USU's irradiator, an NRC inspector interviewed Mr. Shepherd regarding the notification provisions of the 2008 Order issued to him. Mr. Shepherd acknowledged that he had not notified USU of the Order and that he had not made the Order available to USU.

On April 25, 2012, the NRC Office of Investigations (OI) initiated an investigation to determine if Mr. Shepherd willfully failed to adhere to the conditions of his Order when he worked at USU without notifying the USU of the Order issued to him and without making the Order available to USU. Based on OI's investigation, the NRC finds that Mr. Shepherd willfully violated the Order, in careless disregard of its requirements. Specifically, the NRC finds that Mr. Shepherd willfully failed to notify USU of the Order issued to him and willfully failed to make the Order available to USU prior to performing work at the facility. Although Mr. Shepherd has stated that he believed the Order's notification requirements did not apply to his work at USU because USU was under military jurisdiction, rather than NRC jurisdiction, Mr. Shepherd knew that belief may have been incorrect, yet failed to verify USU's jurisdictional status. For example, Mr. Shepherd acknowledged that prior to working at USU he reviewed USU's NRC license, a document that states ''U.S. Nuclear Regulatory Commission Materials License'' at the top of the first page. Mr. Shepherd also submitted a Form 241 to the NRC, an action that would not have been required had USU not been under NRC jurisdiction.

In a letter dated August 15, 2013, the NRC informed Mr. Shepherd that the NRC was considering escalated enforcement action against him for an apparent violation of the NRC Order issued to him on September 8, 2008. In the letter, the NRC offered Mr. Shepherd the opportunity to attend a Predecisional Enforcement Conference (PEC) or request Alternative Dispute Resolution (ADR). At Mr. Shepherd's request, a PEC was conducted on September 25, 2013.

During the PEC, Mr. Shepherd acknowledged the apparent violation and the failure to provide notification to USU prior to performing work as required by the Order, indicating that he made a mistake. Mr. Shepherd also acknowledged that he would not have otherwise notified USU if he had not discussed the required notification with the NRC inspector during the inspection because he thought USU was under military jurisdiction and not NRC jurisdiction.

Based on the results of the inspection, the OI investigation, and the information provided during the PEC, the NRC finds that Mr. Shepherd willfully, in careless disregard, violated the conditions of the 2008 NRC Order against him because, prior to conducting work at the facility, Mr. Shepherd failed to notify USU of the Order issued to him and failed to make the Order available to USU. In sum, the NRC finds that Mr. Shepherd's actions constitute a violation of NRC requirements.

III

The NRC must be able to rely on licensees, their contractors, and their employees to comply with NRC requirements. Mr. Shepherd is currently prohibited from involvement in 10 CFR Part 71 activities, as set forth in the Order issued to him on September 8, 2008. This requirement of the Order remains in effect. The 2008 Order also required Mr. Shepherd to notify the NRC in writing at least 5 business days before working in NRC jurisdiction, in order to facilitate NRC inspections of his activities. In addition, the 2008 Order required that, before performing work, Mr. Shepherd notify customers that the NRC had issued an Order to him and make the Order available to customers.

Based on Mr. Shepherd's violation of the September 8, 2008, NRC Order, I lack reasonable assurance that Mr. Shepherd can be relied upon, at this time, to comply with NRC requirements. Based on the current violation, and because the notification requirements from the prior Order expired on September 8, 2013, the public health, safety, and interest require that the NRC issue Mr. Shepherd this Order. This Order requires that, before working in NRC jurisdiction, Mr. Shepherd (1) notify the NRC of his planned work and confirm that he has verified the jurisdictional status of his customer; and (2) notify the customer that the NRC has issued the September 8, 2008, NRC Order, and this Order to him and make the Orders available to the customer. These requirements will remain in effect for 3 years from the effective date of this Order. This Order also requires that Mr. Shepherd must determine whether the customer is under NRC jurisdiction, document his determination and state the basis for his determination. This requirement will remain in effect for 3 years from the effective date of this Order. The documentation of this requirement shall be maintained for a period of 4 years from the effective date of the Order.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR Part 71, 10 CFR 110.7b, and 10 CFR 150.20, *it is hereby ordered that, from the effective date of this order:*

1. For a period of 3 years, Mr. Shepherd shall notify the NRC in writing at least 5 business days before conducting licensed activities in NRC jurisdiction. Mr. Shepherd may provide this notification electronically either by email to: *R4_Reciprocity.Resource@nrc.gov*, or by faxing this notification to (817) 200–1188. Mr. Shepherd may also provide this notification by mail to Regional Administrator, U.S. Nuclear Regulatory Commission, ATTN: Division of Nuclear Material Safety, 1600 East Lamar Blvd., Arlington, TX 76011. If this notification is provided by mail, Mr. Shepherd must ensure this notification is received by the NRC at least 5 business days before conducting licensed activities. The notification shall provide the name, location, and phone number of the customer; and it shall describe the type of work to be performed.

2. For a period of 3 years, Mr. Shepherd shall take the following actions before working for any customer, or for any contractor of a customer, who manufactures, produces, transfers, receives, acquires, owns, possesses, or uses byproduct material. Mr. Shepherd shall: (a) Determine

whether the customer or its job site is under NRC jurisdiction, (b) document his determination in writing, and (c) state in writing the basis for his determination. Mr. Shepherd shall maintain this documentation for a period of 4 years from the effective date of this Order, and he shall make the documentation available for NRC inspection.

3. For a period of 3 years, before conducting licensed activities in NRC jurisdiction, Mr. Shepherd shall notify each customer in writing that the NRC has issued the September 8, 2008, Order and this Order to him, and he shall make the Orders available to the customer. Mr. Shepherd shall maintain copies of these notifications for 4 years from the effective date of this Order, and he shall make the copies available for NRC inspection.

4. Mr. Shepherd is currently employed by Foss Therapy Services. Should Mr. Shepherd seek other employment involving NRC-regulated activities within 3 years from the effective date of this Order, before accepting employment he shall provide the employer a copy of both this Order and the September 8, 2008 Order.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Joseph S. Shepherd of good cause.

Issuance of this Order does not alter the provisions in the September 8, 2008, Order issued to Mr. Shepherd, including the provision indefinitely prohibiting Mr. Shepherd's involvement with shipments of Type B quantities of NRC-licensed material.

V

In accordance with 2.202, Joseph S. Shepherd must submit a written answer to this Order under oath or affirmation within 20 days of its issuance. The response shall admit or deny the charge made in the Order. Joseph S. Shepherd's failure to respond to this Order could result in additional enforcement action in accordance with the Commission's Enforcement Policy. Any person adversely affected by this Order may submit a written answer to this Order within 20 days of its issuance. In addition, Joseph S. Shepherd and any other person adversely affected by this Order may request a hearing on this Order within 30 days of its issuance. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and include a statement of good cause for the extension.

The response to this Order and the Notice shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555–0001. Copies shall also be sent to: Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; the Assistant General Counsel for Materials Litigation and Enforcement at the same address; Regional Administrator, U.S. Nuclear Regulatory Commission, ATTN: Regional Administrator, Region I, 2100 Renaissance Blvd., King of Prussia, PA 19406. This response should be clearly marked as a ''Reply to a Notice of Violation and Order; IA–13–038.''

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system

may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person other than Joseph S. Shepherd requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by Joseph S. Shepherd or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date this Order is issued without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland, this 20 day of December 2013.

For the Nuclear Regulatory Commission.

Roy P. Zimmerman,

Director, Office of Enforcement.

[FR Doc. 2013–31545 Filed 1–3–14; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket No. ACR2013; Order No. 1935]

FY 2012 Annual Compliance Report

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Postal Service has filed an Annual Compliance Report on the costs, revenues, rates, and quality of service associated with its products in fiscal year 2013. Within 90 days, the Commission must evaluate that information and issue its determination as to whether rates were in compliance with title 39, chapter 36 and whether service standards in effect were met. To assist in this, the Commission seeks public comments on the Postal Service's Annual Compliance Report.

DATES: *Comments are due:* January 31, 2014.

Reply Comments are due: February 14, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Overview of the Postal Service's FY 2013 ACR
III. Procedural Steps
IV. Ordering Paragraphs

I. Introduction

On December 27, 2013, the United States Postal Service (Postal Service) filed with the Commission, pursuant to 39 U.S.C. 3652, its Annual Compliance Report (ACR) for fiscal year (FY) 2013.[1] Section 3652 requires submission of data and information on the costs, revenues, rates, and quality of service associated with postal products within 90 days of the closing of each fiscal year. In conformance with other statutory provisions and Commission rules, the ACR includes the Postal Service's FY 2013 Comprehensive Statement, its FY 2013 annual report to the Secretary of the Treasury on the Competitive Products Fund, and certain related Competitive Products Fund material. See respectively, 39 U.S.C. 3652(g), 39 U.S.C. 2011(i), and 39 CFR 3060.20–23. In line with past practice, some of the material in the FY 2013 ACR appears in non-public annexes.

The filing begins a review process that results in an Annual Compliance Determination (ACD) issued by the Commission to determine whether Postal Service products offered during FY 2013 are in compliance with applicable title 39 requirements.

II. Overview of the Postal Service's FY 2013 ACR

Contents of the filing. The Postal Service's FY 2013 ACR consists of a 56-page narrative; extensive additional material appended as separate folders and identified in Attachment One; and an application for non-public treatment of certain materials, along with supporting rationale, filed as Attachment Two. The filing also

[1] United States Postal Service FY 2013 Annual Compliance Report, December 27, 2013 (FY 2013 ACR). Public portions of the Postal Service's filing are available on the Commission's Web site at *http://www.prc.gov.*

includes the Comprehensive Statement,[2] Report to the Secretary of the Treasury, and information on the Competitive Products Fund filed in response to Commission rules. This material has been filed electronically with the Commission, and some also has been filed in hard-copy form.

Scope of filing. The material appended to the narrative consists of: (1) domestic product costing material filed on an annual basis summarized in the Cost and Revenue Analysis (CRA); (2) comparable international costing material summarized in the International Cost and Revenue Analysis (ICRA); (3) worksharing-related cost studies; and (4) billing determinant information for both domestic and international mail. FY 2013 ACR at 2–3. Inclusion of these four data sets is consistent with the Postal Service's past ACR practices. As with past ACRs, the Postal Service has split certain materials into public and non-public versions. *Id.* at 3.

''Roadmap'' document. A roadmap to the FY 2013 ACR appears as Library Reference USPS–FY13–9. This document provides brief descriptions of the materials submitted, as well as the flow of inputs and outputs among them; a discussion of differences in methodology relative to Commission methodologies in last year's ACD; a list of special studies and a discussion of obsolescence, as required by Commission rule 3050.12. *Id.* at 3–4.

Methodology. The Postal Service states that it has adhered to the methodologies applied by the Commission in the FY 2012 ACD, except in instances where the Commission approved methodology changes subsequent to the FY 2012 ACD. Those changes are identified in a separate section of the roadmap document as well as the prefaces accompanying the appended folders. *Id.* at 4. One exception to this is the incorporation of the methodology in Proposals One through Three.[3] The Postal Service states that although the Commission's review of Proposals One through Three is still pending, it was not practical for it to prepare the FY 2013 ACR without employing these principles. *Id.* at 6.

Proposals for which the Postal Service has filed to change analytical principles since the filing of the FY 2012 ACR are identified and summarized in a table. *Id.* at 4–5.

Market dominant product-by-product costs, revenues, and volumes. Comprehensive cost, revenue, and volume data for all market dominant products of general applicability are shown directly in the FY 2013 CRA or ICRA. *Id.* at 9.

The FY 2013 ACR includes a discussion by class of each market dominant product, including costs, revenues, and volumes, workshare discounts and passthroughs responsive to 39 U.S.C. 3652(b), and FY 2013 incentive programs. *Id.* at 9–39. In addition, in response to Order No. 1427,[4] the Postal Service also provides a schedule of future price increases for Standard Mail Flats. *Id.* at 19–20.

Market dominant negotiated service agreements. The FY 2013 ACR presents information on market dominant negotiated service agreements (NSAs). *Id.* at 38. Although there were two market dominant NSAs in effect for FY 2013, Discover Financial Services and Valassis, 2013 mailings were only made under the Discover Financial Services NSA. Valassis did not send enough NSA-eligible volume to qualify for volume discounts, and therefore paid published rates during FY 2013. *Id.*

Service performance. The Postal Service notes that the Commission issued rules on periodic reporting of service performance measurement and customer satisfaction in FY 2010. Responsive information appears in Library Reference USPS–FY13–29. *Id.* at 40. The Postal Service says it set aggressive on-time targets of 90 percent or above for all market dominant products and, overall, has been successful in continuously improving these scores. It asserts that its targets have already been met or exceeded for some products and in some districts, but says there are several instances where target scores have not yet been met at the national level. Specific reasons for these results are discussed in Library Reference USPS–FY13–29. *Id.* at 40.

Customer satisfaction. The FY 2013 ACR discusses the Postal Service's approach for measuring customer experience and satisfaction; describes the methodology; presents a table with survey results; and compares the results from FY 2012 to FY 2013. *Id.* at 41–44.

Competitive products. The FY 2013 ACR provides costs, revenues, and volumes for competitive products of general applicability in the FY 2013 CRA or ICRA. For competitive products not of general applicability, data are provided in non-public Library References USPS–FY13–NP2 and USPS–FY13–NP27. The FY 2013 ACR also addresses the competitive product pricing standards of 39 U.S.C. 3633. *Id.* at 45–51.

Market tests; nonpostal services. The Postal Service also addresses the two market dominant market tests conducted during FY 2013, the two competitive market tests conducted during FY 2013, and nonpostal services. *Id.* at 52–54. With respect to the latter, it notes that on December 11, 2012, the Commission issued Order No. 1575 approving Mail Classification Schedule (MCS) descriptions and prices for nonpostal service products.[5] The approved MCS includes 11 nonpostal service products, two of which are market dominant and nine of which are competitive. Request at 53. It has provided revenue, cost, and volume data for the two market dominant nonpostal service products. *Id.* The Postal Service states that for the other market dominant nonpostal service, Philatelic Sales, it filed Proposal Six (Docket No. RM2014–1) on November 8, 2013, seeking to update the methodology for calculating the costs of Philatelic Sales and handling costs of Stamp Fulfillment Services.[6] Because Proposal Six is still pending before the Commission, the Postal Service provides revenue, costs, and volumes under both the current methodology and the methodology proposed in Proposal Six. Request at 54.

III. Procedural Steps

Statutory requirements. Section 3653 of title 39 requires the Commission to provide interested persons with an opportunity to comment on the ACR and to appoint an officer of the Commission (Public Representative) to represent the interests of the general public. The Commission hereby solicits public comment on the Postal Service's FY 2013 ACR and on whether any rates or fees in effect during FY 2013 (for products individually or collectively) were not in compliance with applicable provisions of chapter 36 of title 39 (or regulations promulgated thereunder). Commenters addressing market dominant products are referred in particular to the applicable requirements (39 U.S.C. 3622(d) and (e)

[2] In the past, the Commission has reviewed the Postal Service's reports prepared pursuant to 39 U.S.C. 2803 and 39 U.S.C. 2804 (filed as the Comprehensive Statement by the Postal Service) in its Annual Compliance Determination. To allow for more thorough review of the issues involved, the Commission intends to review these issues in a separate docket going forward.

[3] These proposals, along with Proposals Four and Five, are pending in Docket No. RM2013–6.

[4] Docket No. ACR2010, Order No. 1427, Order on Remand, August 9, 2012.

[5] *Id.* at 53; see also Docket No. MC2010–24, Order Approving Mail Classification Descriptions and Prices for Nonpostal Service Products, December 11, 2012 (Order No. 1575).

[6] Docket No. RM2014–1, Petition of the United States Postal for the Initiation of a Proceeding to Consider Proposed Change in Analytical Principles (Proposals Six Through Eight), November 8, 2013.

and 3626); objectives (39 U.S.C. 3622(b)); and factors (39 U.S.C. 3622(c)). Commenters addressing competitive products are referred to 39 U.S.C. 3633.

The Commission also invites public comment on the cost coverage matters the Postal Service addresses in its filing; service performance results; levels of customer satisfaction achieved; and such other matters that may be relevant to the Commission's review. Comments on these topics will, *inter alia,* assist the Commission in developing appropriate recommendations to the Postal Service related to the protection or promotion of the public policy objectives of title 39.

Access to filing. The Commission has posted the publicly available portions of the FY 2013 ACR on its Web site at *http://www.prc.gov.*

Comment deadlines. Comments by interested persons are due on or before January 31, 2014. Reply comments are due on or before February 14, 2014. The Commission, upon completion of its review of the FY 2013 ACR, public comments, and other data and information submitted in this proceeding, will issue its ACD. Those needing assistance filing electronically may contact the Docket Section supervisor at 202–789–6846 or via email at *prc-dockets@prc.gov.* Inquiries about access to non-public materials should also be directed to the Docket Section.

Public Representative. Kenneth E. Richardson is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist him shall participate in or advise as to any Commission decision in this proceeding other than in their designated capacity.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. ACR2013 to consider matters raised by the United States Postal Service's FY 2013 Annual Compliance Report.

2. Pursuant to 39 U.S.C. 505, the Commission appoints Kenneth E. Richardson as an officer of the Commission (Public Representative) in this proceeding to represent the interests of the general public.

3. Comments on the United States Postal Service's FY 2013 Annual Compliance Report to the Commission, including the Comprehensive Statement of Postal Operations and other reports, are due on or before January 31, 2014.

4. Reply comments are due on or before February 14, 2014.

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–31512 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2014–22; Order No. 1937]

Change in Postal Prices

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing concerning changes in prices for Global Expedited Package Service—Non-Published Rates. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Request for Supplemental Information
IV. Ordering Paragraphs

I. Introduction

In accordance with 39 CFR 3015.5 and Order Nos. 1625 [1] and 1835,[2] the Postal Service filed a notice of a change in rates not of general applicability for the Global Expedited Package Services—Non-Published Rates 4 (GEPS–NPR 4) product.[3] The Postal Service states that the change is necessary due to changes in the non-discounted published postage for Priority Mail Express International (PMEI), Priority Mail International (PMI), and Global Express Guaranteed (GXG), as well as the creation of a Management Analysis of the Prices and Methodology for Determining Prices for Negotiated Service Agreements under Global Expedited Package Services—Non-Published Rates 4 Version 2. Notice at 2–3. The Notice has been assigned Docket No. CP2014–22.

Notice. In support of its Notice, the Postal Service filed the following attachments:

- Attachment 1—an application for non-public treatment of materials filed under seal;
- Attachment 2A—a redacted version of Governors' Decision No. 11–6;
- Attachment 2B—a redacted version of GEPS–NPR 4 Management Analysis Version 2;
- Attachment 2C—a list of Maximum and Minimum Prices for PMEI, PMI, and GXG under GEPS–NPR 4 Version 2 Contracts;
- Attachment 2D—a certified statement concerning prices for applicable negotiated service agreements under GEPS–NPR 4 Version 2 rates, as required by 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted version of the GEPS–NPR 4 Version 2 model contract.

The Postal Service included a redacted version of the GEPS–NPR 4 Version 2 model contract with the Notice. *Id.* Attachment 3. The Postal Service represents that the GEPS–NPR 4 Version 2 model contract is almost identical to the revised GEPS–NPR 4 model contract approved by the Commission in Order No. 1835. Notice at 7. The Postal Service identifies three areas where the GEPS–NPR 4 Version 2 model contract differs from the revised GEPS–NPR 4 model contract: (1) The ACR docket numbers in Article 19 have been updated; (2) the docket number in the last sentence of Article 19 has been revised to reflect that GEPS–NPR 4 Version 2 contracts will be filed in this docket, rather than the GEPS–NPR 4 docket; and (3) in the footer of each page of the agreement, ''2013'' has been replaced with ''2014'', and in the footer of the annexes to the agreement, ''13'' has been replaced with ''14.'' *Id.*

Identical to the revised GEPS–NPR 4 model contract, the Postal Service will notify each GEPS–NPR 4 Version 2 customer of the contract's effective date no later than 30 days after receiving the signed agreement from the customer. *Id.,* Attachment 3 at 7. Each contract will expire the later of 1 year from the effective date or the last day of the month which falls one calendar year from the effective date unless terminated sooner. *Id.*

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[1] Docket Nos. MC2013–27 and CP2013–35, Order Adding Global Expedited Package Services—Non-Published Rates 4 (GEPS–NPR 4) to the Competitive Product List, January 16, 2013 (Order No. 1625).

[2] Docket Nos. MC2013–27 and CP2013–35, Order Approving Revisions to Model Contract, September 16, 2013 (Order No. 1835).

[3] Notice of the United States Postal Service of Change in Prices For Global Expedited Package Services—Non-Published Rates 4 (GEPS–NPR 4), December 26, 2013 (Notice).

The Postal Service filed many of the supporting materials, including the related model contract, under seal. *Id.* Attachment 1. It maintains that the redacted portions of the materials should remain confidential as sensitive business information. *Id.* at 4. This information includes sensitive commercial information concerning the incentive discounts and their formulation, applicable cost coverage, and non-published rates, as well as some customer-identifying information. *Id.*

II. Notice of Filing

The Commission establishes Docket No. CP2014–22 to consider the changes in rates not of general applicability pertaining to the proposed GEPS–NPR 4 Version 2 contract.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than January 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lyudmila Y. Bzhilyanskaya to serve as Public Representative in these dockets.

III. Request for Supplemental Information

The Postal Service is requested to (1) specify the date on which the GEPS–NPR 4 Version 2 rates are expected to go into effect; and (2) clarify whether the GEPS–NPR 4 Version 2 contract will replace the revised GEPS–NPR 4 contract approved in Order No. 1835. The Postal Service response is due no later than January 3, 2014.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2014–22 to consider the matters raised by the Notice.

2. Pursuant to 39 U.S.C. 505, Lyudmila Y. Bzhilyanskaya is appointed to serve as officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 7, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–31540 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. N2014–1; Order No. 1932]

Nationwide Change in Postal Delivery Service Standards

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request for an advisory opinion on an initiative involving examination of the continuation of service at postal retail locations. This document invites public comments on the request and addresses several related procedural steps.

DATES:

1. *Notices of intervention are due:* January 21, 2014, 4:30 p.m. Eastern Time.

2. *Hearing on the Postal Service's direct case:* February 11, 2014, at 9:00 a.m. (Commission hearing room, 901 New York Ave. NW., 20268–0001, Suite 200).

ADDRESSES: Submit notices of intervention electronically by accessing the ''Filing Online'' link in the banner at the top of the Commission's Web site (*http://www.prc.gov*) or by directly accessing the Commission's Filing Online system at *http://www.prc.gov/prc-pages/filing-online/login.aspx.* Persons interested in intervening who cannot submit their views electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section as the source for case-related information for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820 (case-related information) or *DocketAdmins@prc.gov* (electronic filing assistance).

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Request
III. Further Procedures

I. Introduction

On December 27, 2013, the Postal Service filed a request pursuant to 39 U.S.C. 3661 for an advisory opinion from the Commission regarding potential changes in the manner in which it processes and dispatches Standard Mail that qualifies for a Destination Sectional Center Facility (DSCF) discounted rate.[1] This operational change may result in a nationwide change in the nature of postal services since it would change the delivery day service standards for DSCF Standard Mail accepted on Fridays and Saturdays. DSCF Standard Mail entered Sunday through Thursday is not expected to change under the proposal. *Id.* at 5.

II. Request

The Postal Service explains that due to the relationship between mail entry patterns for DSCF Standard Mail and the applicable 3-day service standard, the Postal Service currently delivers a disproportionate amount of DSCF Standard Mail on Mondays. *Id.* at 1. The Postal Service's plan, called the ''Load Leveling Plan,'' is to more evenly distribute the volume of DSCF Standard Mail pieces delivered by carriers throughout the week. *Id.* at 1–2. The Load Leveling Plan would adjust operations in a manner that will level the load of the DSCF Standard Mail delivered throughout the week and remove the disproportionate burden associated with Monday Standard Mail delivery. *Id.* at 2.

In support of its Request, the Postal Service filed the direct testimony of two witnesses.[2] The testimonies describe the details of the Load Leveling Plan, including the basis for the plan, the process through which the plan was developed, and the future implementation of the plan. The testimony of witness Malone (USPS–T–1) describes the Postal Service's consultations with mailers regarding the load leveling issue and its collaboration with mailers in designing and conducting a test of the Load Leveling Plan in the service area of the South Jersey administrative district. Malone's testimony also summarizes the results of the South Jersey Operations Test and the Postal Service's expectations regarding a national roll-out of the Load Leveling Plan. The testimony of witness Anderson (USPS–T–2) offers observations about the effects of the South Jersey Operations Test and also discusses the expected impact that the Load Leveling Plan would have in the South Jersey District.

As part of its request, the Postal Service filed a notice of two Category 2

[1] United States Postal Service Request for an Advisory Opinion on Changes in the Nature of Postal Services, December 27, 2013 (Request).

[2] Direct Testimony of Linda M. Malone on Behalf of the United States Postal Service (USPS–T–1), December 27, 2013; and Direct Testimony of Mark H. Anderson on Behalf of the United States Postal Service (USPS–T–2), December 27, 2013.

library references regarding the South Jersey Operations Test.[3]

Timing. The earliest date that the Postal Service intends to make the changes discussed in this Request is March 27, 2014—90 days after the date of the filing. Request at 2.

Present distribution of DSCF Standard Mail and Proposed Changes. The Postal Service states that of the Standard Mail products, High Density and Saturation Letters, High Density and Saturation Flats/Parcels, Carrier Route, Letters, Flats, and Parcels are eligible for the DSCF rate, provided that the mail meets the standards for such a rate. *Id.* at 3. Currently, DSCF Standard Mail has a 3-day service standard. *Id.* Monday is the expected delivery date for the DSCF Standard Mail entered on Thursday and Friday, which happens to be two of the three heaviest days for acceptance of such mail. *Id.* at 4. DSCF Standard Mail has a significant impact on processing and delivery operations through which it passes. *Id.*

Summary of Load Leveling Plan. The Postal Service's Load Leveling Plan would change the delivery day for DSCF Standard Mail accepted on Fridays and Saturdays. *Id.* DSCF Standard Mail that is accepted before the Critical Entry Time (CET) on Friday is proposed to have a Tuesday delivery expectation, rather than Monday. *Id.* at 5. DSCF Standard Mail accepted before the CET on Saturday is proposed to have a Wednesday delivery expectation, rather than Tuesday. *Id.*

The Postal Service asserts that the South Jersey Operations Test results indicate load leveling will ease the burden currently placed on the network by the convergence of current mail entry patterns and applicable service standards and that the test resulted in additional benefits, including earlier completion of carrier routes, and earlier return of mail collected on carrier routes. *Id.* at 6.

Scope of Leveling Plan. The Postal Service intends to implement the Load Leveling Plan throughout its network. *Id* at 6. As a result, Standard Mail pieces that qualify for a DSCF rate and are accepted after the CET on Thursday, anytime on Friday, or before the CET on Saturday at the proper DSCF, are proposed to have a 4-day service standard. *Id.* at 6–7. DSCF Standard Mail pieces that are accepted before the Critical Entry Time on Sunday through Thursday will not be affected by the Load Leveling Plan. The Postal Service contends that no other Standard Mail will be affected. *Id.* at 7.

Conformance with Title 39. The Postal Service contends that for the reasons explained in the Request and illustrated in the testimony, the Load Leveling Plan will allow the Postal Service to increase efficiencies in the collection, processing, and delivery of the mail and to continue to provide adequate and efficient service to DSCF Standard Mail users. *Id.* The Postal Service believes that the Load Leveling Plan helps to fulfill its duty under 39 U.S.C. 403(a) to ''plan, develop, promote, and provide adequate and efficient postal services at fair and reasonable rates and fees.'' *Id.* It also contends that the Load Leveling Plan falls within the scope of its authority ''to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail.'' *Id.* at 8.

The Postal Service concludes that the Load Leveling Plan will help to ''enhance the value of postal services to both senders and recipients'' and ''reasonably assure Postal Service customers delivery reliability, speed and frequency consistent with reasonable rates and best business practices,'' as articulated in 39 U.S.C. 3691(b)(1)(A) and (C), respectively. *Id.* Last, the Postal Service has determined that it is necessary to take steps to level the load on the network now to help reduce current and future costs. *Id.* at 9.

Rules of Practice. The Postal Service notes there is an ongoing Commission rulemaking proceeding in Docket No. RM2012–4 regarding rules for revisions to the Commission's rules for advisory opinions.[4] The Postal Service urges the Commission to establish special rules of practice to achieve an effective and efficient schedule for this docket to evaluate the procedures currently under consideration in Docket No. RM2012–4. Request at 9.

III. Further Procedures

Further procedures. 39 U.S.C. 3661(c) requires that the Commission afford an opportunity for a formal, on-the-record hearing of the Postal Service's Request under the terms specified in sections 556 and 557 of title 5 of the United States Code before issuing its advisory opinion. Based on its preliminary review of the Request, the Commission finds it appropriate to expedite the proceeding. To facilitate expeditious review of the matter, the Commission expects parties to make judicious use of discovery, discovery objections, and motions' practice. Every effort should be made to confer to resolve disputes informally.

All interested persons are hereby notified that notices of intervention in this proceeding shall be due on or before January 21, 2014. See 39 CFR 3001.20 and 3001.20a. Consistent with rule 20, each person filing a notice of intervention shall, *inter alia,* specify the nature of his/her interest and whether or not he/she requests a hearing. See 39 CFR 3001.20. Discovery may be propounded upon filing a notice of intervention. Responses to discovery shall be due within 7 days.

The procedural schedule shown below the signature of this Order will be followed in this proceeding assuming that no participant desires to present rebuttal testimony. Participants who wish to present rebuttal testimony must notify the Commission of their intent to file, and the nature of their rebuttal, by February 11, 2014. Rebuttal testimony, if requested, will be due February 18, 2014. The balance of the procedural schedule will be revised accordingly.

Public Representative. Section 3661(c) of title 39 requires the participation of an ''officer of the Commission who shall be required to represent the interests of the general public.'' Pursuant to 39 U.S.C. 505, Anne J. Siarnacki is designated to serve as the Public Representative to represent the interests of the general public in this proceeding. Neither the Public Representative nor any additional persons assigned to assist the Public Representative shall participate in or advise as to any Commission decision in this proceeding, other than in their designated capacity.

It is ordered:

1. The Commission establishes Docket No. N2014–1 to consider the Postal Service Request referred to in the body of this Order.

2. The Commission will sit *en banc* in this proceeding.

3. The procedural schedule for this proceeding is set forth below the signature of this Order.

4. Pursuant to 39 U.S.C. 505, the Commission appoints Anne J. Siarnacki to represent the interests of the general public in this proceeding.

5. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[3] Notice of United States Postal Service of Filing Library References, December 27, 2013, USPS–LR–N2014–1/1, Standard Operating Procedures: South Jersey District Destination SCF Standard Mail Load Leveling Operations Test; and USPS–LR–N2014–1/2, Results of the South Jersey Destination SCF Standard Mail Load Leveling Operations Test, December 27, 2013.

[4] Docket No RM2014–4, Modern Rules of Procedure for the Issuance of Advisory Opinions in Nature of Service Proceedings, April 10, 2012.

PROCEDURAL SCHEDULE

Notices of intervention	January 21, 2014.
Close of discovery on Postal Service direct case	January 30, 2014.
Notice of intent to conduct oral cross-examination	February 3, 2014.
Hearing on the Postal Service's direct case (if requested) (9:00 AM in the Commission's hearing room)	February 11, 2014.
Notice of intent to file rebuttal testimony	February 11, 2014.
Rebuttal Testimony (if requested)	*February 18, 2014.*
Filing of Briefs (if no rebuttal testimony)	February 20, 2014.
Filing of Reply Briefs (if no rebuttal testimony)	February 27, 2014.

[FR Doc. 2013–31510 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–15 and CP2014–24; Order No. 1939]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing requesting the addition of Priority Mail Contract 74 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a request and associated supporting information to add Priority Mail Contract 74 to the competitive product list.[1] The Postal Service asserts that Priority Mail Contract 74 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2014–15.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2014–24.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11–6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective one business day following the day on which the Commission issues all necessary regulatory approval. *Id.* at 4. The contract will expire three years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party or the contract is renewed by mutual written agreement. *Id.* at 5. The contract also allows two 90-day extensions of the agreement if the preparation of a successor agreement is active and the Commission is notified within at least seven days of the contract's expiration date. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a).[2]

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the Governors' Decision, contract, customer-identifying information, and related financial information should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2014–15 and CP2014–24 to consider the Request pertaining to the proposed Priority Mail Contract 74 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than January 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Manon A. Boudreault to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

[1] Request of the United States Postal Service to Add Priority Mail Contract 74 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 27, 2013 (Request).

[2] Although the Request appears to state that the certification only pertains to paragraphs (1) and (3) of 39 U.S.C. 3633(a), the certification itself contains an assertion that the prices are in compliance with 39 U.S.C. 3633(a)(1), (2), and (3). See Request at 2; Attachment E.

1. The Commission establishes Docket Nos. MC2014–15 and CP2014–24 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Manon A. Boudreault is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 7, 2014.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–31542 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2014–14 and CP2014–23; Order No. 1938]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing requesting the addition of First-Class Package Service Contract 35 to the competitive product list. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 7, 2014.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Notice of Filings
III. Ordering Paragraphs

I. Introduction

In accordance with 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.,* the Postal Service filed a formal request and associated supporting information to add First-Class Package Service Contract 35 to the competitive product list.[1] The Postal Service asserts that First-Class Package Service Contract 35 is a competitive product ''not of general applicability'' within the meaning of 39 U.S.C. 3632(b)(3). Request at 1. The Request has been assigned Docket No. MC2014–14.

The Postal Service contemporaneously filed a redacted contract related to the proposed new product. *Id.* Attachment B. The instant contract has been assigned Docket No. CP2014–23.

Request. To support its Request, the Postal Service filed six attachments as follows:

- Attachment A—a redacted copy of Governors' Decision No. 11–6, authorizing the new product;
- Attachment B—a redacted copy of the contract;
- Attachment C—proposed changes to the Mail Classification Schedule competitive product list with the addition underlined;
- Attachment D—a Statement of Supporting Justification as required by 39 CFR 3020.32;
- Attachment E—a certification of compliance with 39 U.S.C. 3633(a); and
- Attachment F—an application for non-public treatment of materials to maintain redacted portions of the contract and related financial information under seal.

In the Statement of Supporting Justification, Dennis R. Nicoski, Manager, Field Sales Strategy and Contracts, asserts that the contract will cover its attributable costs, make a positive contribution to covering institutional costs, and increase contribution toward the requisite 5.5 percent of the Postal Service's total institutional costs. *Id.* Attachment D at 1. Mr. Nicoski contends that there will be no issue of market dominant products subsidizing competitive products as a result of this contract. *Id.*

Related contract. The Postal Service included a redacted version of the related contract with the Request. *Id.* Attachment B. The contract is scheduled to become effective one business day following the day on which the Commission issues all regulatory approvals. *Id.* at 3. The contract will expire 3 years from the effective date unless, among other things, either party terminates the agreement upon 30 days' written notice to the other party. *Id.* The contract also allows two 90-day extensions of the agreement if the preparation of a successor agreement is active and the Commission is notified within at least seven days of the contract's expiration date. *Id.* The Postal Service represents that the contract is consistent with 39 U.S.C. 3633(a).[2]

The Postal Service filed much of the supporting materials, including the related contract, under seal. *Id.* Attachment F. It maintains that the redacted portions of the contract, customer-identifying information, and related financial information, should remain confidential. *Id.* at 3. This information includes the price structure, underlying costs and assumptions, pricing formulas, information relevant to the customer's mailing profile, and cost coverage projections. *Id.* The Postal Service asks the Commission to protect customer-identifying information from public disclosure indefinitely. *Id.* at 7.

II. Notice of Filings

The Commission establishes Docket Nos. MC2014–14 and CP2014–23 to consider the Request pertaining to the proposed First-Class Package Service Contract 35 product and the related contract, respectively.

Interested persons may submit comments on whether the Postal Service's filings in the captioned dockets are consistent with the policies of 39 U.S.C. 3632, 3633, or 3642, 39 CFR 3015.5, and 39 CFR part 3020, subpart B. Comments are due no later than January 7, 2014. The public portions of these filings can be accessed via the Commission's Web site (*http://www.prc.gov*).

The Commission appoints Lawrence Fenster to serve as Public Representative in these dockets.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket Nos. MC2014–14 and CP2014–23 to consider the matters raised in each docket.

2. Pursuant to 39 U.S.C. 505, Lawrence Fenster is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these proceedings.

3. Comments by interested persons in these proceedings are due no later than January 7, 2014.

[1] Request of the United States Postal Service to Add First-Class Package Service Contract 35 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, December 27, 2013 (Request).

[2] Although the Request appears to state that the certification only pertains to paragraphs (1) and (3) of 39 U.S.C. 3633(a), the certification itself contains an assertion that the prices are in compliance with 39 U.S.C. 3633(a)(1), (2), and (3). *See* Request at 2; Attachment E.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Shoshana M. Grove,

Secretary.

[FR Doc. 2013–31541 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* January 6, 2014.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 27, 2013, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 35 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2014–14, CP2014–23.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2013–31491 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* January 6, 2013.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 27, 2013, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 74 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2014–15, CP2014–24.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2013–31490 Filed 1–3–14; 8:45 am]

BILLING CODE 7710–12–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: Public Service Pension Questionnaires; OMB 3220–0136.

Public Law 95–216 amended the Social Security Act of 1977 by providing, in part, that spouse or survivor benefits may be reduced when the beneficiary is in receipt of a pension based on employment with a Federal, State, or local governmental unit. Initially, the reduction was equal to the full amount of the government pension.

Public Law 98–21 changed the reduction to two-thirds of the amount of the government pension. Public Law 108–203 amended the Social Security Act by changing the requirement for exemption to public service offset, that Federal Insurance Contributions Act (FICA) taxes be deducted from the public service wages for the last 60 months of public service employment, rather than just the last day of public service employment.

Sections 4(a)(1) and 4(f)(1) of the Railroad Retirement Act (RRA) provides that a spouse or survivor annuity should be equal in amount to what the annuitant would receive if entitled to a like benefit from the Social Security Administration. Therefore, the public service pension (PSP) provisions apply to RRA annuities. RRB regulations pertaining to the collection of evidence relating to public service pensions or worker's compensation paid to spouse or survivor applicants or annuitants are found in 20 CFR 219.64c.

The RRB utilizes Form G–208, Public Service Pension Questionnaire, and Form G–212, Public Service Monitoring Questionnaire, to obtain information used to determine whether an annuity reduction is in order. Completion of the forms is voluntary. However, failure to complete the forms could result in the nonpayment of benefits. One response is requested of each respondent. The RRB proposes no changes to the forms in the collection.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–208	70	16	19.0
G–212	1,100	15	275.0
Total	1,170		294.0

2. Title and purpose of information collection: Report of Medicaid State Office on Beneficiary's Buy-In Status; OMB 3220–0185.

Under Section 7(d) of the Railroad Retirement Act, the RRB administers the

Medicare program for persons covered by the railroad retirement system. Under Section 1843 of the Social Security Act, states may enter into ''buy-in agreements'' with the Secretary of Health and Human Services for the purpose of enrolling certain groups of low-income individuals under the Medicare medical insurance (Part B) program and paying the premiums for their insurance coverage. Generally, these individuals are categorically needy under Medicaid and meet the eligibility requirements for Medicare Part B. States can also include in their buy-in agreements, individuals who are eligible for medical assistance only. The RRB uses Form RL–380–F, Report to State Medicaid Office, to obtain information needed to determine if certain railroad beneficiaries are entitled to receive Supplementary Medical Insurance program coverage under a state buy-in agreement in states in which they reside. Completion of Form RL–380–F is voluntary. One response is received from each respondent. The RRB proposes no changes to Form RL–380–F.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

[The estimated annual respondent burden is as follows]

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–380–F	600	10	100

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. 2013–31502 Filed 1–3–14; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a Closed Meeting on Wednesday, January 8, 2014 at 2:00 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matter at the Closed Meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the Closed Meeting in a closed session.

The subject matter of the Closed Meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 551–5400.

Dated: January 2, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–00018 Filed 1–2–14; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 71200; File No. SR–NASDAQ–2013–157]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Modify the Existing Fees in NASDAQ Rule 7034

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on December 16, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASDAQ is proposing changes to modify the existing fees that clients co-located in NASDAQ's Carteret data center pay for cabinet space, connectivity, and additional services as set forth in NASDAQ Rule 7034. NASDAQ intends to make these fees effective on January 2, 2014.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, at the Commission's Public Reference Room, and at the Commission's Web site at *http://sec.gov*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing five modifications to the current fee

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

schedule for colocation offerings set forth in NASDAQ Rule 7034.

1. NASDAQ is proposing to modify Rule 7034(a) to reduce cabinet fees for all cabinet users. Specifically, NASDAQ is proposing to reduce from $7,000 to $4,500 the fee for installing a new Super High Density Cabinet. Additionally, NASDAQ is proposing to reduce the ongoing monthly fees for all cabinets: Super High Density from $13,000 to $8,000; High Density from $7,000 to $4,500; Medium High Density from $6,000 to $3,500; Medium Density from $5,000 to $2,500; Low Density from $4,000 to $2,000; and Half Cabinets from $3,000 to $2,000. These changes largely cement a temporary fee reduction that NASDAQ offered at various times in 2013. The language describing the temporary fee reduction is being deleted from the Exchange rulebook.[3]

2. NASDAQ is modifying Rule 7034(a) to clarify that the Multi-Firm Cabinets Fee is assessed for each firm that occupies space in a cabinet other than the firm that contracts with NASDAQ Technology Services for that cabinet. This language is intended to better reflect the original intent of the Multi-Firm Cabinets fee and represents no change in NASDAQ's billing practice.

3. NASDAQ is increasing by $50 four connectivity fees set forth in Rule 7034(b): The Category 6 Cable Patch, the DS–3 Connection, and the Fiber fee (each from $300 to $350), and also the POTS Line fee (from $0 to $50). These are previously filed offerings that users request to connect to various telecommunications providers or other colocation cabinets.

4. NASDAQ is increasing the Ongoing Monthly Fee for four forms of connectivity to NASDAQ currently set forth in Rule 7034(b). Specifically, NASDAQ is increasing from $15,000 to $20,000 the monthly fee for the 40Gb Fiber connection to NASDAQ; from $5,000 to $10,000 the monthly fee for the 10Gb Fiber connection to NASDAQ; from $1,000 to $2,500 the monthly fee for the 1Gb Fiber connection to NASDAQ; and from $1,000 to $2,500 the monthly fee for the 1Gb Copper connection to NASDAQ.

5. Finally, NASDAQ is reducing from $7,000 to $4,500 the installation fee for the Super High Density Cabinet Kit set forth in Rule 7034(d). A user installing a new Super High Density Cabinet pays this ''Kit'' fee for various necessary cabinet accessories, in addition to the $4,500 installation fee set forth in Rule 7034(a) which covers the labor and materials costs for the actual cabinet installation service.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[4] in general, and with Sections 6(b)(4), (b)(5) and (b)(8) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed fees changes are consistent with Section 6(b)(4) of the Act for multiple reasons. The Exchange operates in a highly competitive market in which exchanges offer co-location services as a means to facilitate the trading activities of those members who believe that co-location enhances the efficiency of their trading. Accordingly, fees charged for co-location services are constrained by the active competition for the order flow of such members. If a particular exchange charges excessive fees for co-location services, affected members will opt to terminate their co-location arrangements with that exchange, and adopt a possible range of alternative strategies, including co-locating with a different exchange, placing their servers in a physically proximate location outside the exchange's data center, or pursuing trading strategies not dependent upon co-location. Accordingly, the exchange charging excessive fees would stand to lose not only co-location revenues but also revenues associated with the execution of orders routed to it by affected members.

The fees are fair and equitable whether considered in total or individually. First, NASDAQ is proposing a major fee reduction for all colocation users by reducing ongoing monthly fees for all cabinets and the fees for installing new Super High Density Cabinets (both the standard installation fee set forth in subsection (a) and the ''Kit'' fee set forth in subsection (d)). These fee reduction [sic] range from 35 to 50 percent, and they will benefit each cabinet user for each month in the future. These fee reductions are offset in part by minor increases of $50 per month for four connectivity fees set forth in Rule 7034(b) (the Category 6 Cable Patch, the DS–3 Connection, and the Fiber fee (from $300 to $350), and also the POTS Line fee from $0 to $50) and also to the Ongoing Monthly Fee for three forms on connectivity set forth in Rule 7034(b) (the 40Gb Fiber connection, the 10Gb Fiber connection, the 1Gb Fiber connection; and the 1Gb Copper connection to NASDAQ).

Moreover, the Exchange believes the proposed fees [sic] changes are reasonable because they are based on the Exchange's costs to cover hardware, installation, testing and connection, as well expenses involved in maintaining and managing the colocation facilities. The proposed fees allow the Exchange to recoup these costs and make a profit, while providing customers the ability to reduce latency in a well-maintained and operated environment. The Exchange believes that the proposed fees are reasonable in that they reflect the costs and the benefit of the lower latency to clients.

The Exchange also believes that the proposed fees are consistent with Section 6(b)(5) of the Act in that the fees are equitably allocated and non-discriminatory. All Exchange members that voluntarily select various service options will be charged the same amount for the same services. As is true of all co-location services, all co-located clients have the option to select any cabinet or connectivity option, and there is no differentiation among customers with regard to the fees charged for the service. Further, the benefits of selecting such services are the same for all co-located clients, irrespective of the locations of their cabinets within the data center.

The Exchange's proposal is also consistent with the requirement of Section 6(b)(5) of the Act that Exchange rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is consistent with these requirements insomuch as it makes available to market participants, at a reasonable fee and on a non-

[3] *See, e.g.,* Exchange Act Release No. 69887 (June 29, 2013), 78 FR 40527 (July 5, 2013).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4), (5) and (8).

discriminatory basis, access to low latency means of trading.

Finally, for the reasons stated below in Section 4 of Form 19b–4, the proposed fees [sic] changes are consistent with Section 6(b)(8) of the Act in that they do not impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, as discussed above, the Exchange believes that fees for co-location services are constrained by the robust competition for order flow among exchanges and non-exchange markets, because co-location exists to advance that competition. Further, excessive fees for co-location services would serve to impair an exchange's ability to compete for order flow rather than burdening competition. In fact, NASDAQ believes that the proposal reflects the positive effects of robust competition but for which NASDAQ would no incentive to reduce fees for any colocation offerings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [6] and paragraph (f) of Rule 19b–4 thereunder.[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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–157 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–157. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–157 and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31517 Filed 1–3–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71197; File No. SR–BX–2013–063]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Extranet Access Fee

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 19, 2013, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange [sic] to modify the extranet access fee (''Extranet Access Fee'') set forth in BX Rule 7025, as well as to clarify its applicability. BX will implement the proposed revised fee on January 2, 2014.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are bracketed.[3]

* * * * *

7025. Extranet Access Fee

Extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds shall be assessed a monthly access fee of $*1,000* [750] per client organization Customer Premises Equipment (''CPE'') Configuration. If an extranet provider uses multiple CPE Configurations to provide market data feeds to any client organization, the monthly fee shall apply to each such CPE Configuration. For purposes of this Rule 7025, the term ''Customer Premises Equipment Configuration'' shall mean any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to the Exchange market data feeds to a recipient's site. *No extranet access fee will be charged for connectivity to market data feeds*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Changes are marked to the rules of NASDAQ OMX BX, Inc. found at *http://nasdaqomxbx.cchwallstreet.com.*

containing only consolidated data. For purposes of this rule, consolidated data includes data disseminated by the UTP SIP.

* * * * *

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 is proposing a change to modify the Extranet Access Fee as set forth in BX Rule 7025, as well as to clarify its applicability. BX Rule 7025 currently provides that for extranet providers that establish a connection with the Exchange to offer direct access connectivity to market data feeds they [sic] will be assessed a monthly access fee of $750 per recipient Customer Premises Equipment (''CPE'') Configuration.[4]

Specifically, the Exchange proposes to increase this Extranet Access Fee from $750 per month to $1,000 per month. This increase represents the first price change since its introduction in 2009.[5] This fee increase will be used to help support the Exchange's costs associated with maintaining multiple extranet connections with multiple providers. These costs include those associated with overhead and technology infrastructure, administrative, maintenance and operational costs. Since the inception of this fee there have been numerous network infrastructure improvements and administrative controls enacted. The Exchange has additionally implemented compressed TCP/IP options, which allows [sic] customers reduced bandwidth and lower carrying costs. Additionally, the Exchange has implemented automated retransmission facilities for most of its data clients that benefit extranet clients by reducing operational costs associated with retransmissions.

As the number of extranets has increased, the management of the downstream customers has expanded and the Exchange has had to ensure appropriate reporting and review processes, which has resulted in a greater cost burden on the Exchange over time. The increased fee will also help to ensure that the Exchange is better able to closely review reports and uncover reporting errors via audits thus minimizing reporting issues. The network infrastructure has increased in order to keep pace with the increased number of products, which, in turn, has caused an increased administrative burden and higher operational costs associated with delivery via extranets.

Additionally, BX Rule 7025 will be clarified by stating that no extranet access fee will be charged for connectivity to market data feeds containing only consolidated data.[6] This clarification should serve to reduce any confusion as to the applicability of this fee.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls.

All similarly situated extranet providers, including the Exchange operating its own extranet, that establish an extranet connection with the Exchange to access market data feeds from the Exchange are subject to the same fee structure. The increased fee will help the Exchange offset some of the rising overhead and technology infrastructure, administrative, maintenance and operational costs it incurs in support of the service. If such costs are covered, the service may provide the Exchange with a profit. As such, the Exchange believes that the proposed fee increase is reasonable and notes that this increase represents the first price change since its introduction in 2009. The extranet costs are separate and different from the colocation facility that is able to recoup these fees by charging for servers within the associated data centers.

Additionally, BX Rule 7025 will be clarified by stating that no extranet access fee will be charged for connectivity to market data feeds containing only consolidated data. This clarification should serve to reduce any confusion as to the applicability of this fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

The fees are applied uniformly among extranet providers, which are not compelled to establish a connection with the Exchange to offer access connectivity to market data feeds. For these reasons, any burden arising from the fees is necessary in the interest of promoting the equitable allocation of a reasonable fee. Additionally, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with the Exchange or other exchanges and, of course, the extranet access fee is but one factor in a total platform analysis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

[4] As defined in BX Rule 7025, a ''Customer Premises Equipment Configuration'' means any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to the Exchange market data feeds to a recipient's site.

[5] *See* Securities Exchange Act Release No. 59615 (March 20, 2009), 74 FR 14604 (March 31, 2009) (SR–BX–2009–005).

[6] For purposes of BX Rule 7025, ''consolidated data'' is defined to include data disseminated by the UTP SIP.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(a)(ii).

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–BX–2013–063 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–BX–2013–063. 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, 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–BX–2013–063, and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31514 Filed 1–3–14; 8:45 am]

BILLING CODE 8011–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71203; File No. SR–MIAX–2013–60]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Short Term Option Series Program

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 23, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 404 to allow the Exchange to list five Short Term Option Series at one time and to specify that new series of Short Term Option Series may be listed up to, and including on, the expiration date.

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 is proposing to amend Exchange Rule 404. Currently the Exchange's Rules allow for the Exchange to list options in the Short Term Option Series Program (''STOS Program'' or ''STOS option'') ''on each of the next five consecutive Fridays that are business days.'' [3] Related filings of other option exchanges, including MIAX, which provided the Exchange with precedent for its rule to list five STOS option expirations specifically states [sic] that ''the total number of consecutive expirations will be five (5), including any existing monthly or quarterly expirations'' for the STOS Program.[4] The Exchange is now proposing to make explicit that the next five STOS options may be listed at one time, not including the monthly or Quarterly options. The Exchange is also proposing to codify an existing practice by adding language stating that strikes may be listed up until and on the day of expiration.

As proposed, the Exchange will have the ability to list a total of five STOS and that count of five would not include monthly or Quarterly option expirations. The Exchange notes that this proposal would restrict the five listed STOS to those closest to the Short Term Option Opening Date. For example, if a class of options has five STOS listed with expiration dates in July, the other two listed expiration dates may not be in December. The Exchange believes that allowing otherwise would undermine the purpose of the STOS Program.

As examples of how this would work in practice, consider a situation in which a Quarterly option expires week 1 and a monthly option expire week 3 from now, the proposal would allow the following expirations: Week 1 Quarterly option, week 2 STOS option, week 3 monthly option, week 4 STOS option, week 5 STOS option, week 6 STOS

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 404.02.

[4] *See* Securities Exchange Act Release Nos. 69658 (May 29, 2013), 78 FR 33454 (June 4, 2013) (SR–MIAX–2013–23); 68242 (November 15, 2012), 77 FR 69908 (November 21, 2012) (SR–CBOE–2012–110).

option, and week 7 STOS option.[5] As another example, if a Quarterly option expires week 3 and a monthly option expires week 5, the following expirations would be allowed: Week 1 STOS option, week 2 STOS option, week 3 Quarterly option, week 4 STOS option, week 5 monthly option, week 6 STOS option, week 7 STOS option.[6]

Next, the Exchange is proposing to add language to Rule 404 to state that additional series of STOS options may be added up to, and including on, the expiration date of the series.[7] Currently, Exchange rules state that the Exchange ''may open up to 20 initial series for each option class that participates in the Short Term Option Series Program'' and ''up to 10 additional series for each option class that participates in the Short Term Option Series Program'' however the Exchange's rules are silent on when series may be added.[8] In practice, however, the Exchange notes that other exchanges list additional series until the expiration day.[9] The Exchange believes that codifying this provision will clearly provide the ability which is currently not explicitly stated to add series up until the day of expiration which is in the current Rules [sic]. In addition, given the short lifespan of STOS, the Exchange believes that the ability to list new series of options intraday is appropriate.

The Exchange notes that the STOS Program has been very well-received by market participants, in particular by retail investors. The Exchange believes that the current proposed revision to the STOS Program will permit the Exchange to meet increased customer demand and provide market participants with the ability to hedge in a greater number of option classes and series. In addition, the proposed changes will codify an existing practice in the options exchange industry.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[10] of the Act in general, and furthers the objectives of Section 6(b)(5)[11] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Exchange believes that expanding the STOS Program will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment decisions and hedging decisions in a greater number of securities. The Exchange also believes that expanding the STOS Program will provide the investing public and other market participants with additional opportunities to hedge their investment thus allowing these investors to better manage their risk exposure.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that the Exchange and the Options Price Reporting Authority (''OPRA'') has the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the STOS Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange also does not believe this expansion will cause fragmentation to liquidity.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes this proposed rule change will benefit investors by providing additional methods to trade options on the liquid securities, and providing greater ability to mitigate risk in managing large portfolios. Specifically, the Exchange believes that investors would benefit from the introduction and availability of additional series available as an investing tool. The Exchange also believes the proposed changes will provide investors with an additional tool for hedging risk in highly liquid securities. For all the reasons stated, the Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that waiver of this requirement will ensure fair competition among the exchanges by allowing the Exchange to open up to five expirations under the STOS Program in a manner consistent with another competing exchange. The proposal will also clarify that, like other options exchanges, the Exchange may list new STO series up to, and including on, the expiration date. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may

[5] The proposal would not allow, for example, for nothing to be listed week 7 but week 8 a STOS option.

[6] *Id.*

[7] The Exchange is also proposing to add language stating that the proposed provisions in Rule 404.02 will not contradict current provisions in Exchange Rules. The Exchange believes this addition will eliminate any confusion about when additional series may be added in the STOS Program in comparison to other Exchange listing programs.

[8] *See* Exchange Rule 404.02.

[9] The Exchange notes that the Options Clearing Corporation (''OCC'') has the ability to accommodate series in the STOS Program added intraday.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[14] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–2013–60 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–2013–60. 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–MIAX–2013–60 and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31520 Filed 1–3–14; 8:45 am]

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[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71202; File No. SR–MIAX–2013–61]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand the Short Term Option Series Program

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 23, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 404 (Series of Options Open for Trading) to expand the Short Term Option Series Program (''STOS Program'').[3]

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] STOS, also known as ''weekly options'' as well as ''Short Term Options'', are series in an options class that are approved for listing and trading on the Exchange in which the series are opened for trading on any Thursday or Friday that is a business day and that expire on the Friday of the next business week. If a Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Thursday or Friday, respectively. For STOS Program Rules see Rule 404 and 404.02.

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 is proposing to amend Interpretation and Policy .02 to Rule 404 consistent with a recently approved filing by NASDAQ OMX PHLX, LLC (''PHLX'').[4] In particular, the Exchange proposes to expand the STOS Program so that the Exchange may: Change the current thirty option class limitation to fifty option classes on which STOS may be opened; match the parameters for opening initial and additional STOS strikes to what is permissible per the Options Listing Procedures Plan (''OLPP'');[5] open up to thirty initial

[4] *See* Securities Exchange Act Release No. 71004 (December 6, 2013), 78 FR 75437 (December 11, 2013) (SR–PHLX–2013–101).

[5] The full name of the OLPP (which is applicable to all option exchanges) is Plan For The Purpose of Developing and Implementing Procedures Designed to Facilitate the Listing and Trading of Standardized Options Submitted Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934. With regard to the listing of new series on equity, ETF, or trust issued receipt (''TIRs'') option classes, subsection 3.(g)(i) of the OLPP states, in relevant part, that the exercise price of each option series listed by an exchange that chooses to list a series of options (known as the Series Selecting Exchange) shall be fixed at a price per share which is reasonably close to the price of the underlying equity security, ETF, or TIR at or about the time the Series Selecting Exchange determines to list such series. Except as provided in subparagraphs (ii) through (iv) of the OLPP, if the price of the underlying security is less than or equal to $20, the Series Selecting Exchange shall not list new option series with an exercise price more than 100% above or below the price of the underlying security. If the price of the underlying security is greater than $20, the Series Selecting Exchange shall not list new option series with an exercise price more than 50% above or below the price of the underlying security. Subsection 3.(g)(i) of the OLPP indicates that an option series price has to be reasonably close to the price of the underlying security and must not exceed a maximum of 50% or 100%, depending on the price, from the underlying. The Exchange's proposal, while conforming to the current structure of the Exchange's STOS Rules, is similar in practical effect to the noted OLPP subsection.

series for each expiration date in an STOS class; add a STOS strike price interval of $2.50 or greater where the strike price is above $150; and in general harmonize the different parts of the STOS Program (*e.g.,* initial listings and additional series).

The STOS Program is codified in Interpretation and Policy .02 to Rule 404. These rules currently provide that after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day series of options on no more than thirty option classes that expire on each of the next five consecutive Fridays that are business days. In addition to the thirty-option class limitation, there is also a limitation that no more than twenty initial series for each expiration date in those classes may be opened for trading; provided, however, that the Exchange may open up to 10 additional series when the Exchange deems it necessary to maintain an orderly market, to meet customer demand or when the market price of the underlying security moves substantially from the exercise price or prices of the series already opened.[6]

Furthermore, the strike price of each STOS has to be fixed with approximately the same number of strike prices being opened above and below the value of the underlying security at about the time that the STOS are initially opened for trading on the Exchange, and with strike prices being within thirty percent (30%) above or below the closing price of the underlying security from the preceding day. In terms of the strike price intervals, the STOS Program currently allows the interval between strike prices on STOS to be (i) $0.50 or greater where the strike price is less than $75, and $1 or greater where the strike price is between $75 and $150 for all classes that participate in the STOS Program; or (ii) $0.50 for option classes that trade in one dollar increments, *i.e.,* in the Related non-STOS,[7] and are in the STOS Program. This proposal retains many of the fundamental limitations of the STOS Program while proposing specific changes as described below.

The Proposal

First, the Exchange proposes to increase the number of STOS classes that may be opened after an option class has been approved for listing and trading on the Exchange. Specifically, the Exchange proposes in Interpretation and Policy .02(a) to Rule 404 that the Exchange may select up to fifty currently listed option classes on which STOS may be opened. The Exchange also proposes in Interpretation and Policy .02(c) to Rule 404 that for each option class eligible for participation in the STOS Program, the Exchange may open up to thirty initial series for each expiration date in that STOS class. Currently MIAX rules permit the Exchange to list up to twenty initial series, and up to ten additional series, for each option class that participates in the STOS program.[8] While the MIAX may currently list thirty STOS series total, the Exchange is proposing to increase the number of initial series that it may list in order to remain competitive with other exchanges. The Exchange will continue to be limited to a total of thirty STOS, including both initial and additional series, and is proposing amendments to Interpretation and Policy .02(d) to Rule 404 to reflect the fact that the Exchange may only open additional series if it has opened fewer than thirty initial series. The Exchange believes that this proposed moderate increase in the number of STOS classes and initial STOS series is needed and advisable in light of the demonstrated acceptance and popularity of the STOS Program among market participants, as discussed below.

Second, the Exchange proposes changes to Interpretation and Policy .02(c) and (d) to Rule 404 to indicate that any initial or additional strike prices listed by the Exchange shall be reasonably close to the price of the underlying equity security and within the following parameters: (i) If the price of the underlying security is less than or equal to $20, strike prices shall be not more than one hundred percent (100%) above or below the price of the underlying security; and (ii) if the price of the underlying security is greater than $20, strike prices shall be not more than fifty percent (50%) above or below the price of the underlying security.[9] This proposal is in line with the process for adding new series of options found in subsection 3.(g)(i) of the OLPP, and harmonizes the STOS Program internally by adopting consistent parameters for opening STOS and listing additional strike prices. The Exchange believes that this proposal is a reasonable and desirable enhancement to the STOS Program.

Third, the Exchange proposes additional changes to Interpretation and Policy .02(d) to indicate that if the Exchange has opened less than thirty series for an STOS expiration date, the Exchange may also open additional strike prices of STOS that are more than 50% above or below the current price of the underlying security if the price is greater than $20, provided that demonstrated customer interest exists for such series,[10] as expressed by institutional, corporate or individual customers or their brokers. This is done to further conform the additional strike price methodology to the proposed listing parameters described above, while retaining demonstrated interest language that may be useful in unforeseen circumstances. Furthermore, Rule 404A(b)(1) currently states that if the price of the underlying security is greater than $20, the Exchange shall not list new option series with an exercise price more than 50% above or below the price of the underlying security. Immediately before this language, the Exchange proposes to also add a carve-out that states: ''Except as provided in Interpretation and Policy .02(d) to Rule 404* * *''

Fourth, the Exchange proposes to simplify the delisting language in Interpretation and Policy .02(d) to Rule 404, by removing the current range methodology that states, in part, that the Exchange will delist certain series ''so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security.'' [11] In the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, the Exchange will continue to delist any series with no open interest in both the call and the

[6] *See* Exchange Rule 404.02(c) and (d).

[7] Related non-STOS are non-STOS that have similar options with longer expiration cycles (*e.g.,* monthly Apple (AAPL) options would be Related non-STOS to weekly AAPL options).

[8] *See* Interpretation and Policy .02(c) and (d) to Rule 404.

[9] The price of the underlying security will be calculated commensurate with Rule 404A(b)(1) as amended.

[10] Market Makers trading for their own account are not considered when determining customer interest.

[11] Currently, the delisting language states: ''In the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security, the Exchange will delist any series with no open interest in both the call and the put series having a: (i) Strike higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration month, so as to list series that are at least 10% but not more than 30% above or below the current price of the underlying security. In the event that the underlying security has moved such that there are no series that are at least 10% above or below the current price of the underlying security and all existing series have open interest, the Exchange may list additional series, in excess of the 30 allowed under Interpretations and Policies .02(a), that are between 10% and 30% above or below the price of the underlying security.'' Interpretation and Policy .02(d) to Rule 404.

put series having a: (i) Strike higher than the highest price with open interest in the put and/or call series for a given expiration week; and (ii) strike lower than the lowest strike price with open interest in the put and/or the call series for a given expiration week.[12]

Fifth, the Exchange proposes to add $2.50 strike price intervals to the STOS Program. Specifically, the Exchange proposes in Interpretation and Policy .02(e) to Rule 404 to indicate that the interval between strike prices on STOS may be $2.50 or greater where the strike price is above $150. This proposed change complements the current STOS strike price intervals of $0.50 or greater where the strike price is less than $75 (or for STOS classes that trade in one dollar increments in the Related non-STOS), and $1 or greater where the strike price is between $75 and $150. The proposed $2.50 strike price interval addresses the issue that above a $150 strike price STO strike price intervals must generally be an exceedingly wide $5 or greater.[13]

The principal reason for the proposed expansion is market demand for additional STOS classes and series and a desire to make the STOS Program more effective. There is continuing strong customer demand for having the ability to execute hedging and trading strategies via STOS, particularly in the current fast and volatile multi-faceted trading and investing environment that extends across numerous markets and platforms,[14] and includes market moving events such as significant market volatility, corporate events, or large market, sector, or individual issue price swings. The options industry has been requested by traders and other market participants to expand the STOS Program to allow additional STOS offerings and increased efficiency.[15]

In order that the Exchange not exceed the current thirty option class and twenty initial option series restriction, the Exchange has on occasion had to turn away STOS customers (traders and investors) because it could not list, or had to delist, STOS or could not open adequate STOS because of restrictions in the STOS Program. This has negatively impacted investors and traders, particularly retail investors, who have continued to request that the Exchange add, or not remove, STOS classes, or have requested that the Exchange expand the STOS Program so that additional STOS classes and series could be opened that would allow the market participants to execute trading and hedging strategies. There are, as discussed, substantial benefits to market participants having the ability to trade eligible option classes within the STOS Program. Furthermore, the Exchange supports the objective of responding to customer need to enhance successful programs to make them more efficient for hedging and trading purposes. The Exchange notes that the STOS Program has been well-received by market participants, in particular by retail investors. The Exchange believes that weekly expiration options will continue to grow in importance for all market participants, including institutional and retail investors.[16] The proposed revisions to the STOS Program will permit the Exchange to meet customer demand for weekly expiration options by providing a reasonable expansion to the program, and will further allow the Exchange to harmonize STOS Program Rules with the OLPP as well as internally.

With regard to the impact of this proposal on system capacity, the Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the STOS Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. The Exchange represents that it will monitor the trading volume associated with the additional STOS classes and series listed as a result of this proposal and the effect (if any) of these additional STOS classes and series on market fragmentation and on the capacity of the Exchange's automated systems.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b)[17] of the Act in general, and furthers the objectives of Section 6(b)(5)[18] of the Act in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that expanding the classes and additional series that can be opened in the STOS Program, simplifying the delisting process, and allowing $2.50 strike price intervals will result in a continuing benefit to investors by giving them more flexibility to closely tailor their investment and hedging decisions in greater number of securities. In addition, correcting the delisting language, which currently refers to ''expiration months'' instead of weeks will clarify the Exchange's Rules and reduce investor confusion.

The STOS Program has been well-received by market participants, and in particular by retail investors, and has seen increasing trading volume. The Exchange believes that the current proposed revisions to the STOS Program will permit the Exchange to meet customer demand for weekly expiration options by providing a reasonable expansion to the program, and will further allow the Exchange to harmonize STOS Program rules with the OLPP as well as internally to the benefit of investors, market participants, and the marketplace.

With regard to the impact of this proposal on system capacity, the Exchange believes that it and OPRA have the necessary systems capacity to handle any potential additional traffic associated with this current amendment to the STOS Program. The Exchange believes that its members will not have a capacity issue as a result of this proposal. As explained above, this proposal will afford significant benefits to market participants, and the market in general, in terms of significantly greater flexibility and increases in efficient trading and hedging options. It will also allow the Exchange to compete on equal footing with STOS Programs adopted by other options exchanges, and in particular PHLX, which has recently been granted approval to adopt substantially similar rules to those proposed here.

[12] The Exchange notes that the delisting language in Interpretation and Policy .02(d) to Rule 404 incorrectly refers to expiration months rather than weeks. With this filing the Exchange also proposes to clarify that the exchange will delist series for given expiration weeks in accordance with the criteria discussed in this rule.

[13] *See, e.g.,* Exchange Rule 404(d).

[14] These include, without limitation, options, equities, futures, derivatives, indexes, ETFs, exchange traded notes, currencies, and over the counter instruments.

[15] *See* Securities Exchange Act Release No. 71004 (December 6, 2013), 78 FR 75437 (December 11, 2013) (SR–PHLX–2013–101).

[16] The current STOS Program, which is similar across all options markets that have weeklies programs, is in its current formulation one of the more challenging industrywide listings program to administer. Recognizing the importance of the Program, the Exchange is seeking to improve the Program for non-index STOS by making it more uniform and logical.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes the proposal is pro-competitive. The proposed rule change is a competitive response to a recently approved filing by the PHLX,[19] which the Exchange believes is necessary to permit fair competition among the options exchanges with respect to STOS Programs. The Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and Rule 19b–4(f)(6) thereunder.[21]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that the proposal will promote fair competition among exchanges by allowing it to offer a more efficient STOS Program that is harmonized internally and externally with the OLPP and to meet customer demand for a greater number of STOS classes and strike price intervals in the same manner as other exchanges. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest and will allow the Exchange to remain competitive with other exchanges. Therefore, the Commission designates the proposed rule change to be operative upon filing.[22]

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–2013–61 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–2013–61. 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–MIAX–2013–61 and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31519 Filed 1–3–14; 8:45 am]

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[19] *See* Securities Exchange Act Release No. 71004 (December 6, 2013), 78 FR 75437 (December 11, 2013) (SR–PHLX–2013–101).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71199; File No. SR–NASDAQ–2013–159]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Extranet Access Fee

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 18, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASDAQ. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

NASDAQ proposes to modify the extranet access fee (''Extranet Access Fee'') set forth in NASDAQ Rule 7025, as well as to clarify its applicability. NASDAQ will implement the proposed revised fee on January 2, 2014.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are bracketed.[3]

* * * * *

7025. Extranet Access Fee

Extranet providers that establish a connection with Nasdaq to offer direct access connectivity to market data feeds shall be assessed a monthly access fee of $*1,000*[750] per recipient Customer Premises Equipment (''CPE'') Configuration. If an extranet provider uses multiple CPE Configurations to provide market data feeds to any recipient, the monthly fee shall apply to each such CPE Configuration. For purposes of this Rule 7025, the term ''Customer Premises Equipment Configuration'' shall mean any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to Nasdaq market data feeds to a recipient's site. *No extranet access fee will be charged for connectivity to market data feeds containing only consolidated data. For purposes of this rule, consolidated data includes data disseminated by the UTP SIP.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASDAQ has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[3] Changes are marked to the rules of The NASDAQ Stock Market LLC found at *http://NASDAQomx.cchwallstreet.com/*.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASDAQ is proposing a change to modify the Extranet Access Fee as set forth in NASDAQ Rule 7025, as well as to clarify its applicability. NASDAQ Rule 7025 currently provides that for extranet providers that establish a connection with NASDAQ to offer direct access connectivity to market data feeds they will be assessed a monthly access fee of $750 per recipient Customer Premises Equipment (''CPE'') Configuration.[4]

Specifically, NASDAQ proposes to increase this Extranet Access Fee from $750 per month to $1,000 per month. This increase represents the first price change since its introduction in 2004.[5] This fee increase will be used to help support NASDAQ's costs associated with maintaining multiple extranet connections with multiple providers. These costs include those associated with overhead and technology infrastructure, administrative, maintenance and operational costs. Since the inception of this fee there have been numerous network infrastructure improvements and administrative controls enacted. The Exchange has additionally implemented compressed TCP/IP options, which allows [sic] customers reduced bandwidth and lower carrying costs. Additionally, the Exchange has implemented automated retransmission facilities for most of its data clients that benefit extranet clients by reducing operational costs associated with retransmissions.

As the number of extranets has increased, the management of the downstream customers has expanded and the Exchange has had to ensure appropriate reporting and review processes, which has resulted in a greater cost burden on the Exchange over time. The increased fee will also help to ensure that the Exchange is better able to closely review reports and uncover reporting errors via audits thus minimizing reporting issues. The network infrastructure has increased in order to keep pace with the increased number of products, which, in turn, has caused an increased administrative burden and higher operational costs associated with delivery via extranets.

Additionally, Rule 7025 will be clarified by stating that no extranet access fee will be charged for connectivity to market data feeds containing only consolidated data.[6] This clarification should serve to reduce any confusion as to the applicability of this fee.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and with Section 6(b)(4) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls.

All similarly situated extranet providers, including the Exchange operating its own extranet, that establish an extranet connection with NASDAQ to access market data feeds from NASDAQ are subject to the same fee structure. The increased fee will help NASDAQ offset some of the rising overhead and technology infrastructure, administrative, maintenance and operational costs it incurs in support of the service. If such costs are covered, the service may provide NASDAQ with a profit. As such, the Exchange believes that the proposed fee increase is reasonable and notes that this increase represents the first price change since its introduction in 2004. The extranet costs are separate and different from the colocation facility that is able to recoup these fees by charging for servers within the associated data centers.

Additionally, Rule 7025 will be clarified by stating that no extranet access fee will be charged for connectivity to market data feeds containing only consolidated data. This clarification should serve to reduce any confusion as to the applicability of this fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

The fees are applied uniformly among extranet providers, which are not compelled to establish a connection

[4] As defined in NASDAQ Rule 7025, a ''Customer Premises Equipment Configuration'' means any line, circuit, router package, or other technical configuration used by an extranet provider to provide a direct access connection to NASDAQ market data feeds to a recipient's site.

[5] *See* Securities Exchange Act Release No. 50483 (October 1, 2004), 69 FR 60448 (October 8, 2004) (SR–NASD–2004–118).

[6] For purposes of Rule 7025, ''consolidated data'' is defined to include data disseminated by the UTP SIP.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

with NASDAQ to offer access connectivity to market data feeds. For these reasons, any burden arising from the fees is necessary in the interest of promoting the equitable allocation of a reasonable fee. Additionally, firms make decisions on how much and what types of data to consume on the basis of the total cost of interacting with NASDAQ or other exchanges and, of course, the extranet access fee is but one factor in a total platform analysis.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2013–159 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–159. 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–NASDAQ–2013–159, and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31516 Filed 1–3–14; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(a)(ii).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71201; File No. SR–CME–2013–35]

Self-Regulatory Organizations; Chicago Mercantile Exchange Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Modifications to Its OTC FX Fee Schedule

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 2013, Chicago Mercantile Exchange Inc. (''CME'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared primarily by CME. CME filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[3] and Rules 19b–4(f)(2) and 19b–4(f)(4)(ii)[4] thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CME proposes to extend the terms of a current OTC FX fee waiver program. The text of the proposed rule change is below. Italicized text indicates additions; bracketed text indicates deletions.

* * * * *

CME OTC FX Fee Waiver Program

Program Purpose

The purpose of this Program is to incentivize market participants to submit transaction in the OTC FX products listed below to the Clearing House for clearing. The resulting increase in volume benefits all participant segments in the market.

Product Scope

The following cleared only OTC FX products (''Products''):

1. CME Cleared OTC FX—Emerging Markets

a. USDBRL, USDCLP, USDCNY, USDCOP, USDIDR, USDINR, USDKRW, USDMYR, USDPEN, USDPHP, USDRUB, USDTWD Non-Deliverable Forwards.

b. USDCZK, USDHUF, USDHKD, USDILS, USDMXN, USDPLN, USDSGD, USDTHB, USDTRY, USDZAR Cash-Settled Forwards.

2. CME Cleared OTC FX—Majors

a. AUDJPY, AUDUSD, CADJPY, EURAUD, EURCHF, EURGBP, EURJPY, EURUSD, GBPUSD, NZDUSD, USDCAD, USDCHF, USDDKK, USDJPY, USDNOK, USDSEK Cash-Settled Forwards.

Eligible Participants

The temporary reduction in fees will be open to all market participants and will automatically be applied to any transaction in the Products submitted to the Clearing House for clearing.

Program Term

Start date is February 1, 2012. End date is [December 31, 2013] *June 30, 2014.*

Hours

The Program will be applicable regardless of the transaction time.

Program Incentives

Fee Waivers. All market participants that submit transactions in the Products to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(2) and 17 CFR 240.19b–4(f)(4)(ii).

Clearing House will have their clearing fees waived.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CME included statements concerning the purpose 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. CME 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

CME is registered as a derivatives clearing organization with the Commodity Futures Trading Commission and currently offers clearing services for many different futures and swaps products. With this filing, CME proposes to modify the fees that apply to certain OTC FX cleared-only products cleared at CME. More specifically, the proposed changes would extend the existing CME fee waiver program supporting OTC FX products through June 30, 2014. The fee waiver program applies to all market participants and the fee waivers automatically apply to any transaction in the covered products submitted to CME for clearing. The current program by its terms is set to expire on December 31, 2013. All other terms of the fee waiver program would remain unchanged. Although the changes would become effective on filing, CME plans to operationalize the proposed fee changes on January 2, 2014.

The changes that are described in this filing impact fees for OTC FX products; these proposed fee changes are therefore limited to CME's business as a derivatives clearing organization clearing products under the exclusive jurisdiction of the Commodity Futures Trading Commission (''CFTC'') and do not materially impact CME's security-based swap clearing business in any way. CME notes that it has already submitted the proposed rule changes that are the subject of this filing to its primary regulator, the CFTC, in CME Submission 13–455R.

CME believes the proposed rule changes are consistent with the requirements of the Exchange Act including Section 17A of the Exchange Act.[5] More specifically, the proposed rule changes establish or change a member due, fee or other charge imposed by CME under Section 19(b)(3)(A)(ii)[6] of the Securities Exchange Act of 1934 and Rule 19b–4(f)(2)[7] thereunder. CME believes that the proposed fee change is consistent with the requirements of the Securities Exchange Act of 1934 and the rules and regulations thereunder and, in particular, to 17A(b)(3)(D),[8] because the proposed fee changes apply equally to all market participants clearing covered products and therefore the proposed changes provide for the equitable allocation of reasonable dues, fees and other charges among participants. CME also notes that it operates in a highly competitive market in which market participants can readily direct business to competing venues.

Furthermore, the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a derivatives clearing organization. These products are under the exclusive jurisdiction of the CFTC.[9] As such, the proposed CME changes are limited to CME's activities as a derivatives clearing organization clearing swaps that are not security-based swaps. CME believes the proposed changes will promote increased centralized clearing of swaps products and should therefore be seen to be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivatives agreements, contracts, and transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and, in general, to protect investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act.[10]

Because the proposed changes are limited in their effect to swaps products offered under CME's authority to act as a derivatives clearing organization, the proposed changes are also properly classified as effecting a change in an existing service of CME that:

(a) Primarily affects the clearing operations of CME with respect to products that are not securities, including futures that are not security futures, and swaps that are not security-based swaps or mixed swaps; and

(b) does not significantly affect any securities clearing operations of CME or any rights or obligations of CME with respect to securities clearing or persons using such securities-clearing service.

As such, the changes are also consistent with the requirements of Section 17A of the Exchange Act[11] and are properly filed under Section 19(b)(3)(A)[12] and Rule 19b–4(f)(4)(ii)[13] thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

CME does not believe that the proposed rule change will have any impact, or impose any burden, on competition. The rule changes simply extend a current CME OTC FX fee waiver and as such do not affect the security-based swap clearing activities of CME in any way and therefore do not impose any burden on competition that is inappropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CME has not solicited, and does not intend to solicit, comments regarding this proposed rule change. CME has not received any unsolicited written comments from interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)[14] of the Act and paragraphs (f)(2) and (f)(4)(ii) of Rule 19b–4[15] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[16]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] CME notes that the policies of the CFTC with respect to administering the Commodity Exchange Act are comparable to a number of the policies underlying the Exchange Act, such as promoting market transparency for over-the-counter derivatives markets, promoting the prompt and accurate clearance of transactions and protecting investors and the public interest.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(4)(ii).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(2) and 17 CFR 240.19b–4(f)(4)(ii).

[16] 15 U.S.C. 78s(b)(3)(C).

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 No. SR–CME–2013–35 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–CME–2013–35. 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 or 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 CME and on CME's Web site at *http://www.cmegroup.com/market-regulation/rule-filings.html.*

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–CME–2013–35 and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31518 Filed 1–3–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71206; File No. SR–DTC–2013–12]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Revise the Fee Schedule of the Depository Trust Company With Respect to Its Underwriting Service

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 2013, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by DTC. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder; the proposed rule change was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change is to modify DTC's Rules and Procedures, as described below.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC 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

(i) Purpose

Pursuant to the proposed rule change DTC will revise certain Underwriting service fees as more fully described below. Under the proposal, in order to align costs of processing to the associated revenue, DTC will replace Underwriting service fees which are currently applied with respect to eligibility processing for equity, corporate bond and municipal bond transactions (in tiered amounts depending upon the complexity of an issue) with new fees specific to the respective asset classes. Pursuant to the proposal DTC will charge Participants a fixed Underwriting fee for eligibility processing for municipal issues with one CUSIP, and a separate greater fixed fee for issues with more than one CUSIP. Underwriting fees for equities and corporate issues will migrate to a fee per CUSIP structure with an initial fixed fee for the first CUSIP and an incremental fee for each additional CUSIP. Also in order to align processing costs with associated revenues, the current fixed Underwriting fee for processing of eligibility requests by Participants for certificates of deposit will be lowered. In addition, DTC proposes to implement a separate fee to be charged to Participants for processing of book-entry only (BEO) certificates deposited at DTC. This will allow DTC to recover costs associated with processing BEO certificates (as opposed to ''FAST'' issues where the security remains on the books of the transfer agent and DTC does not incur the cost of processing certificates issued in the name of DTC's nominee, Cede & Co.).

Proposed Rule Changes

The revised fees are set forth in the tables below:

DELETED FEES

Fee description	Fee amount
Basic (Single CUSIP) Eligibility Fee.	$350 per Issue.
Basic (Multi CUSIP) Eligibility Fee.	$500 per Issue.
Complex Eligibility Fee.	$750 per Issue.

[17] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

NEW FEES

Fee description	Fee amount
Equity Eligibility Fee ..	$750 per Issue w/1 CUSIP PLUS. $250 Each Additional CUSIP.
Corporate Debt Eligibility Fee.	$350 per Issue w/1 CUSIP PLUS. $250 Each Additional CUSIP.

NEW FEES—Continued

Fee description	Fee amount
Municipal Debt Eligibility Fee.	$350 per Issue w/1 CUSIP; $800 per Issue w/ more than 1 CUSIP.

NEW FEES—Continued

Fee description	Fee amount
BEO Certificate (Non-FAST) Processing Fee.	$50 per CUSIP; up to a maximum charge of $500 per Issue.

FEE CHANGE

Fee description	Current fee amount	Proposed fee amount
Certificate of Deposit Eligibility Fee	$275 per CUSIP	$175 per CUSIP.

The fee changes set forth above will be incorporated into DTC's fee schedule which is available at *www.dtcc.com*.

Implementation Timeframe

The proposed fee changes will take effect on January 1, 2014.

(ii) Statutory Basis

The proposed rule change will align DTC's Underwriting fees with the costs of delivering applicable services, and the charges will apply equally in accordance with Participants' use of DTC services. Therefore, DTC believes the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended (''Act'') and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(D) of the Act,[5] which requires that DTC's Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will have any impact, or impose any burden, on competition. As stated above, the proposed changes will align DTC's fees with the costs of delivering services to its Participants, and the revised fee schedule will apply equally to all DTC Participants in accordance with their use of DTC's Underwriting service.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. DTC will notify the Commission of any written comments received by DTC.

[5] 15 U.S.C. 78q–1(b)(3)(D).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change will become effective on January 1, 2014, pursuant to Section 19(b)(3)(A)[6] of the Act and paragraph (f)(2) of Rule 19b–4[7] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File No. SR–DTC–2013–12 on the subject line.

Paper Comments

- Send in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–DTC–2013–12. 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 filings will also be available for inspection and copying at the principal office of DTC.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–DTC–2013–12 and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31521 Filed 1–3–14; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(2)

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71198; File No. SR–NASDAQ–2013–161]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Fees Assessed for Connectivity to the Exchange Under Rule 7015, and To Eliminate Fees Assessed Under Rules 7033 and 7059

December 30, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2013, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, 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 the Substance of the Proposed Rule Change

NASDAQ proposes to amend fees assessed for connectivity to the Exchange under Rule 7015, and to eliminate fees assessed under Rules 7033 and 7059. NASDAQ is also making two minor technical changes to Rule 7015(g). NASDAQ will implement the fee change effective January 2, 2014.

The text of the proposed rule change is below. Proposed new language is italicized; deletions are in brackets.

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7015. Access Services

The following charges are assessed by Nasdaq for connectivity to systems operated by NASDAQ, including the Nasdaq Market Center, the FINRA/NASDAQ Trade Reporting Facility, and FINRA's OTCBB Service. The following fees are not applicable to the NASDAQ Options Market LLC. For related options fees for Access Services refer to Chapter XV, Section 3 of the Options Rules.

(a) No change.

(b) Financial Information Exchange (FIX)

Ports	Price
FIX Trading Port	$*550*[500]/port/month.
FIX Port for Services Other than Trading.	$500/port/month.

(c) No change.

(d) New Nasdaq Workstation

Nasdaq Workstation Trader	$*575*[475] per user per month (including*: data entitlement package; the Trade Reporting File Upload service, which allows subscribing members to upload multiple trade reports in batches to Automated Confirmation Transaction Service (''ACT''); and the ACT Reject Scan service, which provides a list of all of a member's rejected ACT trade entries and a copy of each rejected trade report form submitted to ACT*).
Nasdaq Workstation Post Trade	See Rule 7015(e).

(e) Specialized Services Related to FINRA/NASDAQ Trade Reporting Facility

CTCI fee	$575/month
WebLink ACT or Nasdaq Workstation	$*525*[425.00]/month (full functionality) or
Post Trade	$*275*[225.00]/month (up to an average of twenty transactions per day each month) (For the purposes of this service only, a transaction is defined as an original trade entry, either on trade date or as-of transactions per month.) *A subscription includes: the Trade Reporting File Upload service, which allows subscribing members to upload multiple trade reports in batches to ACT; and the ACT Reject Scan service, which provides a list of all of a member's rejected ACT trade entries and a copy of each rejected trade report form submitted to ACT.*
ACT Workstation	$525/logon/month.

(f) No change.

(g) Other Port Fees

REMOTE MULTI-CAST ITCH WAVE PORTS

Description	Installation fee	Recurring monthly fee
MITCH Wave Port at Secaucus, NJ	$2,500	$7,500
MITCH Wave Port at Weehawken, NJ	2,500	7,500
MITCH Wave Port at Newark, NJ	2,500	7,500

The following port fees shall apply in connection with the use of other trading telecommunication protocols:

- $*550*[500] per month for each port pair, other than Multicast ITCH® data feed pairs, for which the fee is $1,000 per month for software-based TotalView-ITCH or $2,500 per month for combined software- and hardware-based TotalView-ITCH, and TCP ITCH data feed pairs, for which the fee is $750 per month.
- An additional $200 per month for each port used for entering orders or quotes over the Internet.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

• An additional $600 per month for each port used for market data delivery over the Internet.

Dedicated OUCH Port Infrastructure

The Dedicated OUCH Port Infrastructure subscription will not be implemented until the first quarter of 2014. The Exchange will provide public notice thereof at least five days prior to the implementation date.

The Dedicated OUCH Port Infrastructure subscription allows a member firm to assign up to 30 of its OUCH ports to a dedicated server infrastructure for its exclusive use. A Dedicated OUCH Port Infrastructure subscription is available to a member firm for a fee of $5,000 per month, which is in addition to the standard fees assessed for each OUCH port. A one-time installation fee of $5,000 is assessed subscribers for each Dedicated OUCH Port Server subscription.

[NASDAQ is waiving the $5,000 installation fee for all subscriptions received through August 15, 2013.]

(h) No change.

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7033. *Reserved*[Trade Reporting File Upload

The Trade Reporting File Upload service allows subscribing members to upload multiple trade reports in batches to the Automated Confirmation Transaction (ACT) service via the Nasdaq Workstation or WeblinkACT 2.0.

The Trade Reporting File Upload service is available to members for a fee of $25 per user, per month.]

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7059. *Reserved*[ACT Reject Scan

ACT Reject Scan service provides a subscribing member with a list of all of its rejected Automated Confirmation Transaction Service (ACT) trade entries and a copy of each rejected trade report form submitted to ACT.

ACT Reject Scan service is available to members at no cost beginning October 1, 2012 and for a fee of $75 per user, per month beginning November 1, 2012.]

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASDAQ included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those 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 purpose of the proposed rule change is to amend certain fees under Rule 7015 relating to Access Services and eliminate stand-alone fees assessed for services provided under Rules 7033 and 7059, which have been offered as add-on services to a Nasdaq Workstation (''Workstation'') or Weblink ACT (''Weblink'') subscription but now will be included in all Workstation and Weblink subscriptions.

The Exchange is proposing to amend Rules 7015(d) and (e) to increase fees assessed for subscription to the Workstation and Weblink to reflect the addition of the Trade Reporting File Upload and ACT Reject Scan services, which are currently offered as add-on services to a Workstation or Weblink subscription and will now be offered with every such subscription. The Trade Reporting File Upload service allows a member to upload multiple trade reports in batches to the Automated Confirmation Transaction (''ACT'') service via a Workstation or Weblink. The ACT Reject Scan service provides a subscriber with a list of all of its rejected ACT trade entries and a copy of each rejected trade report form submitted to ACT.

Currently, the Exchange assesses a fee of $25 per user, per month for subscription to the Trade Reporting File Upload service under Rule 7033, and a fee of $75 per user, per month for subscription to the ACT Reject Scan service under Rule 7059. NASDAQ is proposing to increase the fee for subscription to the Workstation under Rule 7015(d) from $475 to $575 per user, per month, and increase the fee for subscription to Weblink from $425 to $525 per user, per month for full functionality and from $225 to $275 per user, per month for a transaction-limited subscription. As a consequence of including Trade Reporting File Upload and ACT Reject Scan services with every Workstation and Weblink subscription, NASDAQ is eliminating the separate rule text describing these services found under Rule 7033 and 7059, respectively, and including the descriptive text from those rules under Rules 7015(d) and (e). The Exchange notes that it last increased fees for subscription to the Workstation in August 2006,[3] raising the fee from $435 to $475 per user, per month, and last increased fees for subscription to Weblink ACT in January 2012,[4] raising the fee from $375 to $425 per user, per month for full functionality and $200 to $225 per user, per month for a transaction-limited subscription.

NASDAQ is also amending fees under Rules 7015(b) and (g), which relate to trading port connectivity. Specifically, NASDAQ is proposing to increase the fee assessed under Rule 7015(b) for Financial Information Exchange (''FIX'') trading ports. FIX trading ports allow member firms to enter, modify and cancel orders in the NASDAQ System and receive Drop reports of executions. NASDAQ is proposing to increase the fee assessed for a FIX trading port from $500 to $550 per port, per month. NASDAQ is also proposing to increase the fee assessed for trading port pairs under Rule 7015(g), other than Multicast ITCH, TotalView-ITCH, and TCP ITCH port pairs.[5] Currently, the Exchange assesses a fee of $500 per month, per port pair and NASDAQ is proposing to increase the fee to $550 per month, per port pair. NASDAQ notes that it last increased both of the trading port fees under Rules 7015(b) and (g) in August 2009, raising the fees from $400 to $500 per port (or port pair), per month.[6]

The Exchange is also proposing to make a technical correction to the trading port rule text under Rule 7015(g) and to delete text from Rule 7015(g), which relates to a time-limited waiver of the Dedicated OUCH Port Infrastructure installation fees that has since expired.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and Section 6(b)(4) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that NASDAQ operates or controls, and it does not unfairly discriminate between

[3] *See* Securities Exchange Act Release No. 54500 (September 25, 2006), 71 FR 58026 (October 2, 2006) (SR–NASDAQ–2006–025).

[4] *See* Securities Exchange Act Release No. 66288 (February 1, 2012), 77 FR 6164 (February 7, 2012) (SR–NASDAQ–2012–017).

[5] The $500 port pair fee under Rule 7015(g) provides subscription to an OUCH, RASH, or Drop port pair.

[6] *See* Securities Exchange Act Release No. 60546 (August 20, 2009), 74 FR 43184 (August 26, 2009) (SR–NASDAQ–2009–058).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

customers, issuers, brokers or dealers. The proposed increases to the Workstation and Weblink fees are reasonable because they reflect the added value that subscribing members receive from the inclusion of the Trade Reporting File Upload and ACT Reject Scan services in every subscription. NASDAQ notes that the combined value of the two services under the current rule is $100 per user, per month and NASDAQ is proposing to increase the fees for the Workstation and unlimited Weblink subscription by an equal amount. NASDAQ believes the lower increase in the transaction-limited Weblink fee of $50 per user, per month is reasonable and not unfairly discriminatory because those subscribers will likewise have limited use of the Trade Reporting File Upload and ACT Reject Scan services. NASDAQ notes that an existing subscriber to the Workstation or unrestricted Weblink that also subscribes to the Trade Reporting File Upload and ACT Reject Scan add on services will see no increase in the fees assessed for the services received, and subscribers to the transaction-limited Weblink service that also subscribe to the Trade Reporting File Upload and ACT Reject Scan services will see a decrease in the total fees assessed for the add-on services. In contrast, current subscribers to the Workstation or Weblink that subscribe to no add-on services or a single add-on service will experience a fee increase. NASDAQ believes that it is reasonable and not unfairly discriminatory to increase fees for such subscribers to the Workstation and Weblink because the subscribers are receiving additional services valued in the amount of the fee increase and, consequently will derive benefit from the addition of the enhancements. NASDAQ notes that Workstation and Weblink subscribers that determine that the enhancements do not provide benefit to support the additional cost of the subscriptions may alternatively subscribe to third party front end systems or develop front end applications of their own.

NASDAQ believes that the proposal to increase fees for trading ports under Rules 7015(b) and (g) is reasonable [sic] not unfairly discriminatory because the fee increases will realign the cost of administering and enhancing the connectivity options offered by the services with the revenue generated by the fee, which have diverged since the fees were last increased in August 2009.[9] In particular, NASDAQ believes that the proposed fees will cover the costs associated with responding to customer requests, configuring NASDAQ's systems, programming to user specifications, and administering the service, among other things, and may provide NASDAQ with a profit. Moreover, NASDAQ believes that the proposed changes to Rules 7015(b) and (g) constitute equitable allocations of fees because, under each individual rule, all member firms would be charged the same fee and receive the same number of access ports. As such, NASDAQ believes that the proposed increase in port fees under Rules 7015(b) and (g) are both equitably allocated and reasonable.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The increased Workstation and Weblink fees are reflective of the addition of the Trade Reporting File Upload and ACT Reject Scan services and the benefit member firms receive from these enhancements. As noted, the proposed increase in fees for subscription to trading ports will realign the cost of administering and enhancing the service with the revenue generated by the fees, which have diverged since the fees were last increased in August 2009.[10] The Exchange must, from time to time, increase fees as general costs associated with offering services increase. The burden of covering these increased costs is most appropriately born by the users of the service. NASDAQ notes that, if the proposed port fees are set too high, given the competitive nature of the market for execution and routing services, market participants could simply opt to connect with market centers other than the Exchange to access liquidity available on NASDAQ by directing order flow to the other market centers that are required to route to NASDAQ if it has posted the best available price.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A) of the Act,[11] and paragraph (f)[12] of Rule 19b–4, thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2013–161 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2013–161. 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;

[9] *Supra* note 6.

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2013–161, and should be submitted on or before January 27, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2013–31515 Filed 1–3–14; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of a Final Environmental Assessment (Final EA) and a Finding of No Significant Impact (FONSI)/Record of Decision (ROD) for the Proposed Construction and Operation of a Replacement Aerial Tramway, South Franklin Mountain, El Paso, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of a Final Environmental Assessment (Final EA) and a Finding of No Significant Impact (FONSI)/Record of Decision (ROD) for the Proposed Construction and Operation of a Replacement Aerial Tramway, South Franklin Mountain, El Paso, Texas.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that the FAA has prepared, and approved on November 6, 2013, a Finding of No Significant Impact (FONSI)/Record of Decision (ROD) based on the Final Environmental Assessment (Final EA) for the Proposed Construction and Operation of a Replacement Aerial Tramway (ATRAM), South Franklin Mountain, El Paso, Texas. The FAA prepared the Final EA in accordance with the National Environmental Policy Act and the FAA's regulations and guidelines for environmental documents and the Final EA was signed on September 30, 2013. Copies of the Final EA and/or FONSI/ROD are available by contacting Ms. Virginia Marcks through the contact information provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Virginia Marcks, Manager, Infrastructure Engineering Center, Chicago, AJW–C15H, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Telephone number: (847) 294–7494.

SUPPLEMENTARY INFORMATION: The Final EA evaluated the construction and operation of a replacement ATRAM on South Franklin Mountain, in Franklin Mountains State Park, El Paso, Texas. The new ATRAM would replace the 58-year old existing ATRAM, which is beyond its operational service life and for which general maintenance and upkeep have become impractical and cost-intensive. The existing ATRAM has reached the point where replacement parts cannot be found and has many operational deficiencies and areas of concern. The replacement ATRAM, which would be constructed parallel to the existing ATRAM on South Franklin Mountain, would comply with industry standards for tramways.

The new ATRAM system would consist of a lower terminal, three intermediate towers, and an upper terminal. The new lower terminal facility would be located approximately 1,000 feet downhill from the existing location and the three intermediate towers would be located in the general vicinity of the existing intermediate tower location. A new upper terminal would be located atop South Franklin Mountain south of the current upper terminal. The new ATRAM would have an enclosed cabin which would accommodate and transport a minimum of four people and have a total load carrying capacity of 2,000 pounds.

After the new ATRAM system is fully operational, the FAA would decommission, demolish, remove the existing ATRAM system, and restore the lower terminal and intermediate parcels prior to transfer of the parcels to the Texas Parks and Wildlife Department.

The Final EA has been prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures.'' In addition, FAA Order 5050.4B, ''National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions'' has been used as guidance in the preparation of the environmental analysis.

Issued in Des Plaines, Illinois, on December 27, 2013.

Virginia Marcks,

Manager, Infrastructure Engineering Center, Chicago, AJW–C15H, Federal Aviation Administration.

[FR Doc. 2013–31543 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In October 2013, there were four applications approved. This notice also includes information on two applications, one approved in January 2012 and the other approved in September 2013, inadvertently left off the January 2012 and September 2013 notices, respectively. Additionally, 12 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Burlington, Vermont.

Application Number: 11–05–C–00–BTV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $5,240,755.

Earliest Charge Effective Date: April 1, 2014.

Estimated Charge Expiration Date: February 1, 2016.

Class of Air Carriers Not Required to Collect PFC's: On-demand air taxi commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Burlington International Airport.

Brief Description of Projects Approved for Collection and Use:

Snow removal equipment purchase.
Rehabilitate a portion of the cargo apron.
Terminal building renovation.
Land acquisition for noise abatement.
Land acquisition for development.
Reconstruct, mark and light taxiway A north.
Storm water management plan.
Security projects.

Airport master plan and airport layout plan updates.
Runway 15–33 pavement evaluation and rehabilitate study.
North terminal and apron—phase 2 and glycol deicing system.
Noise study and noise compatibility study.
Taxiway lighting.
Reconstruct and mark runway 15/33.
Extend runway 19 and taxiway A.
PFC application costs.
Reconstruct, mark and light a portion of taxiway C.

Brief Description of Project Partially Approved for Collection and Use:

South end development projects.

Determination: Partially approved. One of the proposed components of this project was also requested under a different project in this application. The component, acquisition of the Roberts land, was approved under the project titled ''land acquisition for development'' above and is disallowed in this project.

Brief Description of Withdrawn Project:

Taxiway G extension and taxiway B reconstruction.

Date of Withdrawal: January 20, 2012.

Decision Date: January 31, 2012.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Region Airports Division, (781) 238–7614.

Public Agency: County of Campbell/Gillette-Campbell County Airport Board, Gillette, Wyoming.

Application Number: 13–09–C–00–GCC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $405,826.

Earliest Charge Effective Date: October 1, 2014.

Estimated Charge Expiration Date: December 1, 2017.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Gillette-Campbell County Airport.

Brief Description of Projects Approved for Collection and Use:

Acquire snow removal equipment.
Realign airport access road.
PFC administration.

Decision Date: September 27, 2013.

FOR FURTHER INFORMATION CONTACT: Jesse Lyman, Denver Airports District Office, (303) 342–1262.

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 13–19–C–00–BNA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $4,430,000.

Earliest Charge Effective Date: August 1, 2017.

Estimated Charge Expiration Date: November 1, 2017.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31 and operating at Nashville International Airport (BNA).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at BNA.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:

Reconstruct runway 13/31 west.

Brief Description of Projects Approved for Collection and Use at a $3.00 PFC Level:

Improve storm water collection and treatment system.
Operations 14 CFR Part 139 online training and 49 CFR Part 1542.

Decision Date: October 3, 2013.

FOR FURTHER INFORMATION CONTACT: Cynthia Wills, Memphis Airports District Office, (901) 322–8190.

Public Agency: Phoenix—Mesa Gateway Airport Authority, Mesa, Arizona.

Application Number: 13–03–C–00–IWA.

Application Type: Impose and Use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $23,927,638.

Earliest Charge Effective Date: July 1, 2017.

Estimated Charge Expiration Date: January 1, 2023.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Environmental assessment for the northeast terminal.
Benefit cost analysis for the northeast terminal development.
Construct taxilane L extension—phase II.
Construct Alpha apron expansion—phase III.
Construct paralle taxiway C extension—phase II.
PFC administration costs.

Brief Description of Projects Approved for Use:

Design/construct fuel farm expansion.
Design/reconstruct taxiway P.

Brief Description of Project Approved for Collection:

West terminal expansion—phase IV.

Brief Description of Disapproved Project:

Conduct airport surveillance radar relocation study.

Determination: Disapproved. The FAA determined that this study does not meet the requirements of § 158.15(b)(2).

Decision Date: October 11, 2013.

FOR FURTHER INFORMATION CONTACT: Darlene Williams, Los Angeles Airports District Office, (310) 725–3625.

Public Agency: City and County of San Francisco, San Francisco, California.

Application Number: 11–05–C–00–SFO.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $610,451,805.

Earliest Charge Effective Date: January 1, 2017.

Estimated Charge Expiration Date: June 1, 2023.

Class of Air Carriers not Required to Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31 and operating at San Francisco International Airport (SFO).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at SFO.

Brief Description of Projects Approved for Collection and Use:

Terminal 2 and boarding area D renovations.

Decision Date: October 11, 2013.

FOR FURTHER INFORMATION CONTACT: Neil Kumar, San Francisco Airports District Office, (650) 827–7627.

Public Agency: Tulsa Airports Improvement Trust, Tulsa, Oklahoma.

Application Number: 13–09–C–00–TUL.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $54,675,000.

Earliest Charge Effective Date: October 1, 2022.

Estimated Charge Expiration Date: April 1, 2033.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Tulsa International Airport.

Brief Description of Projects Approved for Collection and Use:

Concourse A rehabilitation.

Terminal building chillers.

PFC consulting services.

Decision Date: October 22, 2013.

FOR FURTHER INFORMATION CONTACT: Don Harris, Arkansas/Oklahoma Airports Development Office, (817) 222–5634.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
06–07–C–01–HDN, Hayden, CO	09/24/13	$2,199,678	$2,021,503	12/01/11	04/01/12
99–03–C–03–BOI, Boise, ID	09/27/13	96,884,411	84,362,062	08/01/18	05/01/16
07–08–C–02–PHX, Phoenix, AZ	09/30/13	187,649,602	179,036,442	08/01/10	08/01/10
01–01–C–01–OXR, Oxnard, CA	09/30/13	872,000	631,115	03/01/11	03/01/11
07–03–C–02–CEC, Crescent City, CA	09/30/13	301,745	283,357	07/01/13	07/01/13
07–03–C–01–RDD, Redding, CA	09/30/13	809,295	670,755	09/01/11	09/01/11
08–04–C–01–STS, Santa Rosa, CA	09/30/13	1,594,049	1,319,049	04/01/13	04/01/13
07–05–C–02–PIH, Pocatello, ID	10/15/13	419,295	240,192	02/01/10	12/01/08
94–01–C–07–ISP, Ronkonkoma, NY	10/16/13	22,382,626	22,305,857	07/01/04	07/01/04
96–02–C–02–ISP, Ronkonkoma, NY	10/16/13	4,497,958	4,496,961	03/01/05	03/01/05
06–06–C–03–LBB, Lubbock, TX	10/23/13	12,451,441	12,419,871	12/01/13	11/01/12
10–07–C–01–LBB, Lubbock, TX	10/23/13	13,101,351	7,164,045	07/01/19	09/01/16

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

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2013–31553 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In November 2013, there were four applications approved. This notice also includes information on one application, approved in October 2013, inadvertently left off the October 2013 notice. Additionally, seven approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Huntsville-Madison County Airport Authority, Huntsville, Alabama.

Application Number: 13–19–C–00–HSV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $2,481,886.

Earliest Charge Effective Date: September 1, 2022.

Estimated Charge Expiration Date: October 1, 2023.

Classes of Air Carriers not Required to Collect PFC's: (1) Air taxi/commercial operators filing FAA Form 1800–31 and operating at Huntsville International Airport (HSV); (2) certified air carriers filing U.S. Department of Transportation (DOT) Form T–100, operating at HSV, and having fewer than 500 annual passenger enplanements; (3) certified route air carriers filing DOT Form T–100, operating at HSV, and having fewer than 500 annual passenger enplanements; and (4) foreign air carriers filing DOT Form T–100, operating at HSV, and having fewer than 500 annual passenger enplanements.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined each of the approved classes account for less than 1 percent of the total annual enplanements at HSV.

Brief Description of Projects Approved for Collection and Use:

Wildlife hazard assessment.

Group VI airfield improvements.

Decision Date: October 29, 2013.

FOR FURTHER INFORMATION CONTACT: Luke Flowers, Jackson Airports District Office, (601) 664–9898.

Public Agency: County of Mohave, Bullhead City, Arizona.

Application Number: 14–02–C–00–IFP.

Application Type: Impose and use a PFC.

PFC Level: $2.00.

Total PFC Revenue Approved in This Decision: $1,477,531.

Earliest Charge Effective Date: January 1, 2014.

Estimated Charge Expiration Date: January 1, 2025.

Classes of Air Carriers Not Required to Collect PFC's: (1) Nonscheduled/on demand air carriers filing FAA Form 1800–31; and (2) nonscheduled commuters or small certificated air carriers filing DOT Form T–100.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined each of the approved classes account for less than 1 percent of the total annual enplanements at Laughlin/Bullhead International Airport.

Brief Description of Projects Approved for Collection and Use:

Improve terminal building, phases I, II, and III.

Environmental assessment for runway 16/34 extension.

Conduct Part 150 noise compatibility study.

Rehabilitate parallel taxiway A pavement and lighting.

Environmental assessment for land acquisition (300 acres).

Extend runway 16/34 taxiway—design.
Wildlife hazard assessment.
Extend runway 16/34 taxiway—construction.
Rehabilitate existing rotating beacon.
Slurry seal runway 16/34 pavement.
Rehabilitate general aviation apron.
PFC administrative cost.

Brief Description of Projects Approved for Collection:

Americans with Disabilities Act passenger ramp.
Air Traffic Control Tower communications equipment/radios.
Land acquisition for terminal development (300 acres).
Air Traffic Control Tower security upgrades.

Brief Description of Disapproved Projects:

Rehabilitate existing aircraft rescue and firefighting vehicle.

Determination: The FAA determined that the proposed vehicle to be rehabilitated exceeded the airports current Part 139 index. Therefore, the vehicle does not meet the requirements of § 158.15(b)(1).

Safety management system study.

Determination: The public agency did not submit sufficient required information to permit the FAA to make an eligibility determination.

Decision Date: November 1, 2013.

FOR FURTHER INFORMATION CONTACT: Darlene Williams, Los Angeles Airports District Office, (310) 725–3623.

Public Agency: Greater Orlando Aviation Authority, Orlando, Florida.

Application Number: 13–16–C–00–MCO.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $232,500,000.

Earliest Charge Effective Date: June 1, 2031.

Estimated Charge Expiration Date: July 1, 2034.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection and Use at a $4.50 PFC Level:

Airside 4 capacity improvements.

Brief Description of Project Approved for Collection and Use at a $3.00 PFC Level:

Airside 4 central energy plant.

Decision Date: November 1, 2013.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: City of Gainesville, Florida.

Application Number: 14–03–C–00–GNV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $1,250,942.

Earliest Charge Effective Date: January 1, 2014.

Estimated Charge Expiration Date: August 1, 2016.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Project Approved for Collection and Use:

Taxiway A lighting and vault.
Acquire 1,500 gallon aircraft rescue and firefighting vehicle.
Taxiway A–1 and B pavement and lighting.
Part 150 noise compatibility plan study.
Wildlife hazard assessment study.
Rehabilitate commercial apron pavement.
Purchase runway sweeper.
Security and wildlife perimeter fence (phase 1).
Rehabilitate taxiway C.
Rehabilitate south airfield electrical vault.
Security and wildlife perimeter fence (phase 2).
Rehabilitate apron high mast lighting.
Rehabilitate on airport service roads.
Rehabilitate taxiway E—design phase.
Wildlife hazard management plan.
Aircraft rescue and firefighting radios.
Emergency communications vehicle.
Master plan update.
Rehabilitate taxiway E—construction phase.
Rehabilitate ticket counters and restrooms.

Decision Date: November 8, 2013.

FOR FURTHER INFORMATION CONTACT: Susan Moore, Orlando Airports District Office, (407) 812–6331.

Public Agency: City of Lubbock, Texas.

Application Number: 13–08–C–00–LBB.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $6,859,912.

Earliest Charge Effective Date: September 1, 2016.

Estimated Charge Expiration Date: March 1, 2020.

Classes of Air Carriers Not Required to Collect PFC's: (1) Air taxi/commercial operators filing FAA Form 1800–31; (2) commuters and small certificated air carriers filing DOT Form T–100 for nonscheduled enplanements; and (3) large certificated route air carriers filing DOT Form T–100 for nonscheduled enplanements.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined each of the approved classes account for less than 1 percent of the total annual enplanements at Lubbock Preston Smith International Airport.

Brief Description of Projects Approved for Collection and Use:

Improve service road (relocate perimeter road).
Runway 17R/35L improvements.

Decision Date: November 12, 2013.

FOR FURTHER INFORMATION CONTACT: Steven Cooks, Texas Airports Development Office, (817) 222–5600.

AMENDMENT TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
07–11–C–03–COS, Colorado Springs, CO	11/05/13	$2,243,400	$2,160,952	01/01/11	09/01/09
08–12–C–03–COS, Colorado Springs, CO	11/05/13	2,880,883	2,159,501	02/01/11	10/01/10
08–13–C–02–COS, Colorado Springs, CO	11/05/13	500,000	360,328	05/01/11	01/01/11
09–15–C–01–COS, Colorado Springs, CO	11/06/13	848,562	822,519	05/01/11	05/01/11
09–16–C–01–COS, Colorado Springs, CO	11/06/13	719,024	604,884	09/01/11	09/01/11
12–06–C–02–MAF, Midland, TX	11/19/13	967,278	4,351,978	07/01/15	04/01/17
02–09–C–06–MCO, Orlando, FL	11/20/13	165,358,198	130,796,988	10/01/12	04/01/12

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

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2013–31554 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In August 2013, there was one application approved. This notice also includes information on four applications, approved in July 2013, inadvertently left off the July 2013 notice. Additionally, 11 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Port Authority of New York and New Jersey, New York, New York.

Application Number: 12–09–C–00–EWR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $45,666,000.

Earliest Charge Effective Date: October 1, 2017.

Estimated Charge Expiration Date: July 1, 2018.

Class of Air Carriers not Required to Collect PFC's: Non-scheduled/on-demand air carriers operating at Newark Liberty International Airport (EWR).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at EWR.

Brief Description of Project Approved for Collection at EWR and Use at John F. Kennedy International Airport (JFK) at a $4.50 PFC Level: JFK Terminal 3 site redevelopment and capacity improvements.

Decision Date: July 5, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Henn, Eastern Region Airports Division, (718) 553–3357.

Public Agency: Port Authority of New York and New Jersey, New York, New York.

Application Number: 12–09–C–00–JFK.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $111,391,500.

Earliest Charge Effective Date: September 1, 2017.

Estimated Charge Expiration Date: November 1, 2018.

Class of Air Carriers not Required to Collect PFC's: Non-scheduled/on-demand air carriers operating at JFK.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at JFK.

Brief Description of Project Approved for Collection at JFK and Use at JFK at a $4.50 PFC Level: JFK Terminal 3 site redevelopment and capacity improvements.

Decision Date: July 5, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Henn, Eastern Region Airports Division, (718) 553–3357.

Public Agency: Port Authority of New York and New Jersey, New York, New York.

Application Number: 12–09–C–00–LGA.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $56,674,000.

Earliest Charge Effective Date: September 1, 2017.

Estimated Charge Expiration Date: November 1, 2018.

Class of Air Carriers not Required to Collect PFC's: Non-scheduled/on-demand air carriers operating at LaGuardia Airport (LGA).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at LGA.

Brief Description of Project Approved for Collection at LGA and Use at JFK at a $4.50 PFC Level: JFK Terminal 3 site redevelopment and capacity improvements.

Decision Date: July 5, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Henn, Eastern Region Airports Division, (718) 553–3357.

Public Agency: Port Authority of New York and New Jersey, New York, New York.

Application Number: 12–06–C–00–SWF.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,268,500.

Earliest Charge Effective Date: February 1, 2018.

Estimated Charge Expiration Date: October 1, 2019.

Class of Air Carriers Not Required to Collect PFC's: Non-scheduled/on-demand air carriers operating at Stewart International Airport (SWF).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at SWF.

Brief Description of Project Approved for Collection at SWF and use at JFK at a $4.50 PFC Level: JFK Terminal 3 site redevelopment and capacity improvements.

Decision Date: July 5, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Henn, Eastern Region Airports Division, (718) 553–3357.

Public Agency: Asheville Regional Airports Authority, Fletcher, North Carolina.

Application Number: 13–06–U–00–AVL.

Application Type: Use PFC Revenue.

Total PFC Revenue Approved for use in this Decision: $11,683,636.

PFC Level: $4.50.

Charge Effective Date: August 1, 2011.

Estimated Charge Expiration Date: April 1, 2024.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Project Approved for Use: Runway 16/34 improvement program.

Decision Date: August 7, 2013.

FOR FURTHER INFORMATION CONTACT: Troy Butler, Southern Region Airports Division, (404) 305–6727.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
06–05–C–01–COD, Cody, WY	07/30/13	$534,096	$411,718	02/01/11	05/01/09
05–08–C–01–MSP, Minneapolis, MN	08/01/13	191,380,173	147,985,611	03/01/16	07/01/16
11–05–C–01–AVL, Fletcher, NC	08/07/13	8,233,516	15,013,464	02/01/18	04/01/24
06–03–C–02–OAJ, Richlands, NC	08/07/13	348,456	340,492	01/01/09	01/01/09
08–06–C–01–COD, Cody, WY	08/12/13	79,500	78,476	05/01/11	05/01/11
07–05–C–02–MAF, Midland, TX	08/19/13	1,544,032	932,194	08/01/15	02/01/15
12–06–C–01–MAF, Midland, TX	08/19/13	1,319,287	967,278	11/01/15	07/01/15
05–06–C–01–EUG, Eugene, OR	08/27/13	2,400,000	2,324,262	09/01/09	09/01/09
12–12–C–01–PLN, Petoskey, MI	08/28/13	481,281	481,281	05/01/18	05/01/18
11–07–C–02–PUW, Pullman, WA	08/28/13	210,700	214,775	11/01/12	06/01/12
12–08–C–01–PUW, Pullman, WA	08/28/13	170,350	568,149	09/01/13	09/01/13

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

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2013–31551 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 2013, there were three applications approved. This notice also includes information on two applications, one approved in June 2011 and the other approved in March 2012, inadvertently left off the June 2011 and March 2012 notices, respectively. Additionally, eight approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L.101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Birmingham Airport Authority, Birmingham, Alabama.

Application Number: 11–10–U–00–BHM.

Application Type: Use PFC Revenue.

PFC Level: $4.50.

Total PFC Revenue Approved for Use in this Decision: $4,133,110.

Charge Effective Date: July 1, 2010.

Estimated Charge Expiration Date: February 1, 2031.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Project Approved for Use: Terminal demolition.

Decision Date: June 2, 2011.

FOR FURTHER INFORMATION CONTACT: Troy Butler, Southern Region Airports Division, (404) 305–6727.

Public Agency: Maryland Department of Transportation and Maryland Aviation Administration, Baltimore, Maryland.

Application Number: 12–09–C–00–BWI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $132,294,117.

Earliest Charge Effective Date: October 1, 2019.

Estimated Charge Expiration Date: April 1, 2021.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Baltimore-Washington International Thurgood Marshall Airport.

Brief Description of Project Partially Approved for Collection and Use at a $4.50 PFC Level: Terminal B/C connector.

Determination: Partially approved. A portion of the project was determined to be for administrative purposes rather than for the movement of passengers and baggage. Therefore, the percentage of the project determined to be PFC-eligible was reduced from that requested. In addition, the emergency power generator component of this project was determined to be ineligible for PFC funding.

Decision Date: March 15, 2012.

FOR FURTHER INFORMATION CONTACT: Jeffery Breeden, Washington Airports District Office, (703) 661–1363.

Public Agency: Williamsport Municipal Airport Authority, Montoursville, Pennsylvania.

Application Number: 13–03–C–00–IPT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $225,000.

Earliest Charge Effective Date: November 1, 2013.

Estimated Charge Expiration Date: November 1, 2014.

Class of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Improve runway 9 safety area, phase 2.
Extend parallel taxiway B to the runway 27 end, phase 1.
Extend parallel taxiway B to the runway 27 end, phase 2.
Extend parallel taxiway b to the runway 27 end, phase 3.
Extend taxiway D, phase 1.
Rehabilitate general aviation apron, phase 1.
Extend taxiway B to runway 27 end, phase 4.
Acquire aircraft rescue and firefighting vehicle.
Extend taxiway D, phase 2.
Rehabilitate general aviation apron, phase 2.
Taxiway A rehabilitation.

Decision Date: September 5, 2013.

FOR FURTHER INFORMATION CONTACT: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

Public Agency: County of Marquette, Gwinn, Michigan.

Application Number: 13–11–C–00–SAW.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $253,245.

Earliest Charge Effective Date: December 1, 2014.

Estimated Charge Expiration Date: October 1, 2016.

Class of Air Carriers Not Required to Collect PFC's: Air taxi commercial operators engaged in non-scheduled activity that are operating at Sawyer International Airport (SAW).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at SAW.

Brief Description of Projects Approved for Collection and Use:

Parking lot improvements.

Hangar improvements—402 design and 600-series hangars.

Hangar improvements—402 phase 2, 400 series doors, and 600 series electrical/insulation.

Hangars 400, 423, 424, 425 interior insulation, electrical and lighting.

Taxiways E and F pavement design/construction.

Decision Date: September 11, 2013.

FOR FURTHER INFORMATION CONTACT: Irene Porter, Detroit Airports District Office, (734) 229–2915.

Public Agency: County of Broome, Johnson City, New York.

Application Number: 13–16–C–00–BGM.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $333,625.

Earliest Charge Effective Date: June 1, 2017.

Estimated Charge Expiration Date: May 1, 2018.

Class of Air Carriers not Required to Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Greater Binghamton Airport.

Brief Description of Projects Approved for Collection and Use:

North apron rehabilitation, phase 2 design.

Airport security improvements design.

Hazardous wildlife study.

Brief Description of Projects Approved for Collection:

North apron rehabilitation, phase 2 construct.

Airport security improvements construct.

Brief Description of Project Partially Approved for Collection and Use:

Airport safety management system development.

Determination: Partially approved. The establishment of safety protocols for users of the airport to manage their own operations was determined not to be PFC eligible.

Decision Date: September 23, 2013.

FOR FURTHER INFORMATION CONTACT: Patricia Henn, Eastern Region Airports Division, (718) 553–3357.

AMENDMENTS TO PFC APPROVALS

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
10–03–C–01–SBY, Salisbury, MD	08/29/13	$783,269	$1,081,110	03/01/13	03/01/13
08–04–C–02–CHA, Chattanooga, TN	09/04/13	2,520,376	2,501,388	10/01/12	10/01/12
08–04–C–01–HVN, New Haven, CT	09/12/13	352,756	276,202	10/01/11	10/01/11
97–04–C–02–SAW, Gwinn, MI	09/12/13	741,542	482,606	08/01/00	08/01/00
09–04–C–02–OAJ, Richlands, NC	09/16/13	115,842	74,020	11/01/11	11/01/11
00–05–C–02–SAW, Gwinn, MI	09/17/13	335,998	405,680	12/01/02	01/01/03
02–06–C–01–SAW, Gwinn, MI	09/17/13	227,558	234,256	06/01/04	06/01/04
05–10–C–10–MCO, Orlando, FL	09/19/13	749,303,511	749,303,511	12/01/19	12/01/19

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

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2013–31552 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

[Docket No. MARAD–2013–0157]

Agency Requests for Renewal of a Previously Approved Information Collection(s): Requirements for Establishing U.S. Citizenship

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995, Public Law 104–13.

DATES: Written comments should be submitted by March 7, 2014.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2013–0157 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.
- *Fax:* 1–202–493–2251.

FOR FURTHER INFORMATION CONTACT: Michael Pucci, 202–366–5167, Office of Maritime Program, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, Email: *Michael.Pucci@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2133–0012.

Title: Requirements for Establishing U.S. Citizenship—46 CFR Part 355.

Form Numbers:

Type of Review: Renewal of an information collection.

Background: Maritime Administration implementing regulations at 46 CFR parts 355 and 356 set forth requirements

for establishing U.S. citizenship in accordance with MARAD statutory authority. Those receiving benefits under 46 U.S.C. Chapters 531, 535, and 537 (formerly the Merchant Marine Act, 1936, as amended), or applicants seeking a fishery endorsement eligibility approval pursuant to the American Fisheries Act must be citizens of the United States within the meaning of 46 U.S.C. 50501, (formerly Section 2 of the Shipping Act, 1916, as amended). In either case, whether seeking program benefits or fishery endorsement eligibility, Section 50501 sets forth the statutory requirements for determining whether an applicant, be it a corporation, partnership, or association is a U.S. citizen. 46 CFR part 356 is distinguished from 46 CFR part 355 in that part 356 establishes requirements for U.S. citizenship exclusively in accordance with the AFA while part 355 is applied for purposes of establishing citizenship across multiple MARAD programs arising under other statutory authority. Most program participants are required to submit to MARAD on an annual basis the form of affidavit prescribed by Part 355 or Part 356.

Number of Respondents: 500.

Frequency: Once annually.

Estimated Average Burden per Response: 5 hours.

Total Annual Burden: 2500.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://www.regulations.gov.*

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.

December 31, 2013.

Michael Pucci,

Acting Secretary, Maritime Administration.

[FR Doc. 2013–31564 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

Advisory Board; Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation (SLSDC), to be held from 10 a.m. to 12 p.m. (EDT) on Wednesday, January 22, 2014 at the SLSDC's Policy Headquarters, 55 M Street SE., Suite 930, Washington, DC 20003. The agenda for this meeting will be as follows: Opening Remarks; Consideration of Minutes of Past Meeting; Quarterly Report; Old and New Business; Closing Discussion; Adjournment.

Attendance at the meeting is open to the interested public but limited to the space available. With the approval of the Acting Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact, not later than Friday, January 17, 2014, Anita K. Blackman, Senior Advisor to the Administrator, Saint Lawrence Seaway Development Corporation, Suite W32–300, 1200 New Jersey Avenue SE., Washington, DC 20590; 202–366–0091.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on December 30, 2013.

Betty S. Sutton,

Administrator.

[FR Doc. 2013–31513 Filed 1–3–14; 8:45 am]

BILLING CODE 4910–61–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1087 (Sub-No. 1X)]

Grenada Railway LLC—Abandonment Exemption—in Montgomery, Carroll, Holmes, Yazoo and Madison Counties, Miss.

On December 17, 2013, Grenada Railway LLC (GRYR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon the southern segment of its line of railroad between milepost 626.1 near Elliott and milepost 703.8 near Canton, a distance of 77.7 miles in Montgomery, Carroll, Holmes, Yazoo, and Madison Counties, Miss.[1] The line traverses United States Postal Service Zip Codes 38925, 38967, 39176, 39192, 39063, 39079, 39146, and 39179, and includes the stations of Duck Hill, Eskridge, Winona, Vaiden, West, Durant, Goodman, Pickens, and Vaughan.

GRYR states that the line does not contain federally granted rights-of-way. Any documentation in GRYR's possession regarding the line will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, In Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by April 4, 2014.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,600 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 27, 2014. Each trail request must be accompanied by a

[1] GRYR was authorized to acquire this portion of the line sought to be abandoned from the Illinois Central Railroad Company in *Grenada Railway, LLC—Acquisition & Operation Exemption—Illinois Central Railroad Company,* Docket No. FD 35247 (STB served May 29, 2009). Originally, GRYR filed a petition for exemption to abandon the southern segment of the rail line, which included the line at issue here, in *Grenada Railway LLC—Abandonment Exemption—in Grenada, Montgomery, Carroll, Holmes, Yazoo and Madison Counties, Miss.,* Docket No. AB 1087X. At GRYR's request, the petition was withdrawn and the proceeding was discontinued in a decision served on November 10, 2011. GRYR states that the line had been embargoed since July 26, 2011, due to a bridge located at milepost 656.4 that remains in disrepair and that the embargo expired on July 26, 2013. GRYR filed a motion for protective order pursuant to 49 CFR 1104.14(b) to allow the filing under seal of GRYR's profit and loss statements that are highly confidential that would not normally be made available to the public. The motion for a protective order was granted by a decision served on December 16, 2013.

$250 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to Docket No. AB 1087 (Sub-No. 1X), and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street NW. (7th Floor), Washington, DC 20036. Replies to the petition are due on or before January 27, 2014.[2]

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by OEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact OEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA generally will be within 30 days of its service.

Board decisions and notices are available on our Web site at ''*www.stb.dot.gov.*''

Decided: December 30, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2013–31509 Filed 1–3–14; 8:45 am]

BILLING CODE 4915–01–P

[2] On December 27, 2013, Robert Riley filed a motion to reject the petition. Riley's motion will be addressed in a separate Board decision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 552 (Sub-No. 17)]

Railroad Revenue Adequacy—2012 Determination

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of updated decision.

SUMMARY: On January 2, 2014, the Board served an updated decision announcing the 2012 revenue adequacy determinations for the Nation's Class I railroads, taking into account BNSF Railway Company's refiled R–1 report for 2012. Three carriers, BNSF Railway Company, Norfolk Southern Combined Railroad Subsidiaries, and Union Pacific Railroad Company, were found to be revenue adequate.

DATES: *Effective Date:* This decision is effective on January 2, 2014.

FOR FURTHER INFORMATION CONTACT: Paul Aguiar, (202) 245–0323. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment (ROI) equal to at least the current cost of capital for the railroad industry for 2012, determined to be 11.12% in *Railroad Cost of Capital—2012,* EP 558 (Sub-No. 16) (STB served Aug. 30, 2013). This revenue adequacy standard was applied to each Class I railroad. Three carriers, BNSF Railway Company (BNSF), Norfolk Southern Combined Railroad Subsidiaries, and Union Pacific Railroad Company, were found to be revenue adequate for 2012.[1]

The decision in this proceeding is posted on the Board's Web site at *www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: December 31, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–31572 Filed 1–3–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board determined the revenue adequacy for 2012 of each Class I railroad except BNSF in a decision served in this docket on October 17, 2013. Now that BNSF has refiled its R–1 reports for 2010–2012 in compliance with the Board's order in *Western Coal Traffic League—Petition for Declaratory Order,* FD 35506 (STB served July 25, 2013), the Board's January 2, 2014 decision reflects that filing and includes a determination of BNSF's revenue adequacy for 2012. The October 17, 2013 decision remains unchanged in all other respects.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 552 (Sub-No. 15)]

Railroad Revenue Adequacy—2010 Determination

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of updated decision.

SUMMARY: On January 2, 2014, the Board served an updated decision announcing the 2010 revenue adequacy determinations for the Nation's Class I railroads, taking into account BNSF Railway Company's refiled R–1 report for 2010. One carrier, Union Pacific Railroad Company, was found to be revenue adequate.

DATES: *Effective Date:* This decision is effective on January 2, 2014.

FOR FURTHER INFORMATION CONTACT: Paul Aguiar, (202) 245–0323. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment (ROI) equal to at least the current cost of capital for the railroad industry for 2010, determined to be 11.03% in *Railroad Cost of Capital—2010,* EP 558 (Sub-No. 14) (STB served Oct. 3, 2011). This revenue adequacy standard was applied to each Class I railroad. One carrier, Union Pacific Railroad Company, was found to be revenue adequate for 2010.[1]

The decision in this proceeding is posted on the Board's Web site at *www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human

[1] The Board determined the revenue adequacy for 2010 of each Class I railroad in a previous decision served in this docket on November 3, 2011. Now that BNSF Railway Company has refiled its R–1 reports for 2010–2012 in compliance with *Western Coal Traffic League—Petition for Declaratory Order,* FD 35506 (served July 25, 2013), the Board's January 2, 2014 decision reflects that filing and includes a revised determination of BNSF's revenue adequacy for 2010. The January 2, 2014 decision also replaces the name ''Norfolk Southern Railway Company'' with ''Norfolk Southern Combined Railroad Subsidiaries'' and adds a footnote to accompany that change. The November 3, 2011 decision remains unchanged in all other aspects.

environment or the conservation of energy resources.

Decided: December 31, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–31570 Filed 1–3–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 552 (Sub-No. 16)]

Railroad Revenue Adequacy—2011 Determination

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of updated decision.

SUMMARY: On January 2, 2014, the Board served an updated decision announcing the 2011 revenue adequacy determinations for the Nation's Class I railroads, taking into account BNSF Railway Company's refiled R–1 report for 2011. Three carriers, BNSF Railway Company, Norfolk Southern Combined Railroad Subsidiaries, and Union Pacific Railroad Company, were found to be revenue adequate.

DATES: *Effective Date:* This decision is effective on January 2, 2014.

FOR FURTHER INFORMATION CONTACT: Paul Aguiar, (202) 245–0323. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: The Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment (ROI) equal to at least the current cost of capital for the railroad industry for 2011, determined to be 11.57% in *Railroad Cost of Capital—2011,* EP 558 (Sub-No. 15) (STB served Sept. 13, 2012). This revenue adequacy standard was applied to each Class I railroad. Three carriers, BNSF Railway Company (BNSF), Norfolk Southern Combined Railroad Subsidiaries and Union Pacific Railroad Company, were found to be revenue adequate for 2011.[1]

The decision in this proceeding is posted on the Board's Web site at *www.stb.dot.gov.* Copies of the decision may be purchased by contacting the Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through FIRS at (800) 877–8339.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Decided: December 31, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–31571 Filed 1–3–14; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board determined the revenue adequacy for 2011 of each Class I railroad in a previous decision served in this docket on October 16, 2012. Now that BNSF has refiled its R–1 reports for 2010–2012 in compliance with *Western Coal Traffic League—Petition for Declaratory Order,* FD 35506 (served July 25, 2013), the Board's January 2, 2014 decision reflects that filing and includes a revised determination of BNSF's revenue adequacy for 2011. The October 16, 2012 decision remains unchanged in all other respects.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning source of income from sales of inventory and natural resources produced in one jurisdiction and sold in another jurisdiction.

DATES: Written comments should be received on or before March 7, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Source of Income From Sales of Inventory and Natural Resources Produced in One Jurisdiction and Sold in Another Jurisdiction.

OMB Number: 1545–1476.

Regulation Project Number: INTL–3–95 (TD 8687).

Abstract: This regulation provides rules for allocating and apportioning income from sales of natural resources or other inventory produced in the United States and sold outside the United States or produced outside the United States and sold in the United States. The information provided is used by the IRS to determine on audit whether the taxpayer has properly determined the source of its income from export sales.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 425.

Estimated Time per Respondent: 2 hrs., 30 minutes.

Estimated Total Annual Burden Hours: 1,063 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 30, 2013.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2013–31562 Filed 1–3–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning mark-to-market accounting for dealers in commodities and traders in securities or commodities.

DATES: Written comments should be received on or before March 7, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Allan Hopkins, at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities or Commodities.

OMB Number: 1545–1640.

Regulation Project Number: REG–104924–98.

Abstract: The collection of information in this proposed regulation is required by the Internal Revenue Service to determine whether an exemption from mark-to-market treatment is properly claimed. This information will be used to make that determination upon audit of taxpayers' books and records.

Current Actions: There is no change to this existing proposed regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organization and individuals.

Estimated Number of Recordkeepers: 1,000.

Estimated Time per Recordkeeper: 1 hour.

Estimated Total Annual Burden Recordkeeping Hours: 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 30, 2013.

Allan Hopkins,

Tax Analyst.

[FR Doc. 2013–31559 Filed 1–3–14; 8:45 am]

BILLING CODE 4830–01–P

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Part II

Department of Defense

Office of the Secretary

32 CFR Part 161

Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals; Interim Rule

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 161

[Docket ID: DoD–2009–OS–0184]

RIN 0790–AI61

Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals

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

ACTION: Interim rule with request for comments.

SUMMARY: The Department of Defense (DoD) proposes to establish policy, assign responsibilities, and provide procedures for the issuing of distinct DoD ID cards. The ID cards shall be issued to uniformed service members, their dependents, and other eligible individuals and will be used as proof of identity and DoD affiliation. Following the June 26, 2013, U.S. Supreme Court decision that found Section 3 of the Defense of Marriage Act unconstitutional, this rule also extends benefits to same sex spouses of Uniformed Service members and DOD civilians. The Department will now construe the words ''spouse'' and ''marriage'' to include same-sex spouses and marriages.

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

Comment date: Comments must be received by March 7, 2014.

ADDRESSES: You may submit comments, identified by docket number and/or RIN number and title, by any of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eves, Defense Human Resources Activity, 571–372–1956.

SUPPLEMENTARY INFORMATION:

Executive Summary

I. Purpose of This Regulatory Action

Title 10, Sections 1061–1064, 1072–1074, 1074a–1074c, 1076, 1076a, 1077, and 1095 (k)(2), authorize members of the Uniformed Services (active duty, Reserve, or retired members) and their spouses and dependents certain benefits and privileges. Title 18, Sections 499, 506, 509, 701, and 1001, address penalties, fines and imprisonment for unauthorized reproduction of ID cards. The DoD ID cards authorize eligible individuals (to include specific categories of civilians and contractors) certain benefits and privileges to include health care; use of commissary; exchange; and morale, welfare, and recreation facilities.

This regulatory action:

a. Establishes policy, assigns responsibilities, and provides procedures for the issuing of all DoD ID cards.

b. Incorporates policy for the implementation of Homeland Security Presidential Directive (HSPD) 12 within DoD.

c. Incorporates Common Access Card (CAC) policy and issuance procedures.

d. Incorporates CAC eligibility requirements for Foreign National personnel.

e. Sets forth responsibilities and procedures for the DoD ID card life-cycle.

f. Prescribes the benefits for commissary; exchange; morale, welfare, and recreation (MWR); Military Health Services direct care in military treatment facilities (MTFs); and TRICARE civilian health care (CHC) in support of the members of the uniformed services, their dependents, and other eligible individuals.

II. Background

The current DoD Instruction, which establishes policy, assigns responsibilities, and provides procedures for issuing distinct DoD ID cards to uniformed service members, their dependents, and other eligible individuals, for proof of identity and DoD affiliation, was issued on December 5, 1997. DoD revised this instruction, updating the content and incorporating and canceling several policy memorandums, into a single instruction and two additional implementing manuals. The revised policy for ID cards was codified into a proposed rule which was published on August 6, 2010 (75 FR 47515). The June 26, 2013 U.S. Supreme Court decision in *United States* v. *Windsor* found Section 3 of the Defense of Marriage Act to be unconstitutional and the Department now construes the words ''spouse'' and ''marriage'' to include same-sex spouses and marriages.

III. Justification To Issue an Interim Rule

DOD is promulgating this interim rule without prior opportunity for public comment since the policy for ID cards was published as a proposed rule on August 6, 2010 (75 FR 47515) and no public comments were received. So, this interim rule makes final the content of the proposed rule.

With the June 26, 2013 Supreme Court decision in *United States* v. *Windsor* finding Section 3 of the Defense of Marriage Act unconstitutional, DoD is no longer prevented from extending Federal benefits to the same-sex spouses of DoD military members and civilian employees. As a result, in an August 13, 2013 Secretary of Defense Memorandum, ''Extending Benefits to Same-Sex Spouses of Military Members,'' the Secretary of Defense directed that, ''. . . spousal and family benefits, including identification cards, will be made available to same-sex spouses no later than September 3, 2013,'' (*http://www.defense.gov/home/features/2013/docs/Extending-Benefits-to-Same-Sex-Spouses-of-Military-Members.pdf*).

DoD issues approximately five million ID cards each year to military members, civilian employees, contractors, foreign nationals, and where applicable, family members. The Department estimates the number of ID cards which will need to be issued to same-sex spouses and their families represent less than one percent of the total ID cards issued in a year. The Department believes this rule relates to ''agency management or personnel'' and is exempt under sec. 553(a)(2) from all requirements of sec. 533. Nevertheless, pursuant to 41 U.S.C. 1707, DoD will consider public comments received in response to this interim rule in the formation of the Department's final rule.

IV. Costs and Benefits of This Regulatory Action

There are no costs to the public. There are no capital or start-up costs associated with the issuance of this rule. ID cards cost the Department approximately $28.3 million annually.

V. Executive Orders 12866 and 13563

Under Executive Orders (E.O.s) 12866 and 13563, the Department has determined that this interim rule is a significant regulatory action, though not an economically significant one, and it has been reviewed by OMB.

It has been certified that 32 CFR part 161 does not:

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

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

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

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

VI. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the DoD certifies that the interim rule will not have a significant economic impact on a substantial number of small entities.

VII. Unfunded Mandates Reform Act

Per the Unfunded Mandates Reform Act of 1995 and E.O. 12875, this rule will not create an unfunded Federal mandate upon any State, local, or tribal government in the aggregate of $100 million or more. It also does not result in increased expenditures of the privacy sector of $100 million or more.

VIII. Paperwork Reduction Act

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been certified that 32 CFR part 161 does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The Application for Department of Defense Identification Card/DEERS Enrollment collection has been cleared by OMB and assigned OMB Control Number 0704–0415.

Executive Order 13132, ''Federalism''

It has been certified that 32 CFR part 161 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

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

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

List of Subjects in 32 CFR Part 161

Administrative practice and procedure, Armed forces, Military personnel, National defense, Privacy, Security measures.

Accordingly, 32 CFR part 161 is added to subchapter F to read as follows:

PART 161—IDENTIFICATION (ID) CARDS FOR MEMBERS OF THE UNIFORMED SERVICES, THEIR DEPENDENTS, AND OTHER ELIGIBLE INDIVIDUALS

Subpart A—Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals

Sec.
161.1 Purpose.
161.2 Applicability.
161.3 Definitions.
161.4 Policy.
161.5 Responsibilities.
161.6 Procedures.

Subpart B—DoD Identification (ID) Cards: ID Card Life-Cycle

161.7 ID card life-cycle procedures.
161.8 ID card life-cycle roles and responsibilities.

Subpart C—DoD Identification (ID) Cards: Benefits for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals

161.9 DoD benefits,
161.10 Benefits for active duty members of the uniformed services.
161.11 Benefits for National Guard and Reserve members of the uniformed services.
161.12 Benefits for former uniformed services members.
161.13 Benefits for retired members of the uniformed services.
161.14 Benefits for MOH recipients.
161.15 Benefits for Disabled American Veterans (DAV).
161.16 Benefits for transitional health care members and dependents.
161.17 Benefits for surviving dependents.
161.18 Benefits for abused dependents.
161.19 Benefits for former spouses.
161.20 Benefits for civilian personnel.
161.21 Benefits for retired civilian personnel.
161.22 Benefits for foreign affiliates.

Authority: 10 U.S.C. 1061–1064, 1072–1074, 1074a–1074c, 1076, 1076a, 1077, and 1095(k)(2), and 18 U.S.C. 499, 506, 509, 701, and 1001.

Subpart A—Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals

§ 161.1 Purpose.

This part:

(a) Establishes policy, assigns responsibilities, and provides procedures for the issuing of distinct DoD ID cards. The ID cards shall be issued to uniformed service members, their dependents, and other eligible individuals and will be used as proof of identity and DoD affiliation.

(b) Sets forth responsibilities and procedures for the DoD ID card life-cycle in accordance with this part.

(c) Prescribes the benefits for commissary; exchange; morale, welfare, and recreation (MWR); Military Health Services direct care in military treatment facilities (MTFs); and TRICARE civilian health care (CHC) in support of the members of the uniformed services, their dependents, and other eligible individuals, in accordance with this part.

§ 161.2 Applicability.

This part applies to:

(a) The Office of the Secretary of Defense (OSD), the Military Departments (including the Coast Guard at all times, including when it is a Service in the Department of Homeland Security by agreement with that Department), the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the ''DoD Components'').

(b) The Commissioned Corps of the U.S. Public Health Service (USPHS), under agreement with the Department of Health and Human Services, and the National Oceanic and Atmospheric Administration (NOAA), under agreement with the Department of Commerce.

§ 161.3 Definitions.

Unless otherwise noted, these terms and their definitions are for the purpose of this part.

20/20/20, 20/20/15, or 10/20/10. See definition of ''former spouse.''

Access to a DoD network. User logon to a Windows active directory account on the Nonsecure Internet Protocol Router Network (NIPRNet) or an authorized network operating system account on the NIPRNet.

Access to a DoD network (remote). Authorized NIPRNet users accessing a NIPRNet resource from:

(1) Another NIPRNet resource outside of the originating domain; or

(2) An authorized system that resides outside of the NIPRNet. This includes domain-level access from handheld

devices. Remote access includes logon for the purposes of telework, Virtual Private Network, and remote administration by DoD or non-DoD personnel.

Active duty. Full-time duty in the active military service of the United States. This includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the Military Department concerned. Active duty does not include full-time National Guard duty.

Active duty for a period of more than 30 days. Active duty under a call or order that does not specify a period of 30 days or less. When the ''Active Duty for a Period of More than 30 Days'' is established by consecutive sets of orders, their eligible dependents become entitled to TRICARE medical benefits on the first day of the set of orders that brings the period of active duty over 30 days.

Adopted child. A child adopted before the age of 21 or, if enrolled in a full-time course of study at an institution of higher learning, before the age of 23. Except for entitlement to medical care, a child with an incapacitating condition that existed before the age of 21 or that occurred while the child was a full-time student prior to the age of 23, may be adopted at any age provided it is determined that there is a BONA FIDE parent-child relationship. Surviving children adopted by a non-military member after the death of the sponsor remain eligible for medical care only.

Annulled. The status of an individual, whose marriage has been declared a nullity by a court of competent jurisdiction, that restores unremarried status to a widow, widower, or former spouse for reinstatement of benefits.

Attainment of age 65. The first day of the month of the anniversary of the 65th birthday, unless the birthday falls on the first of the month. If the birthday is the first of the month, attainment of age 65 occurs on the first day of the preceding month.

Benefits. Entitlements or privileges that are assigned to a person or group of persons.

CAC PIN reset (CPR). A portable, single-purpose system capable of providing timely PIN reset capability to the field without requiring a Common Access Card (CAC) holder to return to a CAC issuance facility (i.e. Real-Time Automated Personnel Identification System (RAPIDS), workstation).

Certified document. Must be a certified true original and should convey the appropriate seal or markings of the issuer, or have a means to validate the authenticity of the document by a reference or source number, or be a notarized legal document or other document approved by a Judge Advocate, or have the appropriate certificate of authentication by a U.S. Consular Officer in the foreign country of issuance which attests to the authenticity of the signature and seal.

Certified English translation. See requirements for certified document.

CHC. Medical care provided through the TRICARE program including networks of CHC professionals, institutions, pharmacies, and suppliers to provide access to high-quality health care services.

Child. A natural child, stepchild, or adopted child of the sponsor who is younger than 21 years of age. If 21 or older, the child may remain entitled if he or she is:

(1) 21 or 22 years old and enrolled in a full-time course of education.

(2) 21 or older but incapable of self-support because of a mental or physical incapacity that existed before the 21st birthday.

(3) 21 or 22 years old and was enrolled full-time in an accredited institution of higher learning but became incapable of self-support because of a mental or physical condition while a full-time student.

Civilian employee. DoD civilian employees, as defined in 5 U.S.C. 2105 are individuals appointed to positions by designated officials. Appointments to appropriated fund positions are either permanent or time-limited and the employees are on full-time, part-time, or intermittent work schedules. In some instances, the appointments are seasonal with either a full-time, part-time, or intermittent work schedule. Positions are categorized further as Senior Executive Service (SES), Competitive Service, and Excepted Service positions. In addition, DoD employs individuals paid from NAFs, as well as foreign national citizens outside the United States, its territories, and its possessions, in DoD activities overseas. The terms and conditions of host-nation citizen employment are governed by controlling treaties, agreements, and memoranda of understanding with the foreign nations.

Civilian noncombatant personnel. Personnel who have been authorized to accompany military forces of the United States in regions of conflict, combat, and contingency operations and who are liable to capture and detention by the enemy as POWs.

Commissary. A benefit granted to eligible personnel in accordance with this part and DoD Instruction 1330.17 (available at *http://www.dtic.mil/whs/directives/corres/pdf/133017p.pdf*).

Competitive service positions. See 5 U.S.C. 2102.

Contingency operation. Defined in Joint Publication 1–02 (available at *http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf*).

Contractor employee. An employee of a firm, or individual under contract or subcontract to the DoD, designated as providing services or support to the Department.

Contractors authorized to accompany the force. Defined in Joint Publication 1–02.

Cross-servicing. Agreement amongst all uniformed services to assist members regardless of the 'parent service' of that member or their dependents for all matter ID card or benefits related when appropriate.

Defense Enrollment Eligibility Reporting System (DEERS). The definitive centralized person data repository of identity and enrollment and eligibility verification data and associated contact information on members of the DoD Components, members of the Uniformed Services, and other personnel as designated by the DoD, and their eligible dependents and associated contact information.

Dependent. An individual whose relationship to the sponsor leads to entitlement to benefits and privileges.

Direct Care (DC). Medical care that TRICARE provides through the health care resources of the uniformed services through their clinics and MTFs. This does not include any medical care provided through the TRICARE CHC network.

Dual eligible. A person who is entitled to Medicare Part A and enrolled in Medicare Part B and is also entitled to TRICARE medical benefits, in accordance with section 706 of Public Law 106–398 and Public Law 102–190, ''National Defense Authorization Act for Fiscal Years 1992 and 1993'' (available at *http://thomas.loc.gov/cgi-bin/query/C?c102:./temp/~c102UvpYbH*).

Dual status. A person who is entitled to privileges from two sources (e.g., a retired member, who is also the dependent of an active duty member; a retired-with-pay member who is employed overseas as a civilian by the U.S. Government and is qualified for logistical support because of that civilian employment; a member of a Reserve Component who is an eligible dependent of an active duty military sponsor; or a child, who is the natural child of one sponsor and the stepchild and member of a household of another sponsor).

Eligibility documentation. Properly certified birth certificate or certificate of live birth authenticated by attending physician or other responsible person from a U.S. hospital or a MTF showing the name of at least one parent; properly certified marriage certification; properly certified final decree of divorce, dissolution, or annulment of marriage and statements attesting to nonremarriage and status of employer-sponsored healthcare; court order for adoption or guardianship; statement of incapacity from a physician or personnel or medical headquarters of sponsor's parent uniformed service; letter from school registrar; retirement orders (providing entitlement to retired pay is established) or DD Form 214 ''Certificate of Release or Discharge from Active Duty;'' DD Form 1300, ''Report of Casualty;'' certification from the Department of Veterans' Affairs of 100 percent disabled status; orders awarding Medal of Honor (MOH); formal determination of eligibility for Medicare Part A benefits from the Social Security Administration (SSA); civilian personnel records; and invitational travel orders.

Entitlements. Rights or authorities that are provided based on legislative statute.

Entry level separation. As defined in DoD Instruction 1332.14, ''Enlisted Administrative Separations'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/133214p.pdf*), an enlisted service member is considered in an entry-level status during the first 180 days of continuous active military service, or the first 180 days of continuous active service after a service break of more than 92 days of active service. A Service member of a Reserve Component who is not on active duty or who is serving under a call or order to active duty for 180 days or less begins entry-level status upon enlistment in a Reserve Component. Entry-level status for such a Service member of a Reserve Component terminates as follows:

(1) 180 days after beginning training if the Service member is ordered to active duty for training for one continuous period of 180 days or more; or

(2) 90 days after the beginning of the second period of active duty training if the Service member is ordered to active duty for training under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service or description of separation, the Service member's status is determined by the date of notification as to the initiation of separation proceedings.

Excepted service positions. Defined in 5 U.S.C. 2103.

Exchange. A benefit that is extended to eligible individuals in accordance with DoD Instruction 1330.21.

Family member. An individual who receives benefits based on his or her association to a sponsor. A family member is often a dependent.

Federally controlled facility. Defined in Office of Management and Budget (OMB) Memorandum M–05–24, ''Implementation of Homeland Security Presidential Directive (HSPD) 12—Policy for a Common Identification Standard for Federal Employees and Contractors'' (available at *http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2005/m05-24.pdf*).

Foreign affiliate. An individual who is a foreign national, either foreign civilian; foreign contractor; or foreign uniformed services personnel who through assignment, temporary duty, school, training, policy board, or other defined agreement is affiliated with the DoD. They are identified to the DoD for benefits and DoD ID card purposes.

Foreign national civilians and contractors. A category of personnel that are CAC-eligible if sponsored by their government as part of an official visit or assigned to work on a DoD facility and/or require access to DoD networks both on site or remotely (remote access must be on an exception only basis for this category).

Former member. An individual who is eligible to receive retired pay, at age 60, for non-regular service pursuant to 10 U.S.C. chapter 1223 but who has been discharged and who maintains no military affiliation. These former members, at age 60, and their eligible dependents are entitled to medical care, commissary, exchange, and MWR privileges. Under age 60, they and their eligible dependents are entitled to commissary, exchange, and MWR privileges only.

Former spouse. An individual who was married to a uniformed services member for at least 20 years, and the member had at least 20 years of service creditable toward retirement, and the marriage overlapped as follows:

(1) 20 years marriage, 20 years creditable service for retirement, and 20 years overlap between the marriage and the service (referred to as 20/20/20). The benefits eligibility begins on the date of divorce;

(2) 20 years marriage, 20 years creditable service for retirement, and 15 years overlap between the marriage and the service (referred to as 20/20/15). The benefits eligibility begins on the date of divorce; or

(3) A spouse whose marriage was terminated from a uniformed service member who has their eligibility to receive retired pay terminated as a result of misconduct based on Service-documented abuse of the spouse and has 10 years of marriage, 20 years of creditable service for retirement, 10 years of overlap between the marriage and the service (referred to as 10/20/10). The benefits eligibility begins on the date of divorce.

Foster child. A child without parental support and protection, placed with a person or family, usually by local welfare services or by court order. The foster parent(s) do not have custody, nor is there an adoption, but they are expected to treat the foster child as they would their own in regard to food, housing, clothing, and education. This is a non-medically entitled dependent.

Full-time work schedule. Full-time employment with a basic 40-hour work week.

ID card sponsor. The person affiliated to a DoD or other Federal agency who takes responsibility for verifying and authorizing the applicant's need for an ID card.

Inactive National Guard (ING). Part of the Army National Guard. These individuals are Reservists who are attached to a specific National Guard unit, but who do not participate in training activities. On mobilization, they shall mobilize with their assigned units. These members muster with their units once a year. Issuance of DD Form 1173–1 ''United States Uniformed Services Identification and Privilege Card (Guard and Reserve Family Member)'' to ING dependents is mandatory.

Incapacitated person. An individual who is impaired by physical disability, mental illness, mental deficiency, or other causes that prevent sufficient understanding or capacity to competently manage his or her own affairs.

Institution of higher learning. A college, university, or similar institution, including a technical or business school, offering post secondary-level academic instruction that leads to an associate or higher degree, if the school is empowered by the appropriate State education authority under State law to grant an associate or higher degree. When there is no State law to authorize the granting of a degree, the school may be recognized as an institution of higher learning if it is accredited for degree programs by a recognized accrediting agency. The term also includes a hospital offering educational programs at the post secondary level regardless of whether the hospital grants a post

secondary degree. The term also includes an educational institution that is not located in a State that offers a course leading to a standard college degree or equivalent and is recognized as such by the Secretary of Education (or comparable official) of the country or other jurisdiction in which the institution is located.

Individual Ready Reserve (IRR). Trained individuals who have previously served in the active component or Selected Reserve (SelRes) and have time remaining on their military service obligation. Includes volunteers who do not have time remaining on the military service obligation, but are under contractual agreement to be a member of the IRR. These individuals are mobilization assets and may be called to active duty pursuant to the provisions of 10 U.S.C. chapter 1209. Issuance of DD Form 1173–1 to IRR dependents is mandatory.

Intergovernmental Personnel Act (IPA) employees. The IPA mobility program provides temporary assignment of personnel between the Federal Government and State and local governments, colleges and universities, Indian tribal governments, federally funded research and development centers, and other eligible organizations.

Intermittent work schedule. Employment without a regularly scheduled tour of duty.

Medicare. Health insurance for people age 65 or older, under 65 with certain disabilities, and any age with end-stage renal disease. The different parts of Medicare help cover specific services if certain conditions are met.

(1) *Medicare part A.* Covers hospice care, home health care, skilled nursing facilities, and inpatient hospital stays.

(2) *Medicare part B.* Covers doctors' services, outpatient hospital care, and other medical services that Part A does not cover, such as physical and occupational therapy. Other examples include X-rays, medical equipment, or limited ambulance service.

Member. An individual who is affiliated with a Service, either active duty, Reserve, active duty retired, or Retired Reserve. Retired members are not former members. Also referred to as the sponsor.

MWR. A benefit that is extended to eligible individuals in accordance with DoD Instruction 1015.10, ''Military Morale, Welfare, and Recreation (MWR) Programs'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/101510p.pdf*).

National Agency Check with Inquiries (NACI). Is the minimum investigation conducted by the Office of Personnel Management (OPM) for federal employment in nonsensitive positions and for individuals requiring eligibility for logical and physical access. The NACI consists of a records check (of designated agencies of the Federal Government that maintain record systems containing information relevant to making a personnel security determination) plus Written Inquiries to law enforcement agencies, former employers and supervisors, references and schools covering the last 5 years.

Nonappropriated fund (NAF) employees. NAF employees are Federal employees within the Department who are paid from NAFs. 5 U.S.C. 2105 explains the status of NAF employees as Federal employees.

Non-regular service retirement. A person who, as a member of the Ready Reserve, serves on active duty or performs active service, after the date of the enactment of sections 647 and 1106 of Public Law 110–181 and may receive retired pay in accordance with 10 U.S.C. 12731. Under these provisions the eligibility age for applying for retired pay shall be reduced below 60 years of age by 3 months for each aggregate of 90 days on which the member performs in any fiscal year after such date, providing the applicant is at least 50 years of age. However, the member must be age 60 to qualify for CHC and CD.

Part-time work schedule. Part-time employment of 16 to 32 hours a week under a schedule consisting of an equal or varied number of hours per day.

Permanent employee. Career or career-conditional appointment in the Competitive or SES or an appointment in the Excepted Service that carries no restrictions or conditions.

Placement agency (recognized by the Secretary of Defense). An authorized placement agency in the United States or U.S. territories must be licensed for adoption by the State or territory in which the adoption procedures will be completed. In all other locations, a request for recognition must be approved by the appropriate Assistant Secretary of the Military Department concerned or an appropriate official to whom he or she has delegated approval authority.

Pre-adoptive child. With respect to determinations of dependency made on or after October 5, 1994, an unmarried person who is placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) in anticipation of the legal adoption of the person by the member or former member; AND is:

(1) Younger than 21 years of age and

(2) Not an eligible dependent of any other member or a former member; or,

(3) Between the ages of 21 and 23 and enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary; and is:

(4) Dependent on the member or former member for over one-half of the student's support; or

(5) Dependent on the member or former member for over one-half of the student's support at the time of the member's or former member's death.

(6) Incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member; and:

(7) Is dependent on the member or former member for over one-half of the person's support or was at the time of the member's or former member's death.

(8) Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation.

Privileges. Rights or authorities that are provided based on position, authority, or status and may be removed by proper authority.

Ready Reserve. Military members of the National Guard and Reserve, organized in units or as individuals, liable for recall to active duty to augment the active components in time of war or national emergency. The Ready Reserve consists of three Reserve Component subcategories: The SelRes, the IRR, and the ING.

Remarried parent. A dependent parent of a deceased military member who loses dependency-based eligibility for benefits on remarriage.

Retired Reserve entitled to pay at age 60 (Gray Area Retirees). Reserve members who have completed 20 qualifying years for retirement and are entitled to receive pay at age 60, but have not yet reached age 60. Reserve Retirees and their dependents receive commissary, MWR, and exchange benefits until the sponsor receives retired pay. Individuals may be recalled to active duty in accordance with 10 U.S.C.

Seasonal employment. Annually recurring periods of work of less than 12 months each year. Seasonal employees generally are permanent employees who are placed in non-duty or non-pay status and recalled to duty in accordance with pre-established conditions of employment. Seasonal employees may have full-time, part-time, or intermittent work schedules.

Selected Reserve (SelRes). Those National Guard and Reserve units and individuals within the Ready Reserve designated by their respective Services

and approved by the Chairman of the Joint Chiefs of Staff, as so essential to initial wartime missions that they have priority over all other Reserves. They must be prepared to mobilize within 24 hours. The issuance of DD Form 1173–1 to their dependents and participation in the Guard and Reserve DEERS Enrollment Program are mandatory.

Service Project Officer (SPO). The uniformed services, National Guard and Reserve Component, and agency-level office that coordinates with OUSD(P&R) on policy and functional matters related to DEERS, RAPIDS, and Trusted Associate Sponsorship System (TASS), and manages ID card operations within the respective organization.

SES positions. Appropriated fund positions in an agency classified above General Service-15 pursuant to 5 U.S.C. 5108 or in level 4 or 5 of the Executive Schedule, or an equivalent position, which is not required to be filled by an appointment by the President by and with the advice and consent of the Senate.

Site security manager (SSM). The SPO-appointed individual that manages the daily operations at a RAPIDS site to include managing users, cardstock, and consumables.

Sponsor. The prime beneficiary who derives his or her eligibility based on individual status rather than dependence of another person. This beneficiary receives benefits based on his or her direct affiliation to the DoD.

Spouse. A person legally married under the law of the place in which the marriage was celebrated to a current, former, or retired uniformed service member, eligible civilian employee, or other eligible individual, in accordance with Part 1 and Part 2, regardless of gender or state of residence.

Standby Reserve. Personnel who maintain their military affiliation without being in the Ready Reserve, who have been designated key civilian employees, or who have a temporary hardship or disability. These individuals are not required to perform training and are not part of units. These individuals are trained and could be mobilized, if necessary, to fill manpower needs in specific skills.

Temporary assignment. An appointment for a specified period not to exceed 1 year. A temporary assignment can be extended up to a maximum of 1 additional year.

Transitional Health Care (THC). A healthcare system, formerly known as Transition Assistance Management Program (TAMP), instituted in section 502 of Public Law 101–510. It includes pre-separation and separation services, the Continued Health Care Benefit Program, a voluntary insurance program for sponsors and eligible dependents separating from active service; pre-separation counseling service for separating uniformed services members; and various other transitional initiatives. Uniformed service members separated as uncharacterized entry-level separations do not qualify for THC. Section 706 of Public Law 108–375 replaced the TAMP with the THC program. Section 651 of Public Law 110–181 included the 2-year commissary and exchange privilege for involuntarily separated uniformed service members. The DoD added MWR to the benefit set and extended the same benefits to the eligible dependents. To qualify for benefits under this program, individuals must be separated with service characterized as honorable or general under honorable conditions meeting the separation reasons identified in 10 U.S.C. 1145. The THC program is a permanent program and made the medical eligibility 180 days for all eligible uniformed service members and eligible dependents. Enlisted uniformed service members discharged for reasons of misconduct, discharge in lieu of court-martial, or other reasons for which service normally is characterized as under other than honorable conditions are not eligible for transition benefits. Officers discharged as a result of resignation in lieu of trial by court-martial, or misconduct or moral or professional dereliction if the discharge could be characterized as under other than honorable conditions are not eligible for transition benefits. Pursuant to 10 U.S.C. 1145, the qualifying periods of active duty include:

(1) A member who is involuntarily separated from active duty.

(2) A member of a Reserve Component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is for a period of more than 30 days.

(3) A member who is separated from active duty for which the member is involuntarily retained in accordance with 10 U.S.C. 12305 in support of a contingency operation.

(4) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than 1 year in support of a contingency operation.

(5) A member who receives a sole survivorship discharge (as defined in 10 U.S.C. 1174); or

(6) A member who is separated from active duty who agrees to become a member of the SelRes. Section 734 of Public Law 110–417, which took effect on October 14, 2008 extended THC benefits to a uniformed service member who is separated from active duty who agrees to become a member of the SelRes of the Ready Reserve of a Reserve Component.

Trusted Agent (TA). An individual appointed by a TASM that serves as a sponsor for eligible populations within TASS, utilizes TASS to register data for the DD Form 1172–2 (available at *http://www.dtic.mil/whs/directives/infomgt/forms/eforms/dd1172–2.pdf*), re-verifies CAC holder affiliation, and revokes CACs.

Trusted Agent Security Manager (TASM). An individual appointed by a SPO to oversee the activity for a specific TASS site and associated TAs. These individuals also serve in the TA role.

Trusted Associate Sponsorship System (TASS) (formerly known as Contractor Verification System (CVS)). A Web application used to verify that CAC applicants have the appropriate government sponsorship for the purpose of issuing CACs. The TASS web interface automates the DD Form 1172–2 for tracking the request process and updating DEERS with applicant information required for CAC issuance. The system also provides a mechanism for periodic re-verification of contractor eligibility to ensure that information is current and contractor CACs do not remain active when not appropriate. This capability will be expanded to support registration and background investigation confirmation for additional CAC eligible populations.

Unmarried. A widow or widower who remarried and whose marriage terminated by death or divorce, or a former spouse whose subsequent remarriage ended by death or divorce.

Unremarried. A widow or widower who has never remarried, or a former spouse whose only remarriage was to the same military sponsor (periods of marriage in this case may be combined to document eligibility for former spouse benefits).

Verifying Official (VO). An individual who is responsible for validating eligibility of bona fide beneficiaries to receive benefits and entitlements.

Ward. An unmarried person whose care and physical custody has been entrusted to the sponsor by a legal decree or other instrument that a court of law or placement agency (recognized by the Secretary of Defense) issues. Includes foster children and children for whom a managing conservator has been designated. Wards must be dependent on the sponsor for over half of their support. An identification card issued to a ward may reflect entitlement to medical care benefits with respect to

determinations of dependency made on or after July 1, 1994, for children who are placed in the legal custody of the member or former member as a result of an order of a court of competent jurisdiction in the United States (or a territory or possession of the United States) for a period of at least 12 consecutive months; and either:

(1) Has not attained the age of 21;

(2) Has not attained the age of 23 and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary;

(3) Is incapable of self support because of a mental or physical incapacity that occurred while the person was considered a dependent of the member or former member; or

(4) Is dependent on the member or former member for over one-half of the person's support; resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of disability or incapacitation or under such other circumstances as the administering Secretary may by regulation prescribe; and is not a dependent of a member or a former member under any other subparagraph.

Widow. The spouse of a deceased male in the uniformed services.

Widower. The spouse of a deceased female in the uniformed services.

§ 161.4 Policy.

(a) It is DoD policy that a distinct DoD ID card shall be issued to uniformed service members, their dependents, and other eligible individuals and will be used as proof of identity and DoD affiliation.

(b) DoD ID cards shall serve as the Geneva Convention Card for eligible personnel in accordance with DoD Instruction 1000.1, ''Identity Cards Required by the Geneva Convention'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/100001p.pdf*).

(c) DoD ID cards shall be issued through a secure and authoritative process in accordance with DoD Directive 1000.25, ''DoD Personnel Identity Protection (PIP) Program'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/100025p.pdf*).

(d) The CAC, a form of DoD ID card, shall serve as the Federal Personal Identity Verification (PIV) card for DoD implementation of Homeland Security Presidential Directive 12, ''Policy for a Common Identification Standard for Federal Employees and Contractors'' (available at *http://www.dhs.gov/xabout/laws/gc_1217616624097.shtm*).

(e) ID cards, in a form distinct from the CAC, shall be issued and will serve as proof of identity and DoD affiliation for eligible communities that do not require the Federal PIV card that complies with Homeland Security Presidential Directive 12 and FIPS Publication 201–1, ''Personal Identity Verification (PIV) of Federal Employees and Contractors'' (available at *http://csrc.nist.gov/publications/fips/fips201-1/FIPS-201-1-chng1.pdf*).

§ 161.5 Responsibilities.

(a) The USD(P&R) shall:

(1) Oversee implementation of the procedures within this part.

(2) Establish overall policy and procedures for the issuance of ID cards to members of the uniformed services, their dependents, and other eligible individuals.

(3) Establish minimum acceptable criteria for establishment and confirmation of personal identity, policy for the issuance of the DoD enterprise personnel identity credentials, and approve of additional systems under the PIP Program in accordance with DoD Directive 1000.25.

(4) Act as the Principal Staff Assistant (PSA) for the DEERS, the RAPIDS, and the Personnel Identity Protection (PIP) Program in accordance with DoD Directive 1000.25.

(5) Maintain the DEERS data system in support of the Department of Defense in accordance with applicable law and directives.

(6) Develop and field the required RAPIDS infrastructure and all elements of field support to issue ID cards including but not limited to software distribution, hardware procurement and installation, on-site and depot-level hardware maintenance, on-site and Web-based user training and central telephone center support, and telecommunications engineering and network control center assistance.

(7) In coordination with the Under Secretary of Defense for Intelligence (USD(I)), the Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)), and the DoD Chief Information Officer (DoD CIO) establish policy and oversight for CAC life-cycle compliance with FIPS Publication 201–1.

(8) Establish procedures that will uniquely identify personnel with specific associations with the Department of Defense and maintain the integrity of the unique personnel identifier in coordination with the DoD Components in accordance with DoD Directive 8320.03, ''Unique Identification (UID) Standards for a Net-Centric Department of Defense'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/832003p.pdf*).

(b) The Assistant Secretary of Defense for Reserve Affairs (ASD(RA)), under the authority, direction, and control of the USD(P&R), shall develop policies and establish guidance for the National Guard and Reserve Component communities that affect benefits, entitlements, identity, and ID cards.

(c) The Deputy Assistant Secretary of Defense for Military Community and Family Policy (DASD(MC&FP)), under the authority, direction, and control of the USD(P&R), shall develop policy and procedures to determine eligibility for access to DoD programs for MWR; commissaries; exchanges; lodging; children and youth; DoD schools; family support; voluntary and post-secondary education; and other military community and family benefits that affect identity and ID cards.

(d) The Director, Defense Human Resources Activity (DHRA), under the authority, direction, and control of the USD(P&R), shall, in accordance with DoD Directive 1000.25:

(1) Develop policies and procedures for the oversight, funding, personnel staffing, direction, and functional management of the PIP Program.

(2) Coordinate with the Principal Under Secretary of Defense for Health Affairs (ASD(HA)), and the ASD(RA) on changes to enrollment and eligibility policy and procedures pertaining to personnel, medical, and dental issues that affect the PIP Program.

(3) Develop policies and procedures to support the functional requirements of the PIP Program, DEERS, and the DEERS client applications.

(4) Secure funding in support of new requirements to support the PIP Program or the enrollment and eligibility functions of DEERS and RAPIDS.

(5) Approve the addition or elimination of population categories eligible for ID cards in accordance with applicable law.

(6) Establish the type and form of ID card issued to eligible populations categories and administer pilot programs to determine the suitable form of ID card for newly identified populations.

(e) The USD(AT&L) shall:

(1) Update the Defense Federal Acquisition Regulation Supplement (DFARS), current edition (available at *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html*) to support requirements for CAC and Homeland Security Presidential Directive 12 for contracts.

(2) Ensure that the requirement for contractors to return CACs at the

completion or termination of each individual's support on a specific contract is included in all applicable contracts.

(f) The USD(I) shall:

(1) Establish policy for the use of DoD issued ID cards for physical access purposes in accordance with DoD 5200.08–R, ''Physical Security Program'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/520008r.pdf*).

(2) Establish policy for military, civilian, and contractor employee background investigation, submission, and adjudication across the Department of Defense, in compliance with Homeland Security Presidential Directive 12 and Office of Personnel Management Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification (PIV) Cards Under HSPD–12'' (available at *http://www.opm.gov/investigate/resources/final_credentialing_standards.pdf*).

(g) The DoD CIO shall:

(1) In coordination with the USD(I), USD(P&R), and USD(AT&L), establish policy and oversight for CAC life-cycle compliance with Federal Information Processing Standards Publication 201–1.

(2) Provide guidance regarding the use of DoD and non-DoD identification credentials on DoD information systems, including the Federal PIV cards, for authenticating to DoD network accounts and DoD private Web sites.

(3) Ensure that the DoD Public Key Infrastructure (PKI) conforms to all applicable FIPS to the greatest extent possible.

(h) The Heads of the DoD Components, the Director, USPHS, and the NOAA Administrator, shall:

(1) Develop and implement Component-level procedures for DoD directed policies and statutory requirements to support benefits eligibility through DEERS.

(2) Develop and implement Component-level ID card life-cycle procedures to comply with the provisions of this Instruction.

(3) Ensure all DoD employees, uniformed service members, and all other eligible CAC applicants, including contractor employees and other affiliate CAC applicants, have met the background investigation requirements referenced in paragraph (a)(3) of § 161.6 of this part prior to approving CAC sponsorship and registration. Background investigation status must be verified and documented by the sponsor or sponsoring organization in conjunction with application for CAC issuance.

(4) Establish processes and procedures as part of the normal check-in and check-out process for collection of the CAC for all categories of DoD personnel and contractor employees when there is a separation, retirement, termination, contract termination or expiration, or CAC revocation. Since CACs contain personally identifiable information (PII), they shall be treated and controlled in accordance with 32 CFR part 310, and DoD 5200.1–M, Volume 4, ''DoD Information Security Program: Controlled Unclassified Information (CUI)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/520001_vol4.pdf*). CACs shall be returned to any RAPIDS issuance location for proper disposal in a timely manner once surrendered by the CAC holder.

(5) Provide appropriate space and staffing for all DoD ID card issuing operations, as well as reliable telecommunications to and from the Defense Information Systems Agency managed Non-Classified Internet Protocol Router Network.

(6) Provide funding for CAC cardstock, printer consumables, and electromagnetically opaque sleeves to Defense Manpower Data Center (DMDC).

(7) Protect cardstock and consumables in accordance with the guidelines and standards issued and maintained by DMDC.

(8) In accordance with Federal Information Processing Standards Publication 201–1, provide electromagnetic opaque sleeves or other comparable technologies to protect against any unauthorized contactless access to the cardholder unique identification number stored on the CAC.

(9) Manage the distribution and locations of CAC personal identification number (PIN) reset workstations.

(10) To the maximum extent possible, and in accordance with DoD Components' designated accrediting authority guidelines, ensure networked workstations are properly configured and available for CAC holders to use the User Maintenance Portal-Post Issuance Portal (UMP–PIP) service.

(11) Oversee supervision of TASS TAs and TA security managers and ensure the number of contractors overseen by any TA is manageable.

(i) The Secretaries of the Military Departments; Director, USPHS; and Administrator, NOAA, shall:

(1) Appoint project officers from a level that represents the Service position of the active, National Guard, and Reserve Components for personnel policy to serve on the Joint Uniformed Services Personnel Advisory Committee.

(2) Comply with the provisions of this part and other related policy and procedural guidance from the Department of Defense.

§ 161.6 Procedures.

(a) The DoD ID card life cycle shall be supported by an infrastructure that is predicated on a systems-based model for credentialing as described in FIPS Publication 201–1. Paragraphs (a)(1) through (7) of this section represent the baseline requirements for the life cycle of all DoD ID cards. The specific procedures and sequence of order for these items will vary based on the applicant's employment status or affiliation with the DoD and the type of ID card issued. Detailed procedures of the ID card life cycle for each category of applicant and type of ID card shall be provided by the responsible agency.

(1) *Sponsorship and eligibility.* Sponsorship shall incorporate the processes for confirming eligibility for an ID card. The sponsor is the person affiliated with the DoD or other Federal agency who takes responsibility for verifying and authorizing the applicant's need for an ID card. Applicants for a CAC must be sponsored by a DoD government official or employee.

(2) *Registration and enrollment.* Sponsorship and enrollment information on the ID card applicant shall be registered in DEERS prior to card issuance.

(3) *Background investigation.* A background investigation is required for those individuals eligible for a CAC. A background investigation is not currently required for those eligible for other forms of DoD ID cards. Sponsored CAC applicants shall not be issued a CAC without a favorably adjudicated background investigation stipulated in FIPS Publication 201–1. Applicants that have been denied a CAC based on an unfavorable adjudication of the background investigation may submit an appeal in accordance with FIPS Publication 201–1 and Office of Personnel Management Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.''

(4) *Identity and eligibility verification.* Identity and eligibility verification shall be completed at a RAPIDS workstation. Verifying officials (VOs) shall inspect identity and eligibility documentation and RAPIDS shall authenticate individuals to ensure that ID cards are provided only to those sponsored and with a current affiliation with the DoD. RAPIDS shall also capture uniquely

identifying characteristics that bind an individual to the information maintained on that individual in DEERS and to the ID card issued by RAPIDS. These characteristics may include, but are not limited to, digital photographs and fingerprints.

(5) *Issuance.* ID cards shall be issued at the RAPIDS workstation after all sponsorship, enrollment and registration, background investigation (CAC only), and identity and eligibility verification requirements have been satisfied.

(6) *Use and maintenance.* ID cards shall be used as proof of identity and DoD affiliation to facilitate access to DoD facilities and systems. Additionally, ID cards shall represent authorization for entitled benefits and privileges in accordance with DoD policies.

(7) *Retrieval and revocation.* ID cards shall be retrieved by the sponsor or sponsoring organization when the ID card has expired, when it is damaged or compromised, or when the card holder is no longer affiliated with the DoD or no longer meets the eligibility requirements for the card. The active status of an ID card shall be revoked within the DEERS and RAPIDS infrastructure and the PKI certificates on the CAC shall be revoked.

(b) The guidelines and restrictions of this paragraph apply to all forms of DoD ID cards.

(1) Any person willfully altering, damaging, lending, counterfeiting, or using these cards in any unauthorized manner is subject to fine or imprisonment or both, as prescribed in 18 U.S.C. 499, 506, 509, 701, and 1001. Section 701 of 18 U.S.C. prohibits photographing or otherwise reproducing or possessing DoD ID cards in an unauthorized manner, under penalty of fine or imprisonment or both. Unauthorized or fraudulent use of ID cards would exist if bearers used the card to obtain benefits and privileges to which they are not entitled. Examples of authorized photocopying include photocopying of DoD ID cards to facilitate medical care processing, check cashing, voting, tax matters, compliance with 50 U.S.C. appendix 501 (also known as ''The Service member's Civil Relief Act''), or administering other military-related benefits to eligible beneficiaries. When possible, the ID card will be electronically authenticated in lieu of photographing the card.

(2) International agreements (including status-of-forces agreements) and host-nation law may limit and/or define the types of support available to personnel in overseas areas. Although an ID card may be used to verify eligibility in the United States for access to, for example, commissary or exchange facilities, the use of such facilities overseas may be limited to persons who are stationed or performing temporary duty in a foreign country under official orders in support of a mutual defense mission with the host nation. ID cards shall be issued only for the purposes identified in and in accordance with this Instruction, and the Heads of the DoD Components shall use other means, such as ration cards, to implement provisions in international agreements or to prevent violations of applicable host-nation law. ID cards shall not be issued for the sole purpose of implementing provisions of international agreements or restrictions based on applicable host-nation law.

(3) All ID cards are property of the U.S. Government and shall be returned upon separation, resignation, firing, termination of contract or affiliation with the DoD, or upon any other event in which the individual no longer requires the use of such ID card.

(4) To prevent any unauthorized use, ID cards that are expired, invalidated, stolen, lost, or otherwise suspected of potential or actual unauthorized use shall be revoked in DEERS along with the PKI certificates on the CACs immediately revoked.

(5) There are instances where graphical representations of ID cards are necessary to facilitate the DoD mission. When used and distributed, the replicas must not be the same size as the ID card, must have the word ''SAMPLE'' written on them, and shall not contain an individual's PII. All SAMPLE ID cards must be maintained in a controlled environment and shall not serve as a valid ID.

(6) Individuals within the DoD who have multiple personnel category codes (e.g., an individual who is both a reservist and a contractor) shall be issued a separate ID card in each personnel category for which they are eligible. Multiple current ID cards of the same form (e.g., CAC) shall not be issued or exist for an individual under a single personnel category code.

(7) ID cards shall not be amended, modified, or overprinted by any means. No stickers or other adhesive materials are to be placed on either side of an ID card. Holes shall not be punched into ID cards, except when a CAC has been requested by the next of kin for an individual who has perished in the line of duty. A CAC provided to next of kin shall have the status of the card revoked in DEERS, have the certificates revoked, and have a hole punched through the integrated circuit chip before it is released to the next of kin.

(8) An ID card shall be in the personal custody of the individual to whom it was issued at all times. If required by military authority, it shall be surrendered for ID or investigation.

(c) *CAC migration to Federal PIV requirements.* The DoD is migrating the CAC to meet the Federal requirements for credentialing contained within Homeland Security Presidential Directive 12 and FIPS Publication 201–1. Migration will take place over multiple years as the card issuance hardware, software, and supporting systems and processes are upgraded. Successful migration will require coordination and collaboration within and among all CAC communities (e.g., personnel security, operational security, industrial security, information security, physical security, and information technology). The organizations listed in this section will support the migration in conjunction with the responsibilities listed in § 161.5:

(1) The Director, DMDC shall:

(i) Procure and distribute CAC consumables, including card stock, electromagnetically opaque sleeves, and printer supplies, commensurate with funding received from the DoD Components.

(ii) In coordination with the Office of the Under Secretary of Defense for Policy, establish an electronic process for securing CAC eligibility information on foreign government military, employee, or contract support personnel whose visit status and background investigation has been confirmed, documented, and processed in accordance with DoD Directive 5230.20, ''Visits and Assignments of Foreign Nationals'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/523020p.pdf*).

(iii) In accordance with FIPS Publication 201–1, electronically capture and store source documents in the identity-proofing process at the accession points for eligible ID card holders.

(iv) Implement modifications to the CAC applets and interfaces, add contactless capability to the CAC platform and implement modifications to the CAC topology to support compliance with FIPS Publication 201–1.

(v) Establish and implement procedures for capturing biometrics required to support CAC issuance, which includes fingerprints and facial images specified in FIPS Publication 201–1 and National Institute of Standards and Technology Special Publication 800–76–1, ''Biometric Data Specification for Personal Identity Verification'' (available at *http://*

csrc.nist.gov/publications/nistpubs/800-76-1/SP800-76-1_012407.pdf).

(vi) In coordination with the Executive Manager for DoD Biometrics and the Office of the USD(AT&L), implement the capability to obtain two segmented images (primary and secondary) fingerprint minutiae from the full 10-print fingerprints captured as part of the initial background investigation process for CAC issuance.

(vii) Maintain a capability for a CAC holder to reset or unlock PINs from a system outside of the CAC issuance infrastructure.

(2) The Executive Manager for DoD Biometrics, as appointed by the Secretary of the Army as DoD Executive Agent for DoD Biometrics in accordance with DoD Directive 8521.01E, ''Department of Defense Biometrics'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/852101p.pdf*), shall:

(i) Establish biometric standards for collection, storage, and subsequent transmittal of biometric information in accordance with DoD Directive 8521.01E (available at *http://www.dtic.mil/whs/directives/corres/pdf/852101p.pdf*).

(ii) In coordination with the USD(P&R), the USD(I), and the Heads of the DoD Components, establish capability for biometric collection and enrollment operations to support CAC issuance in accordance with 32 CFR part 310 and National Institute of Standards and Technology Special Publication 800–76–1 (available at *http://csrc.nist.gov/publications/nistpubs/800-76-1/SP800-76-1_012407.pdf*).

(3) The Identity Protection and Management Senior Coordinating Group shall:

(i) Monitor the CAC and identity management related activities outlined within this Instruction in accordance with DoD Directive 1000.25 (available at *http://www.dtic.mil/whs/directives/corres/pdf/100025p.pdf*).

(ii) Maintain a configuration management process for the CAC and its related components to monitor DoD compliance with FIPS Publication 201–1.

Subpart B—DoD Identification (ID) Cards: ID Card Life-Cycle

§ 161.7 ID card life-cycle procedures.

(a) *Sponsorship and eligibility.* In accordance with this part, sponsorship shall incorporate the processes for confirming eligibility for an ID card. The sponsor is the person affiliated with the DoD or other Federal agency who takes responsibility for verifying and authorizing the applicant's need for an ID card. Applicants for a CAC shall be sponsored by a DoD Government official or employee.

(1) The population categories and specific ID cards for which applicants are eligible are listed in Appendix 1 of this section. The majority of these populations are eligible to be sponsored for an ID card based on either their employment status with the DoD or their authorization to receive DoD benefits and entitlements. Examples of these population categories include, but are not limited to: Uniformed services personnel; DoD civilian employees; military retirees; certain DoD beneficiaries; and the eligible dependents for these categories.

(2) Specific populations, listed in paragraph (c)(2)(ii) of Appendix 1 of this section who are eligible to submit for the ''U.S. DoD/Uniformed Service ID Card'' may only be sponsored if they meet additional criteria. Examples of these population categories include DoD contractors, non-DoD Federal civilians, State employees, and other non-DoD personnel that have an affiliation with the DoD other than through employment or contract. Eligibility for these approved population categories is based on the DoD Government sponsor's determination of the type and frequency of access required to DoD facilities or networks. For the populations described in this paragraph, the applicant's sponsor must confirm that the applicant meets one of the requirements in paragraphs (a)(2)(i) and (iii) of this section:

(i) Both physical access to a DoD facility and access, via logon, to DoD networks on-site or remotely. Access to the DoD network must require the use of a computer with Government-controlled configuration or use of a DoD-approved remote access procedure in accordance with the Defense Information Systems Agency Security Technical Implementation Guide, ''Secure Remote Computing'' (available at *http://iase.disa.mil/stigs/a-z.html* under ''Remote. . .'').

(ii) Remote access, via logon, to a DoD network using DoD-approved remote access procedures.

(iii) Physical access to multiple DoD facilities or multiple non-DoD federally controlled facilities on behalf of the DoD (applicable to DoD contractors only) on a recurring basis for a period of 6 months or more.

(A) The frequency of ''recurring basis'' for access shall be determined by the DoD Component concerned in coordination with installation security policies.

(B) CAC eligibility for applicants requiring physical access to multiple DoD facilities on a recurring basis for less than 6 months are risk-based decisions that shall be made by the DoD Component concerned in coordination with installation security policies. These applicants may instead be eligible for local or regional base passes in accordance with Office of the Under Secretary of Defense for Intelligence (USD(I)) and local installation security policies and procedures.

(b) *Registration and enrollment.* In accordance with this part, sponsorship and enrollment information about the ID card applicant shall be registered in the DEERS prior to card issuance.

(1) For uniformed services personnel and DoD civilians, all submissions to DEERS must be made electronically via an authorized data source feed (e.g., Civilian Personnel Management Service). Data source feeds for additional population categories shall be approved and incorporated by the Office of the USD(P&R) (OUSD(P&R)) as they become available.

(2) The population categories that are not registered via an authorized data source feed will be registered in DEERS via the RAPIDS using the DD Form 1172–2 or via the TASS (formerly known as CVS, as described in § 161.8 of this subpart.

(c) *Background Investigation.* In accordance with this subpart, a background investigation is required for those individuals eligible for a CAC. A background investigation is not currently required for those eligible for other forms of DoD ID cards. The use of the CAC, as the DoD Federal personal identity verification (PIV) card, is governed and supported by additional policies when compared to non-CAC ID cards. Sponsored CAC applicants shall not be issued a CAC without the required background investigation stipulated in FIPS Publication 201–1, ''Personal Identity Verification (PIV) of Federal Employees and Contractors'' (available at *http://csrc.nist.gov/publications/fips/fips201-1/FIPS-201-1-chng1.pdf*).

(1) A background investigation shall be initiated by the sponsoring organization before a CAC can be issued. The mechanisms required to verify completion of background investigation activities for DoD, military, and civilian CAC populations are managed within the DoD human resources and personnel security communities and are linked to the CAC issuance process. An automated means is not currently in place to confirm the vetting for populations other than DoD military and civilian personnel such as

CAC-eligible contractors and non-DoD Federal civilian affiliates. When data is not available within the CAC issuance infrastructure on the background investigation status for an applicant, the sponsor shall be responsible for confirming that the required background investigation procedures comply with the FIPS Publication 201–1 before a CAC is authorized for issuance.

(2) Initial issuance of a CAC requires, at a minimum, the completion of the Federal Bureau of Investigation (FBI) fingerprint check with favorable results and submission of a NACI (or investigation approved in Federal Investigative Standards) to the USD(I) approved investigative service provider. Completed NACI's for CAC issuance shall be adjudicated in accordance with Office of Personnel Management Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12'' (available at *http://www.opm.gov/investigate/resources/final_credentialing_standards.pdf*).

(3) Except for uniformed services members, non-U.S. person CAC applicants that do not meet the criteria to complete a NACI (e.g., U.S. residency requirements), must meet one of the criteria in paragraph (c)(3)(i) or (ii) of this section prior to CAC issuance. CACs issued to these non-U.S. persons shall display a blue stripe as described in Appendix 2 of this section. Procedures for the acceptance of this CAC shall be in accordance with DoD policy for physical and logical access. The specific background investigation conducted on the non-U.S. person may vary based on governing international agreements. Non-U.S. persons must:

(i) Possess (as foreign military, employee, or contract support personnel) a visit status and security assurance that has been confirmed, documented, and processed in accordance with international agreements pursuant to DoD Directive 5230.20, ''Visits and Assignments of Foreign Nationals'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/523020p.pdf*).

(ii) Meet (as direct or indirect DoD hire personnel overseas) the investigative requirements for DoD employment as recognized through international agreements pursuant to Volume 1231 of DoD Instruction 1400.25, ''DoD Civilian Personnel Management System: Employment of Foreign Nationals'' (available at *http://www.dtic.mil/whs/directives/corres/html/CPM_table2.html*). In addition to these investigative requirements, a fingerprint check against the FBI criminal history database, an FBI investigations files (name check search), and a name check against the Terrorist Screening Database shall be required prior to CAC issuance in accordance with Office of Personnel Management Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.''

(d) *Identity and eligibility verification.* In accordance with this part, identity and eligibility verification shall be completed at a RAPIDS workstation. VOs shall inspect identity and eligibility documentation and RAPIDS shall authenticate individuals to ensure that ID cards are provided only to those sponsored and who have a current affiliation with the DoD. RAPIDS shall also capture uniquely identifying characteristics that bind an individual to the information maintained in DEERS and to the ID card issued by RAPIDS. These characteristics may include, but are not limited to, digital photographs and fingerprints.

(1) *Identity documents.* Applicants for initial ID card issuance shall submit two identity documents in original form as proof of identity. A VO at a RAPIDS workstation shall inspect and verify the documents presented by the applicant before ID card issuance. The identity documents must come from the list of acceptable documents included in the Form I–9 ''Employment Eligibility Verification'' (*http://www.uscis.gov/files/form/i-9.pdf*) in OMB No. 115–0136 or, for non-U.S. persons, other sources as outlined within paragraph (d)(1)(ii). ''Certified true'' copies of the identity documentation may be accepted so long as they have been issued by the originating source (e.g., a copy of a birth certificate may be acceptable so long as it has been certified as valid by the issuing State). In accordance with applicable law, at least one of the two identity documents shall be a valid (unexpired) State or Federal Government-issued picture ID. The identity documents shall be inspected for authenticity and scanned and stored in the DEERS in accordance with the DMDC, ''Real-time Automated Personnel Identification System (RAPIDS) User Guide'' upon issuance of an ID card. The requirement for the primary identity document to have a photo cannot be waived for initial ID card issuance, consistent with applicable statutory requirements. Identity documentation requirements for renewal or re-issuance are provided in paragraph (e)(3) of this section. When it has been determined that a CAC applicant has purposely misrepresented or not provided his or her true identity, the case shall be referred by the relevant RAPIDS Service Project office (SPO) to the sponsoring DoD Component organization. The DoD Component organization concerned shall initiate an investigation or provide appeals procedures as appropriate. Exceptions to the identity documentation requirements for initial ID card issuance are provided in paragraphs (d)(1)(i) and (d)(1)(ii) of this section:

(i) *Children.* Children under the age of 18 applying for a dependent ID card are only required to provide documentation for the initial verification of eligibility or proof of relationship to the sponsor described in paragraph (d)(2) of this section.

(ii) *Documentation for non-U.S. persons.* At foreign locations, eligible non-U.S. persons may not possess identity documentation from the Form I–9 required for ID card issuance. These individuals shall still provide personal ID as required by the intent of this paragraph (d)(1). Non-U.S. persons within the continental United States (CONUS) shall present a valid (unexpired) foreign passport as the primary form of identity source documentation. DoD organizations based outside the CONUS should work with the local consular affairs office to determine guidelines for the appropriate identity documentation for eligible non-U.S. persons in accordance with agreements with host nations. It is recommended that a foreign passport be used as the primary form of identity source documentation for these individuals. The requirement for the primary identity document to have a photo cannot be waived. Additional documentation used to verify identity must be original or certified true copies. All documentation not in English must have a certified English translation.

(2) *Eligibility documents.* ID card applicants may be required to provide documentation as initial verification of eligibility for benefits or proof of relationship to the sponsor. The eligibility documents shall be inspected for authenticity by the VO and scanned and stored in DEERS in accordance with the procedures in DMDC, ''Real-time Automated Personnel Identification System (RAPIDS) User Guide.'' Specifications and the types of documents and how they are utilized to verify eligibility for a member or dependent based on their status (e.g., Retired, Reservist, spouse, former spouse, child) shall be established by the uniformed services subject to the guidelines in this subpart. All documentation used to verify eligibility must be original or certified true copies. All documentation not in English must have a certified English translation. Eligibility documentation is not

required when DEERS can verify eligibility via an authoritative source or process.

(3) *DEERS verification.* The VO shall utilize DEERS to verify affiliation and eligibility for benefits as described in subpart C of this part.

(4) *Biometrics.* In accordance with DoD Directive 1000.25, ID card applicants shall provide two fingerprint biometric scans and a facial image, to assist with authenticating the applicant's identity and to bind the information maintained on that individual in DEERS and to the ID card issued by RAPIDS. These requirements shall be integrated into the ID card issuance processes in the following manner:

(i) A digitized, full-face passport-type photograph will be captured for the facial image and stored in DEERS and shall have a plain white or off-white background. No flags, posters, or other images shall appear in the photo. All ID cards issued will display a photograph.

(ii) Two fingerprints are captured for storage within DEERS for applicable ID card applicants. The right and left index fingers shall normally be designated as the primary and secondary finger, respectively. However, if those fingers cannot be imaged, the primary and secondary designations shall be taken in the following order of priority: Right thumb, left thumb, right middle finger, left middle finger, right ring finger, left ring finger, right little finger, left little finger.

(iii) If two fingerprints cannot be captured, the facial image will be the alternative for authenticating ID card applicants and ID card holders during the issuance process. Additionally, when verification or capture of biometrics is not possible, authorization will be provided by the RAPIDS SSM's digital signature. This transaction shall be subject to audit by DMDC and the uniformed services.

(e) *Issuance.* In accordance with this part, ID cards shall be issued at the RAPIDS workstation after all sponsorship, enrollment and registration, background investigation (CAC only), and identity and eligibility verification requirements have been satisfied. Initial issuance of an ID card to an applicant will be contingent on satisfying the criteria in paragraphs (a) through (d) of this section.

(1) *Cross-servicing.* The uniformed services agree to cross-service the issuance of ID cards when affiliation and eligibility can be verified in DEERS. When eligibility cannot be verified through DEERS, presentation of documentation shall be required. The uniformed services shall restrict cross-servicing for verification of the DD Form 1172–2 and eligibility documentation to the parent uniformed service for the categories in paragraphs (e)(1)(i) through (viii) of this section:

(i) Initial application for permanently incapacitated individuals over age 21 and temporarily incapacitated children over age 21.

(ii) All dependent parents and parents-in-law.

(iii) Illegitimate child of a male sponsor, whose paternity has not been judicially determined.

(iv) Illegitimate child of spouse or sponsor.

(v) Unremarried and unmarried former spouses applying for initial issuance of an ID card.

(vi) Retiree from other services, and former members not currently enrolled in DEERS.

(vii) Surviving dependents of Reserve Retirees on the sponsor's 60th birthday.

(viii) Abused dependents.

(ix) Wards.

(2) *Expiration dates.* (i) Except as noted in paragraphs (e)(2)(i)(A) and (B) of this section, CACs shall be issued for a period not to exceed 3 years from the date of issuance or contract expiration date, whichever is shorter. Unfunded contract options shall be considered in the determination of the length of contract. For example, a contractor hired under DoD contract with a base year plus 2 option years shall be issued a CAC with a 3-year expiration. The expiration date of the PKI certificates on the CAC shall match the expiration date on the card.

(A) DD Form 1173, ''United States Uniformed Services ID and Privilege Card,'' or CACs issued to DoD civilian employees, contractors, and other eligible personnel assigned overseas or deploying in support of contingency operations shall have an expiration date coinciding with their deployment period end date.

(B) Service Academy students shall be issued 4-year cards with 3-year certificates.

(ii) Non-CAC ID cards shall be given expiration dates in accordance with the guidance listed on *http://www.cac.mil*.

(3) *Renewal and reissuance.* Consistent with applicable law, the applicant for ID renewal or reissuance shall be required to surrender the current DoD ID card that is up for renewal or reissuance except as indicated for lost and stolen ID cards in paragraph (e)(3)(iii) of this section. To authenticate renewal or reissuance applicants, the VO shall visually compare the applicant against the facial image stored in DEERS. For applicants who have fingerprint biometrics stored in DEERS, live fingerprint biometrics samples shall be checked against the applicant's DEERS record. If the biometric check confirms the identity of the renewal or reissuance applicant then no additional documentation is required to verify identity other than the ID card that is being renewed or reissued (documentation may still be required to verify or re-verify eligibility as described in paragraph (d)(2) of this section). As a general practice for renewal or re-issuance, two fresh fingerprint biometric captures may be stored for applicable personnel through the initial procedures in paragraph (d)(4)(ii) of this section to support DMDC's biometric update schedule.

(i) An ID card holder may apply for a renewal starting 90 days prior to the expiration of a valid ID. The SPO can provide exceptions to this requirement.

(ii) An ID card shall be reissued when printed information requires changes (e.g., pay grade, rank, change in eligibility), when any of the media (including printed data, magnetic stripe, bar codes, or integrated circuit chip) becomes illegible or inoperable, or when a CAC is known or suspected to be compromised.

(iii) An ID card shall be reissued when it is reported lost or stolen. The individual reporting a lost or stolen ID card shall be required to provide a valid (unexpired) State or Federal Government-issued picture ID as noted in paragraph (d)(1) of this section, consistent with applicable law, when available. If the individual is unable to present the required identity documentation, a biometric verification shall be used as proof of identity as described in paragraph (e)(3)(iii)(A) of this section. The VO shall verify the cardholder's identity against the biometric information stored in DEERS and confirm the expiration date of the missing ID card. The individual shall also be required to present documentation from the local security office or ID card sponsor confirming that the ID card has been reported lost or stolen. This documentation must be scanned and stored in DEERS. For dependents, the DD Form 1172–2 serves as the supporting documentation for a lost or stolen card. For individuals sponsored through TASS, the replacement ID card shall have the same expiration date as the lost or stolen card.

(A) If no identity documentation is available but biometric information (facial image or fingerprint when applicable) in the DEERS database can be verified by the VO, an ID card can be reissued to the individual upon the additional approval of a SSM. This

transaction shall be digitally signed and audited.

(B) If biometric information cannot be verified, the requirements for initial issuance shall apply or a temporary card may be issued in accordance with paragraph (e)(4) of this section.

(4) *Temporary cards—(i) Temporary issuance of a CAC.* During contingency operations, in the event there is no communication with the DEERS database or the certificate authority, a temporary CAC may be issued with an abbreviated expiration date for a maximum of 10 days. The temporary card will not have PKI certificates and will be replaced as soon as the member can reach an online RAPIDS station or communications have been restored. Additionally, the temporary CAC does not communicate or imply eligibility to any DoD benefit. This capability will be enabled only at affected RAPIDS sites and must have approval granted by DMDC.

(ii) *Temporary issuance of a Uniformed Services Identification card.* There are multiple scenarios under which a temporary Uniformed Services Identification card may be issued. The uniformed services shall develop standard processes and procedures for scenarios requiring issuance of a temporary DD Forms 2765 ''Department of Defense/Uniformed Services Identification and Privilege Card'' or DD 1173, including but not limited to those situations where the applicant needs to obtain the necessary legal documentation or the sponsor is unavailable to provide an authorizing signature.

(5) *Multiple cards.* Individuals shall be issued a separate ID card for each population category for which they qualify as described in Appendix 1 of this section. In instances where an individual has been issued more than one ID card (e.g., an individual that is eligible for an ID card as both a Reservist and as a DoD contractor employee), only the ID card that most accurately depicts the capacity in which the individual is affiliated with the DoD should be utilized at any given time.

(f) *Use and maintenance.* In accordance with this part, ID cards shall be used as proof of identity and DoD affiliation to facilitate access to DoD facilities and systems. Additionally, ID cards shall represent authorization for entitled benefits and privileges in accordance with DoD policies. The CAC, as the DoD Federal PIV card, is governed and supported by additional policies and infrastructure when compared to non-CAC ID cards. This section provides additional guidance on CAC use and maintenance:

(1) *Access.* The granting of access privileges is determined by the facility or system owner as prescribed by the DoD.

(2) *Accountability.* CAC holders will maintain accountability of their CAC at all times while affiliated with the DoD.

(3) *PKI.* Using the RAPIDS platform, DoD PKI identity and PIV authentication certificates will be issued on the CAC at the time of card issuance in compliance with OPM Memorandum, ''Final Credentialing Standards for Issuing Personal Identity Verification Cards under HSPD–12.'' Email signature, email encryption, or PIV authentication certificates may also be available on the CAC either upon issuance or at a later time. If the person receiving a CAC does not have an organization email address assigned to them, they may return to a RAPIDS terminal or use milConnect to receive their email certificate when the email address has been assigned. To help prevent inadvertent disclosure of controlled information, email addresses assigned by an organization shall comply with DoD Instruction 8500.2, ''Information Awareness (IA) Implementation'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/850002p.pdf*).

(4) *milConnect.* DoD has a self-service Web site available that allows an authenticated CAC holder to add applets to the CAC, change the email address, add/update Email Signature and Email Encryption Certificates, and activate the Personal Identity Verification (PIV) Authentication certificate. This capability can be utilized from any properly configured UNCLASSIFED networked workstation. The milConnect Web site is *https://www.dmdc.osd.mil/milconnect.*

(5) *CAC Personal ID Number (PIN) Reset.* DoD has manned workstations capable of resetting the PINs of a CAC holder with a locked card or forgotten PIN. These workstations are intended to provide alternative locations for CAC holders to service their cards other than RAPIDS issuance locations. To authenticate cardholders, live biometric samples shall be checked against the biometrics stored in DEERS prior to resetting CACs. This process requires the presence of a CPR trusted agent (CTA) or TASM or RAPIDS VO or SSM.

(g) *Retrieval and revocation.* In accordance with this part, ID cards shall be retrieved by the sponsor or sponsoring organization when the ID card has expired, when it is damaged or compromised, or when the card holder is no longer affiliated with the DoD or no longer meets the eligibility requirements for the card. The active status of the card shall be terminated within the DEERS and RAPIDS infrastructure. The CAC, as the DoD Federal PIV card, is governed and supported by additional policies and infrastructure when compared to non-CAC ID cards. This section provides additional guidance on CAC retrieval and revocation:

(1) CACs shall be retrieved as part of the normal organizational or command-level check-out processes. The active status of the CAC shall also be terminated in special circumstances (e.g., absent without leave, unauthorized absence, missing in action) in accordance with organization or command-level security policies.

(2) The DoD sponsor or sponsoring organization is ultimately responsible for retrieving CACs from their personnel who are no longer supporting their organization or activity. CAC retrieval will be documented and treated as personally identifiable information, in accordance with DoD Regulation 5200.1–R, and 32 CFR part 310 and receipted to a RAPIDS site for disposition in a timely manner.

(3) Upon loss, destruction, or revocation of the CAC, the certificates thereon are revoked and placed on the certificate revocation list in accordance with Assistant Secretary of Defense for Networks and Information Integration Certificate Policy, ''X.509 Certificate Policy for the United States Department of Defense'' (available at *http://jitc.fhu.disa.mil/pki/documents/dod_x509_certificate_policy_v9_0_9_february_2005.pdf*). All other situations that pertain to the disposition of the certificates are handled in accordance with Assistant Secretary of Defense for Networks and Information Integration Certificate Policy, ''X.509 Certificate Policy for the United States Department of Defense'' as implemented.

Appendix 1 to § 161.7—ID Card Descriptions and Population Eligibility Categories

(a) *Overview.* Paragraphs (b) through (e) of this appendix contain information on the CAC type of ID card. The remaining paragraphs in the appendix contain information on all other versions of DoD enterprise-wide ID cards. This appendix describes these cards and lists some of the categories of populations that are eligible to be sponsored for the cards under the guidelines described in paragraph (a) of § 161.7; additional ID-card eligible categories are codified in subpart C of this part. RAPIDS accesses DEERS information collected by the DD Form 1172–2 to generate all of the ID Cards identified in this appendix. The benefits and entitlements that support ID card eligibility for populations in this appendix are described in subpart C of this

part. Guidelines and restrictions that pertain to all forms of DoD ID cards are included in this part.

(b) *Armed Forces of the United States Geneva Conventions ID Card*—(1) *Description.* This CAC is the primary ID card for uniformed services members and shall be used to identify the member's eligibility for benefits and privileges administered by the uniformed services as described in subpart C of this part. The CAC shall also be used to facilitate standardized, uniform access to DoD facilities, installations, and computer systems.

(i) The card shall also serve as ID for purposes of Geneva Convention requirements in accordance with DoD Instruction 1000.01.

(ii) If a member is captured as a hostage, detainee, or prisoner of war (POW), the card shall be shown to the capturing authorities, but, insofar as possible, should not be surrendered.

(2) *Eligibility.* Those populations eligible for this type of CAC include:

(i) Members of the regular components of the Military Services.

(ii) Members of the Selected Reserve of the Ready Reserve of the Reserve Components.

(iii) Members of the IRR of the Ready Reserve authorized in accordance with regulations prescribed by the Secretary of Defense to perform duty in accordance with 10 U.S.C. 10147.

(iv) Uniformed services members of NOAA and USPHS.

(c) *U.S. DoD or Uniformed Services ID Card*—(1) *Description.* This CAC is the primary ID card for eligible civilian employees, contractors, and foreign national affiliates and shall be used to facilitate standardized, uniform access to DoD facilities, installations, and computer systems.

(2) *Eligibility.* (i) DoD civilian employees are eligible for this CAC, to include:

(A) Individuals appointed to appropriated fund and NAF positions.

(B) USCG and NOAA civilian employees.

(C) Permanent or time-limited employees on full-time, part-time, or intermittent work schedules for 6 months or more.

(D) SES, Competitive Service, and Excepted Service employees.

(ii) Eligibility for additional populations shall be based on a combination of the personnel category and the DoD Government sponsor's determination of the type and frequency of access required to DoD networks and facilities described in paragraph (a) of § 161.7 of this subpart. These personnel categories include:

(A) Non-DoD civilian employees to include:

(*1*) State employees working in support of the National Guard.

(*2*) IPA employees.

(*3*) Non-DoD Federal employees that are working in support of DoD but do not possess a Federal PIV card that is accepted by the sponsoring DoD Component. DoD Components shall obtain DHRA approval prior to sponsorship.

(B) DoD contractors.

(C) USCG and NOAA contractors.

(D) Persons whose affiliation with DoD is established through:

(*1*) *Direct and Indirect Hiring Overseas.* Non-U.S. citizens hired under an agreement with the host nation and paid directly by the uniformed services (direct hire) or paid by an entity other than the uniformed services for the benefits of the uniformed services (indirect hire).

(*2*) *Assignment as Foreign Military, Foreign Government Civilians, or Foreign Government Contractors to Support DoD Missions.* Non-U.S. citizens who are sponsored by their government as part of an official visit or assignment to work with DoD.

(*3*) *Procurement Contracts, Grant Agreements or Other Cooperative Agreements.* Individuals who have a established relationship between the U.S. Government and a State, a local government, or other recipient as specified in 31 U.S.C. 6303, 6304, and 6305.

(d) *U.S. DoD or Uniformed Services ID and Privilege Card*—(1) *Description.* This CAC is the primary ID card for civilian employees, contractors, and foreign national military, as well as other eligible individuals entitled to benefits and privileges administered by the uniformed services as described in subpart C of this part. The CAC shall be used to facilitate standardized, uniform access to DoD facilities, installations, and computer systems.

(2) *Eligibility.* Specific population categories are entitled to benefits and privileges, in accordance with subpart C of this part, and shall be eligible for this CAC, to include:

(i) DoD and uniformed services civilian employees (both appropriated and non-appropriated) when required to reside in a household on a military installation within the CONUS, Hawaii, Alaska, Puerto Rico, and Guam.

(ii) DoD and uniformed services civilian employees when stationed or employed and residing in foreign countries for a period of at least 365 days.

(iii) DoD contractors when stationed or employed and residing in foreign countries for a period of at least 365 days.

(iv) DoD Presidential appointees who have been appointed with the advice and consent of the Senate.

(v) Civilian employees of the Army and Air Force Exchange System, Navy Exchange System, and Marine Corps Exchange System and NAF activity employees of the Coast Guard Exchange Service.

(vi) Uniformed and non-uniformed full-time paid personnel of the Red Cross assigned to duty with the uniformed services within the CONUS, Hawaii, Alaska, Puerto Rico, and Guam, when required to reside in a household on a military installation.

(vii) Uniformed and non-uniformed, full-time, paid personnel of the Red Cross assigned to duty with the uniformed services in foreign countries.

(viii) Foreign military who meet the eligibility requirement of paragraph (a)(2) of § 161.7 and are in one of the categories in paragraphs (d)(2)(viii)(A) through (C) of this appendix. Those foreign military not meeting the eligibility requirements for CAC as described in paragraph (a)(2) of § 161.7 shall be issued a DD Form 2765 as described in paragraph (l) of this appendix.

(A) Active duty officers and enlisted personnel of North Atlantic Treaty Organization (NATO) and Partnership For Peace (PFP) countries serving in the United States under the sponsorship or invitation of the DoD or a Military Department.

(B) Active duty officers and enlisted personnel of non-NATO countries serving in the United States under the sponsorship or invitation of the DoD or a Military Department.

(C) Active duty officers and enlisted personnel of NATO and non-NATO countries when serving outside the United States and outside their own country under the sponsorship or invitation of the DoD or a Military Department, or when it is determined by the major overseas commander that the granting of such privileges is in the best interests of the United States and such personnel are connected with, or their activities are related to, the performance of functions of the U.S. military establishment.

(e) *U.S. DoD or Uniformed Service Geneva Conventions ID Card for Civilians Accompanying the Armed Forces*—(1) *Description.* This CAC serves as the DoD and/or Uniformed Services Geneva Conventions ID card for civilians accompanying the uniformed services and shall be used to facilitate standardized, uniform access to DoD facilities, installations, and computer systems.

(2) *Eligibility.* The following population categories are eligible for this CAC:

(i) Emergency-essential employees as defined in DoD Directive 1404.10, ''DoD Civilian Expeditionary Workforce'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/140410p.pdf*).

(ii) Contractors authorized to accompany the force (contingency contractor employees) as defined in Joint Publication 1–02 (available at *http://www.dtic.mil/doctrine/new_pubs/jp1_02.pdf*).

(f) *DD Form 2, ''Armed Forces of the United States Identification Card (Reserve).''*—(1) *Description.* This is the primary ID card for RC members not eligible for a CAC. Benefits and privileges shall be administered by the uniformed services as described in subpart C of this part.

(i) The DD Form 2S (RES) shall serve as ID for purposes of the Geneva Convention requirements in accordance with DoD Instruction 1000.01.

(ii) If a member is captured as a hostage, detainee, or POW, the DD Form 2S (RES), shall be shown to the capturing authorities, but, insofar as possible, should not be surrendered.

(2) *Eligibility.* Those populations eligible for the DD Form 2S (RES) include:

(i) Ready Reserve, who are not otherwise entitled to either DD Form 2S (RET), ''Armed Forces of the United States Geneva Conventions Identification Card (Retired) (Blue),'' or a CAC.

(ii) The Standby Reserve.

(iii) The Reserve Officers' Training Corps College Program students that have signed a contract leading to military service.

(g) *DD Form 2S (Ret)*—(1) *Description.* This is the primary ID card for retired uniformed services members entitled to retired pay.

Benefits and privileges shall be administered by the uniformed services as described in subpart C of this part.

(2) *Eligibility.* Members of the uniformed services who are entitled and in receipt of retired pay, or entitled and have waived their retired pay, are eligible for the DD 2S (RET).

(h) *DD Form 2, ''United States Uniformed Services Identification Card (Reserve Retired).''*—(1) *Description.* This is the primary ID card for members of the National Guard or Reserves who have completed 20 creditable years of service and have elected to be transferred to the Retired Reserve. They will qualify for pay at age 60, or earlier if they have qualified contingency service.

(2) *Eligibility.* Members of the Reserve Components who are entitled to retired pay at age 60 (or earlier if they have qualified contingency service) and have not yet attained age 60 are eligible for the DD Form 2 (Reserve Retired).

(i) *DD Form 1173*—(1) *Description.* This is the primary ID card for dependents and other similar categories of individuals eligible for benefits and privileges administered by the uniformed services as described in subpart C of this part.

(2) *Eligibility.* Specific population categories entitled to benefits and privileges as described in subpart C of this part are eligible for the DD Form 1173 to include:

(i) Dependents of active duty Service members of the regular components, Reserve Component Service members on active duty for more than 30 days, and retirees.

(ii) Surviving dependents of active duty members.

(iii) Surviving dependents of retired military members.

(iv) Surviving dependents of MOH recipients and surviving dependents of honorably discharged veterans rated by the Department of Veterans Affairs (VA) as 100 percent disabled from a uniformed services-connected injury or disease at the time of his or her death.

(v) Accompanying dependents of foreign military.

(vi) Dependents of authorized civilian personnel overseas.

(vii) Other benefits eligible categories as described in subpart C of this part.

(j) *DD Form 1173–1, ''Department of Defense Guard and Reserve Family Member Identification Card.''*—(1) *Description.* This is the primary ID card for dependents of Ready Reserve and Standby Reserve members not on active duty in excess of 30 days. When accompanied by a set of the sponsor's valid active duty orders, the card shall be used in place of a DD Form 1173 for a period of time not to exceed 270 days, if the member is called to active duty by congressional decree or Presidential call-up under 10 U.S.C. chapter 1209.

(2) *Eligibility.* Eligible dependents of Reserve Component members and retirees as described in subpart C of this part are eligible for the DD Form 1173–1.

(k) *DD Form 2764, ''United States DoD/Uniformed Services Geneva Conventions Card.''*—(1) *Description.* This is the primary ID for non-CAC eligible civilian noncombatant personnel who are deployed in conjunction with military operations overseas. The DD Form 2764 also replaces DD Form 489, ''Geneva Conventions Identity Card for Civilians Who Accompany the Armed Forces.''

(2) *Eligibility.* Civilian noncombatant personnel who have been authorized to accompany U.S. forces in regions of conflict, combat, and contingency operations and who are liable to capture and detention by the enemy as POWs are eligible for the DD Form 2764 in accordance with DoD Instruction 1000.01.

(l) *DD Form 2765*—(1) *Description.* This is the primary ID card for categories of individuals, other than current or retired members of the uniformed services, who are eligible for uniformed services benefits and privileges in their own right without requiring a current affiliation with another sponsor.

(2) *Eligibility.* Those populations eligible for the DD Form 2765 include:

(i) Foreign national military personnel described in paragraph (d)(2)(viii) of this appendix that cannot meet all criteria for CAC issuance.

(ii) Former members.

(iii) Members eligible for transitional health care (THC). These individuals shall be eligible for DD Form 2765 (with a ''TA'' overstamp) showing expiration date for each benefit, as shown on the reverse of the card.

(iv) MOH recipients.

(v) DAV (rated 100 percent disabled by the Department of Veterans Affairs).

(vi) Former spouse (that qualify as a DoD beneficiary).

(vii) Civilian personnel in the categories listed in paragraphs (l)(2)(vii)(A) through (D) of this appendix:

(A) Other U.S. Government agency civilian employees when stationed or employed and residing in foreign countries for a period of at least 365 days.

(B) Area executives, center directors, and assistant directors of the United Service Organization, when serving in foreign countries.

(C) United Seaman's Service (USS) personnel in foreign countries.

(D) Military Sealift Command (MSC) civil service marine personnel deployed to foreign countries on MSC-owned and -operated vessels.

(m) *DoD Civilian Retiree Card*—(1) *Description.* This ID shall only be used to establish DoD civilian retiree identity and affiliation with the DoD.

(2) *Eligibility.* Appropriated and NAF civilians that have retired from any DoD Service component or agency are eligible for the DoD Civilian Retiree Card. These civilians must have their retired status verified in DEERS before an ID card can be issued.

(n) *NOAA Retired Wage Mariner and Family Member Card*—(1) *Description.* The NOAA Retired Wage Mariner and Family Member Card is a sub-category of the DoD Civilian Retiree Card and shall be used to establish identity and affiliation with the DoD and to identify the individual's eligibility for benefits and privileges administered by the uniformed services as described in subpart C of this part.

(2) *Eligibility.* Retired Wage Mariners of NOAA and their dependents as described in subpart C of this part are eligible for the NOAA Retired Wage Mariners and Family Members Card.

Appendix 2 to § 161.7—Topology Specifications

(a) *Topology.* Graphical representations of all CACs are maintained at *www.cac.mil.*

(b) *CAC stripe color coding.* The CAC shall be color-coded as indicated in the Table to reflect the status of the holder of the card.

(1) If a person meets more than one condition as shown in the Table, priority will be given to the blue stripe to denote a non-U.S. citizen unless the card serves as a Geneva Conventions card.

(2) FIPS Publication 201–1 reserves the color red to distinguish emergency first responder officials. Until the DoD implementation of Homeland Security Presidential Directive 12 is complete, the color red will also be used to denote non-U.S. personnel in the same manner as the blue stripe in the Table (i.e., some cards with red stripes may continue to exist in circulation until the 3-year life cycle is complete).

TABLE—CAC STRIPE COLOR CODING

No stripe	U.S. military and DoD civilian personnel or any personnel eligible for a Geneva Conventions card
Blue	Non-U.S. personnel, including DoD contract employees (other than those persons requiring a Geneva Conventions card).
Green	All U.S. citizen personnel under contract to the DoD (other than those persons requiring a Geneva Conventions card).

(c) *CAC printed statements*—(1) Eligible individuals who are permanently assigned in foreign countries for at least 365 days (it should be noted that local nationals are in their home country, not a foreign country) will have the word ''OVERSEAS'' printed within the authorized patronage area of the CAC.

(2) The authorized patronage area for eligible individuals permanently assigned within CONUS will be blank. Travel orders authorize access for these individuals while en route to the deployment site.

(3) During a conflict, combat, or contingency operation, civilian employees with a U.S. DoD or Uniformed Services Geneva Conventions ID Card for Civilians Accompanying the Uniformed Services will be granted all commissary; exchange; MWR; and medical privileges available at the site of the deployment, regardless of the statements on the ID card. Contractor employees possessing this ID card shall receive the benefit of those commissary, exchange, MWR, and medical privileges that are accorded to such persons by international agreements in force between the United States and the host country concerned and their letter of authorization.

(4) The medical area on the card for individuals on permanent assignment in a foreign country will contain the statement: ''When TAD/TDY or stationed overseas on a space available fully reimbursable basis.'' However, civilian employees and contractor employees providing support when forward deployed during a conflict, combat, or contingency operation are treated in accordance with 10 U.S.C. 10147 and chapters 1209 and 1223 and DoD Instruction 3020.41, ''Operational Contract Support'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/302041p.pdf*), and the Deputy Secretary of Defense Memorandum, ''Policy Guidance for Provision of Medical Care to Department of Defense Civilian Employees Injured or Wounded While Forward Deployed in Support of Hostilities'' (available at *http://cpol.army.mil/library/nonarmy/dod_092407.pdf*).

(d) *Blood type indicators.* A blood type indicator is an optional data element on the ID card and will only appear on the card if the blood type is provided by an authoritative data source prescribed by TRICARE Management Activity.

(e) *Organ donor indicators.* An organ donor indicator is an optional data element on the ID card and will only appear if the card applicant opts for this feature at the time of card issuance.

§ 161.8 ID card life-cycle roles and responsibilities.

(a) *General.* This section provides the roles and responsibilities associated with a series of processes and systems that support the ID card life-cycle. The requirements provided in this section may be supplemented by military Service guidance, DoD Component-level procedures and DMDC procedural and system documentation on DEERS, RAPIDS, TASS, and CPR.

(b) *Separation of duties.* The ID card life-cycle includes a requirement for a separation of duties to support the issuance process. This rule requires more than one person to serve in an official role during the sponsorship and enrollment and issuance processes. Authorizing a RAPIDS SSM or VO to exercise the duties of a TASS TASM, TA, or sponsor would allow a single individual to control the ID card issuance process, from record creation to card issuance. Individuals serving in the role of a RAPIDS SSM or VO shall not exercise the role of the TASS TASM or TA or the role of the signatory sponsor on the DD Form 1172–2. (In the case of their own dependents, a RAPIDS SSM or VO can serve as the sponsor on the DD Form 1172–2 but cannot serve as the VO for card issuance.)

(c) *DD Form 1172–2.* The DD Form 1172–2 shall be used to collect the information necessary to register ID card and CAC applicants in DEERS via RAPIDS who are not enrolled through an authorized personnel data feed or are not registered through TASS. The DD Form 577, ''Appointment/Termination Record—Authorized Signature,'' shall be used to verify the sponsoring individual's signature, when verification through RAPIDS is unavailable. This form is to be used primarily for DEERS enrollment and verification of initial and continued association for dependents and DoD affiliates (e.g., foreign national military). The DD Form 1172–2 shall also be used to add benefits conditions for eligible personnel in accordance with DMDC, ''Real-time Automated Personnel Identification System (RAPIDS) User Guide'' and subpart C of this part. Retention and disposition of the DD Form 1172–2 shall be in accordance with the uniformed services' regulatory instructions. In the absence of electronic verification of sponsorship for the enrollment or reenrollment of dependents, the sponsor signing block 65 in Section 5 of the DD Form 1172–2 for the ID card applicant:

(1) Shall be a uniformed services member, retiree, civilian employee working for the sponsoring organization, or an individual entitled to DoD benefits in their own right, without requiring relationship to another sponsor, as described in subpart C of this part.

(2) Must be a DoD ID card or CAC holder.

(3) Shall establish the applicant's initial and continued relationship to the sponsor, affiliation with DoD, and need for a CAC card in accordance with this subpart and DoD Component-level procedures.

(d) *TASS.* TASS shall serve as the sponsorship and DEERS data registration tool for CAC-eligible DoD contractors and other populations as determined by the Director, DHRA. TASS employs an automated version of the DD Form 1172–2 to collect information necessary for DEERS enrollment. Organizations that use TASS shall adhere to the following guidelines on user roles:

(1) *Service Point of Contact (SPOC).* A DoD Component that utilizes TASS shall appoint a SPOC for TASS management and operation. The SPOC shall coordinate with the DMDC to establish a site with TASS capability. The SPOC shall create policies, operating procedures, and other supporting documentation in support of the Service or agency-specific implementation. The SPOC will oversee TASM registration, and provide any other required field support. The TASS SPOC:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member, civilian employee working for the sponsoring organization, or a DoD contractor providing management support to the service or agency implementing TASS (a contractor cannot perform the TA or TASM role).

(iii) Must be capable of sending and receiving digitally signed and encrypted email.

(iv) Must be a CAC holder.

(v) Shall complete the training provided by DMDC for the TASM and TA roles.

(2) *TASM.* The TASM will act as a TA and oversee the activity for TASS site TAs. A TASS TASM:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member or a DoD civilian employee working for the sponsoring organization.

(iii) Must be capable of sending and receiving digitally signed and encrypted email.

(iv) Must be a CAC holder.

(v) Shall complete the training provided by DMDC for the TASM role.

(3) *TA.* TAs shall be sponsors for eligible populations within TASS and will utilize TASS to register data for the DD Form 1172–2, re-verify CAC holder affiliation, and revoke CACs in accordance with this part and the DMDC ''Contractor Verification System TASS (CVS) TASM/TA and Applicant User Guides, Version 3.03'' (available at *https://www.dmdc.osd.mil/appj/cvs/login*). Sponsoring an applicant is a multi-step process which includes establishing the individual's eligibility in accordance with paragraph (a) of § 161.7 of this subpart and verifying that the individual has the necessary background investigation completed to be issued a CAC in accordance with paragraph (c) of *§ 161.7* of this subpart. A TASS TA:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member, a DoD civilian employee working for the sponsoring organization,

or a non DoD Federal agency employee approved by DHRA.

(iii) Must be capable of sending and receiving digitally signed and encrypted email.

(iv) Must be a CAC holder.

(v) Shall complete the training provided by DMDC for the TA role.

(vi) Shall manage no more than 100 active contractors at any given time within TASS. Exceptions to this limit can be authorized by the DoD Component concerned to address specific contract requirements that substantiate a need for a larger contractor-to-TA ratio. The DoD Component SPOC shall document any authorized exceptions to the 100-contractors limit and shall, at a minimum, conduct annual audits on the oversight functions of these specific TAs.

(vii) Shall coordinate with their contracting personnel when establishing the contractor's initial and continued affiliation with DoD and need for CACs in accordance with agency or Component-level procedures.

(viii) Shall coordinate with their contracting, human resources, or personnel security organizations to confirm that the appropriate background check has been completed for CAC applicants.

(ix) Shall re-verify a CAC holder's need for a CAC every 6 months (180 days) within TASS.

(x) Shall revoke the CAC within the TASS upon termination of employment or completion of affiliation with the DoD.

(xi) Shall ensure that the CAC is retrieved upon the CAC holder's termination of employment or completion of affiliation with the DoD.

(e) *RAPIDS.* RAPIDS must be operated in accordance with DMDC, ''Real-time Automated Personnel Identification System (RAPIDS) User Guide.'' RAPIDS shall be supported by:

(1) *SSM.* The SSM shall manage the daily operations at a RAPIDS site to include managing users, cardstock, and consumables. The SPO shall assign a primary and secondary SSM to each site to ensure the site continues to function in the absence of one of the SSMs. The SSM shall perform all responsibilities of a RAPIDS user (VO), as well as all SSM responsibilities. The SSM shall:

(i) Be a U.S. citizen.

(ii) Be a uniformed services member, civilian employee working for the sponsoring organization, or a DoD contractor.

(iii) Be a CAC holder.

(iv) Complete the training provided by DMDC for the SSM and VO roles.

(v) Be responsible for supporting RAPIDS functions delineated in DMDC, ''Real-time Automated Personnel Identification System (RAPIDS) User Guide.''

(vi) Must have a favorably adjudicated NACI.

(2) *VO.* The VO shall complete identity and eligibility verification and card issuance functions in accordance with this part. The VO:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member, civilian employee working for the sponsoring organization, or a DoD contractor.

(iii) Must be a CAC holder.

(iv) Shall complete the training provided by DMDC for the VO role.

(v) Be responsible for supporting RAPIDS functions delineated in DMDC, ''Real-time Automated Personnel Identification System (RAPIDS) User Guide.''

(f) *CPR.* Organizations that utilize CPR shall adhere to the guidelines in this section on user roles:

(1) *CPR project officer.* The CPR project officer (CPO) shall be appointed by the Service or Agency as the focal point for day-to-day CPR management and operation. The CPO:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member, civilian employee working for the sponsoring organization, or a DoD contractor.

(iii) Must be a CAC holder.

(iv) Must establish sites with CPR capability, oversee CPR TASM registration, and ensure other required field support in accordance with DMDC and Service- or agency-level guidelines.

(2) *CPR TASM.* The CPR TASM manages the CPR trusted agent (CTA) operations. The CPR TASM:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member, civilian employee working for the sponsoring organization, or a DoD contractor.

(iii) Must be a CAC holder.

(iv) Shall complete the required training and manage CTA operations in accordance with DMDC and Service- or agency-level guidelines.

(3) *CTA.* The CTA's primary role is to provide PIN reset. The CTA:

(i) Must be a U.S. citizen.

(ii) Must be a uniformed services member, civilian employee working for the sponsoring organization, or a DoD contractor.

(iii) Must be a CAC holder.

(iv) Shall complete the required training and conduct CPR operations in accordance with DMDC and Service- or agency-level guidelines.

Subpart C—DoD Identification (ID) Cards: Benefits for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals

§ 161.9 DoD benefits.

(a) The benefits population is defined by roles. There are roles that have a direct affiliation with the DoD, such as an active duty Service member, or those that have an association to someone who is affiliated, such as the spouse of an active duty member. This section reflects benefit eligibility established by law and affiliated DoD policy, and covers the roles that either receive CHC, direct care at an MTF, commissary, exchange, and MWR benefits, or are only affiliated to be issued a DoD-authorized CAC or uniformed services ID card. Sections 161.10 through 161.22 identify the categories of eligible persons and their authorized benefits as they would be recorded in the Defense Eligibility Enrollment Reporting System (DEERS).

(1) Sections 161.10 through 161.22 reflect the eligibility of persons for benefits.

(2) A sponsor's begin date for benefit eligibility is based on the date the sponsor begins their affiliation with the Department.

(3) A dependent's begin date for benefit eligibility is based on the date the dependent becomes associated as an eligible dependent to an eligible sponsor.

(4) Guidance on benefit eligibility begin dates and ID card expiration dates based on benefits will be maintained at *http://www.cac.mil.*

(5) Refer to the figure for abbreviations for the tables in this subpart.

FIGURE—BENEFITS TABLE ABBREVIATIONS

CHC	civilian health care.
DC	direct care at MTFs.
C	commissary privileges.
MWR	MWR privileges.
E	exchange privileges.

§ 161.10 Benefits for active duty members of the uniformed services.

(a) This section describes the benefits for active duty uniformed services members and their eligible dependents administered by the uniformed services in accordance with 10 U.S.C. chapter 55 and DoD Instruction 1330.17, ''Armed Services Commissary Operations'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/133017p.pdf*); DoD Instruction 1330.21, ''Armed Services

Exchange Regulations'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/133021p.pdf*); and DoD Instruction 1015.10. Descriptions of benefits for National Guard and Reserve members and their eligible dependents are contained in § 161.11. Descriptions of benefits for surviving dependents of active duty uniformed services members are contained in § 161.17.

(1) *Active duty service members.* Active duty uniformed services members are eligible for benefits administered by the uniformed services as shown in Table 1.

TABLE 1 TO PART 161—BENEFITS FOR ACTIVE DUTY MEMBERS, NOT INCLUDING NATIONAL GUARD OR RESERVE MEMBERS

	CHC	DC	C	MWR	E
Member (Self)	No	Yes	Yes	Yes	Yes.

(2) *Dependents of active duty members.* Dependents of active duty members are eligible for benefits as shown in Table 2 *to part 161.* Benefits for the eligible dependents of National Guard or Reserve members, non-regular Service retirees not yet age 60, or members entitled to retired pay or who are in receipt of retired pay for non-regular service, and non-regular Service retirees who are not in receipt of retired pay are identified in §§ 161.11 through 161.14.

TABLE 2 TO PART 161—BENEFITS FOR DEPENDENTS OF ACTIVE DUTY MEMBERS

	CHC	DC	C	MWR	E
Spouse	Yes	Yes	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	Yes	Yes	1	2	2.
Ward	3	3	3	3	3.
Pre-adoptive Child	4	4	4	4	4.
Foster Child	No	No	1	1	1.
Children, Unmarried, 21 Years and Over	5	5	1, 5	5	5.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	1	1	2	2.

Notes:

1. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408(h).

2. Yes, if dependent on an authorized sponsor for over 50 percent support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.

b. Resides with the member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary or Director may, by regulation, prescribe.

4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another organization authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.

5. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member and is dependent on the member for over 50 percent of the child's support.

§ 161.11 Benefits for National Guard and Reserve Members of the Uniformed Services.

(a) This section describes the benefits for National Guard and Reserve members of the uniformed services and their eligible dependents. Benefits for members of the Retired Reserve and their eligible dependents are described in § 161.13. Benefits for surviving dependents of deceased National Guard and Reserve members are described in § 161.17.

(1) *National Guard and Reserve members.* National Guard and Reserve members are eligible for benefits based on being ordered to periods of active duty or full-time National Guard duty or active status in the SelRes, including Ready Reserve and Standby Reserve and participation in the Reserve Officer Training Corps.

TABLE 3 TO PART 161—BENEFITS FOR NATIONAL GUARD AND RESERVE MEMBERS NOT ON ACTIVE DUTY GREATER THAN 30 DAYS

	CHC	DC	C	MWR	E
Member (Self)	No	No	Yes	Yes	Yes.

TABLE 4 TO PART 161—BENEFITS FOR NATIONAL GUARD AND RESERVE MEMBERS ON ACTIVE DUTY FOR PERIODS GREATER THAN 30 DAYS

	CHC	DC	C	MWR	E
Member (Self)	No	Yes	Yes	Yes	Yes.

Notes:

1. This includes reported periods of early identification of Service members in support of a contingency operation in accordance with DoD Instruction 7730.54, ''Reserve Components Common Personnel Data System (RCCPDS)'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/773054p.pdf*).

(2) *Dependents of National Guard or Reserve Members.* Dependents of National Guard or Reserve members are eligible for benefits as shown in Table 5.

TABLE 5 TO PART 161—BENEFITS FOR DEPENDENTS OF NATIONAL GUARD OR RESERVE MEMBERS

	CHC	DC	C	MWR	E
Spouse	1	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	1	2	3	3.
Ward	1, 4	1, 4	4	4	4.
Pre-adoptive Child	1, 5	1, 5	5	5	5.
Foster Child	No	No	2	2	2.
Children, Unmarried, 21 Years and Over	1, 6	1, 6	2, 6	6	6.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	1, 2	2	3	3.

Notes:

1. Yes, if the sponsor is on active duty greater than 30 days. When the order to active duty period is greater than 30 days the eligibility for CHC and DC for eligible dependents begins on the first day of the active duty period.

2. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408(h).

3. Yes, if dependent on an authorized sponsor for over 50 percent support, or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

4. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.

b. Resides with the member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

5. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.

6. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member and is dependent on the member for over 50 percent of the child's support.

§ 161.12 Benefits for former uniformed services members.

(a) This section describes the benefits for former uniformed services members and their eligible dependents. Former members are eligible to receive retired pay, at age 60, for non-regular service in accordance with 10 U.S.C. chapter 1223, but have been discharged from their respective Service or agency and maintain no military affiliation.

(1) *Former Members and their Eligible Dependents.* Former members and their dependents are eligible for benefits as shown in Table 6 *to part 161.*

TABLE 6 TO PART 161—BENEFITS FOR FORMER MEMBERS AND DEPENDENTS

	CHC	DC	C	MWR	E
Former Member (Self)	1	1	Yes	Yes	Yes.
Lawful Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	4	4.
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	6	6	6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 7	2, 7	3, 7	7	7
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	2, 3	3	4	4

Notes:

1. Yes, if the former member is age 60 or over and in receipt of retired pay for non-regular service; and is:
a. Not entitled to Medicare Part A hospital insurance through the SSA, or
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84, ''National Defense Authorization Act for Fiscal Year 2010.''
2. Yes, if former member is age 60 or over and in receipt of retired pay for non-regular service.
3. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408(h).
4. Yes, if dependent on an authorized sponsor for over 50 percent support, or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
a. Is dependent on the member for over 50 percent support.
b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
7. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.13 Benefits for retired members of the uniformed services.

(a) This section describes the benefits for retired uniformed service members entitled to retired pay and their eligible dependents. Retired uniformed service members are entitled to retired pay and eligible for benefits administered by the uniformed services in accordance with 10 U.S.C., DoD Instruction 1330.17, DoD Instruction 1330.21, DoD Instruction 1015.10, and TRICARE Policy Manual 6010.57–M (available at *http://www.tricare.mil/contracting/healthcare/t3manuals/change2/tp08/c8s9_1.pdf*). This includes voluntary, temporary, and permanent disability retired list (PDRL) retirees. Benefits for former members and their eligible dependents are described in § 161.12.

(1) *Retired Members.* Benefits for voluntary retired members and PDRL retirees are shown in Table 7 *to part 161*. Benefits for temporary disability retired list (TDRL) retirees are shown in Table 8 *to part 161*.

TABLE 7 TO PART 161—BENEFITS FOR VOLUNTARY RETIRED MEMBERS AND PDRL MEMBERS

	CHC	DC	C	MWR	E
Member (Self)	1	Yes	Yes	Yes	Yes.

Notes:

1. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA or
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

TABLE 8 TO PART 161—BENEFITS FOR TDRL MEMBERS

	CHC	DC	C	MWR	E
Member (Self)	1, 2	Yes	Yes	Yes	Yes.

Notes:

1. If not removed sooner, retention of the service member on the TDRL shall not exceed a period of 5 years. The uniformed service member must be returned to active duty, separated with or without severance pay, or retired as PDRL in accordance with 10 U.S.C. 1210.
2. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA or
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

(2) *Retired Reserve.* Benefits for members of the Retired Reserve who have attained 20 creditable years of service, have not reached the age of 60, and are not in receipt of retired pay are shown in Table 9. When a Retired Reserve member is ordered to active duty greater than 30 days, their benefits will reflect what is shown in Table 10 *to part 161.* When a Retired Reserve member is in receipt of retired pay under age 60 (non-regular Service retirement), or upon reaching age 60, their benefits will reflect what is shown in Table 11 *to part 161.*

TABLE 9 TO PART 161—BENEFITS FOR RETIRED RESERVE MEMBERS

	CHC	DC	C	MWR	E
Member (Self)	No	No	Yes	Yes	Yes.

TABLE 10 TO PART 161—BENEFITS FOR RETIRED RESERVE MEMBERS ORDERED TO ACTIVE DUTY GREATER THAN 30 DAYS

	CHC	DC	C	MWR	E
Member (Self)	No	Yes	Yes	Yes	Yes.

TABLE 11 TO PART 161—BENEFITS FOR NON-REGULAR SERVICE RETIREMENT FOR QUALIFYING READY RESERVE MEMBERS

	CHC	DC	C	MWR	E
Member (Self)	1	1	Yes	Yes	Yes.

Notes:
1. Yes, if age 60 or over, and:
a. Applied for or in receipt of retired pay in accordance with 10 U.S.C. 1074. If in receipt of retired pay in accordance with the provisions of 10 U.S.C. 12731, after the date of the enactment of section 647 of Public Law 110–181, "National Defense Authorization Act for Fiscal Year 2008," the member must be age 60 to qualify for CHC and DC.
b. Not entitled to Medicare Part A hospital insurance through the SSA, or
c. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

(3) *Dependents.* Dependents of retired uniformed services members entitled to retired pay, including TDRL and PDRL, non-regular Service retirees not yet age 60 not in receipt of retired pay; non-regular Service retirees entitled to retired pay in accordance with the provisions of 10 U.S.C. 12731 after the date of the enactment of section 647 of Public Law 110–181; and non-regular Service retirees, age 60 or over, in receipt of retired pay for non-regular service in accordance with 10 U.S.C. chapter 1223, are eligible for benefits as shown in Table 12 *to part 161.*

TABLE 12 TO PART 161—BENEFITS FOR DEPENDENTS OF RETIRED UNIFORMED SERVICES MEMBERS

	CHC	DC	C	MWR	E
Lawful Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	4	4.
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	6	6	6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 7	2, 7	3, 7	7	7.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	2, 3	3	4	4.

Notes:
1. Yes, if the sponsor is:
a. Retired (as shown in Tables 7 and 8) and the dependent is not entitled to Medicare Part A hospital insurance through the SSA; or if entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84;
b. A National Guard or Reserve member on a period of active duty in excess of 30 days (as shown in Table 10). When the ordered to active duty period is greater than 30 days the eligibility for CHC and DC for the eligible dependents begins on the first day of the active duty period; or
c. A medically eligible non-regular Service Reserve Retiree, age 60 or over, as shown in Table 11.

2. Yes, if the sponsor is:
a. Retired (as shown in Tables 7 and 8);
b. A National Guard or Reserve member on a period of active duty in excess of 30 days (as shown in Table 10). When the ordered to active duty period is greater than 30 days the eligibility for CHC and DC for the eligible dependents begins on the first day of the active duty period; or
c. A medically eligible non-regular Service Reserve Retiree, age 60 or over, as seen in Table 11.
3. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408(h).
4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
a. Is dependent on the member for over 50 percent support.
b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
7. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.14 Benefits for MOH recipients.

(a) This section describes the benefits for MOH recipients and their dependents who are authorized pursuant to section 706 of Public Law 106–398, ''National Defense Authorization Act for Fiscal Year 2001'' and who are not otherwise entitled to military medical and dental care. Section 706 of Public Law 106–398 authorized MOH recipients not otherwise entitled to military medical and dental care and their dependents to be given care in the same manner that such care is provided to former uniformed service members who are entitled to military retired pay and the dependents of those former members. Eligibility for the benefits described in Table 13 *to part 161* begins on the date of award of the MOH but no earlier than October 30, 2000.

TABLE 13 TO PART 161—BENEFITS FOR MOH RECIPIENTS AND DEPENDENTS

	CHC	DC	C	MWR	E
Self	1	2	Yes	Yes	Yes.
Lawful Spouse	1	2	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	2	3	4	4.
Ward	1, 5	2, 5	5	5	5.
Pre-adoptive Child	1, 6	2, 6	6	6	6.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 7	2, 7	3, 7	7	7.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	2, 3	3	4	4.

Notes:
1. Yes, if the sponsor is a MOH recipient and is not otherwise entitled to medical care as of or after October 30, 2000 pursuant to section 706 of Public Law 106–398 and:
a. Is not entitled to Medicare Part A hospital insurance through the SSA or
b. Is entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
2. Yes, if the sponsor is a MOH recipient and is not otherwise entitled to medical care as of or after October 30, 2000 pursuant to section 706 of Public Law 106–398.
3. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408.
4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
a. Is dependent on the member for over 50 percent support.
b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.

7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.15 Benefits for Disabled American Veterans (DAV).

(a) This section describes the benefits for DAVs rated as 100 percent disabled or 100 percent unemployable by the VA and their eligible dependents. Neither DAVs nor their eligible dependents receive CHC or DC benefits from the DoD based on their affiliation. Honorably discharged veterans rated by the VA as 100 percent disabled or 100 percent unemployable from a uniformed service-connected injury or disease and certified by VA, and their dependents, are eligible for benefits as shown in Table 14 *to part 161.*

TABLE 14 TO PART 161—BENEFITS FOR 100 PERCENT DAVS AND DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.
Lawful Spouse	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	No	No	1	2	2.
Pre-adoptive Child	No	No	4	4	4.
Children, Unmarried, 21 Years and Over	No	No	1, 5	5	5.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	No	1	2	2.

Notes:

1. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges. Exception: Children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service, or the dependent is entitled to privileges as a result of sponsor abuse pursuant to 10 U.S.C. 1408.

2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:

a. Is dependent on the member for over 50 percent support.

b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.

5. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.16 Benefits for transitional health care members and dependents.

This section shows the benefits for THC members and their eligible dependents. THC (formerly the TAMP) was instituted in section 502 of Public Law 101–510, ''Department of Defense Appropriations Bill Fiscal Year 1991'' effective October 1, 1990. Section 706 of Public Law 108–375, ''National Defense Authorization Act of for Fiscal Year 2005'' made the THC program permanent and made the medical eligibility 180 days for all eligible uniformed services members. Section 651 of Public Law 110–181 extended 2 years' commissary and exchange benefits to THC members. Section 734 of Public Law 110–417, ''National Defense Authorization Act for Fiscal Year 2009'' extended THC benefits to uniformed service members separating from active duty who agree to become members of the SelRes of the Ready Reserve of a reserve component. Uniformed service members separated as uncharacterized entry-level separations do not qualify for THC.

TABLE 15 TO PART 161—BENEFITS FOR THC MEMBERS AND DEPENDENTS

	CHC	DC	C	MWR	E
THC Member (Self)	1	1	2, 3, 4	2, 3, 4	2, 3, 4.
Lawful Spouse	1	1	2, 3, 4	2, 3, 4	2, 3, 4.
Children, Unmarried, Under 21 Years:					

TABLE 15 TO PART 161—BENEFITS FOR THC MEMBERS AND DEPENDENTS—Continued

	CHC	DC	C	MWR	E
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	1	2, 3, 4, 5	2, 3, 4, 6	2, 3, 4, 6.
Ward	1, 7	1, 7	2, 3, 4, 7	2, 3, 4, 7	2, 3, 4, 7.
Pre-adoptive Child	1, 8	1, 8	2, 3, 4, 8	2, 3, 4, 8	2, 3, 4, 8.
Foster Child	No	No	2, 3, 4, 5	2, 3, 4, 5	2, 3, 4, 5.
Children, Unmarried, 21 Years and Over	1, 9	1, 9	5, 9	9	9.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	1, 9	2, 3, 4, 5	2, 3, 4, 6	2, 3, 4, 6.

Notes:

1. Yes, medical entitlement for 180 days beginning on the date after the member separated from the qualifying active duty period. There is no exception based on entitlement to Medicare Part A. The THC eligible sponsor and eligible dependents receive the medical benefits as if they were active duty eligible dependents.
2. No, if the member separated on or after January 1, 2001 but before October 1, 2007; or if separated in accordance with 10 U.S.C. 1145(a)(2)(F).
3. No, if the member separated from active duty to join the SelRes or the Ready Reserve of a Reserve Component.
4. Yes, if the member was separated during the period beginning on October 1, 1990, through December 31, 2001, or after October 1, 2007. Entitlement shall be for 2 years, beginning on the date the member separated.
5. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse are not considered to be members of the authorized sponsor's household for commissary privileges, except children who reside with a former spouse meeting requirements for commissary privileges based on 20 years of marriage during a period the member or retired member performed 20 years of service.
6. Yes, if dependent on the authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).
7. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and:
   a. Is dependent on the member for over 50 percent support.
   b. Resides with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
8. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
9. Yes, if the child:
   a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or
   b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.17 Benefits for surviving dependents.

(a) This section describes the benefits for surviving dependents of active duty deceased uniformed services members, deceased National Guard and Reserve service members, deceased MOH recipients, and deceased 100 percent DAV.

(1) *Surviving dependents of active duty deceased members.* Surviving dependents of members who died while on active duty under orders that specified a period of more than 30 days or members who died while in a retired with pay status are eligible for benefits as shown in Table 16 *to part 161.*

TABLE 16 TO PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF ACTIVE DUTY DECEASED MEMBERS

	CHC	DC	C	MWR	E
Widow or widower:					
Unremarried	1	Yes	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, or Under 21 Years (Including Orphans):					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1	Yes	2	3	3.
Ward	1, 4	1, 4	4	4	4.
Pre-adoptive Child	1, 5	1, 5	5	5	5.
Foster Child	No	No	2	2	2.
Children, Unmarried, 21 Years and Over	1, 6	6	2, 6	6	6.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	2	2	3	3.

Notes:

1. Yes, if the sponsor died on active duty (for dependents of National Guard or Reserve members or Retired Reserve members the period of active duty must be in excess of 30 days in order to qualify for the benefits in this table) and:

a. If claims are filed less than 3 years from the date of death, there is no Medicare exception for the widow. After 3 years from the date of death, the widow is eligible if,

(1) Not entitled to Medicare Part A hospital insurance through the SSA.

(2) Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

b. Yes, for children regardless of the number of years from the date of death or entitlement to Medicare they are entitled.

2. Yes, if at the time of the sponsor's death, the person was living in a home provided by or for an authorized sponsor and was dependent on the sponsor for over 50 percent of his or her support. Children residing in the household of the authorized sponsor at the time of death are entitled to commissary privileges.

3. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support at the time of the sponsor's death or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

4. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

5. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.

6. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's death dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member and is or was at the time of the member's death dependent on the member for over 50 percent of the child's support.

(2) *Surviving dependents of deceased National Guard and Reserve members not on an active duty period greater than 30 days.* The surviving dependents of National Guard and Reserve Service members are eligible for the benefits shown in Table 17 *to part 161* if:

(i) The National Guard or Reserve member died from an injury or illness incurred or aggravated while on active duty for a period of 30 days or less, on active duty for training, or on inactive duty training, or while traveling to or from the place at which the member was to perform, or performed, such active duty, active duty for training, or inactive duty training pursuant to 10 U.S.C. 1076 and 1086(c)(2) and if death occurred on or after October 1, 1985; or

(ii) The National Guard or Reserve member died from an injury, illness, or disease incurred or aggravated while performing, or while traveling to or from performing active duty for a period of 30 days or less, or active duty for training, or inactive duty training, or while performing service on funeral honors in accordance with 10 U.S.C. 1074a and if death occurred on or after November 15, 1986.

TABLE 17 TO PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF DECEASED NATIONAL GUARD AND RESERVE MEMBERS NOT ON ACTIVE DUTY FOR A PERIOD GREATER THAN 30 DAYS

	CHC	DC	C	MWR	E
Widow or Widower:					
Unremarried	1, 2	2	2	2	2.
Remarried	No	No	No	No	No.
Unmarried	No	No	2	2	2.
Children, Unmarried, Under 21 Years (Including Orphans):	1, 2	2	2, 3	2, 4	2, 4.
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.					
Ward	1, 2, 5	2, 5	2, 5	2, 5	2, 5.
Pre-adoptive Child	1, 2, 6	2, 6	2, 6	2, 6	2. 6.
Foster Child	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	1, 2, 7	2, 7	2, 3, 7	2, 7	2, 7.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	2, 3	2, 3	2, 4	2, 4.

Notes:

1. Yes, if:

a. Not entitled to Medicare Part A hospital insurance through the SSA.

b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

2. Yes, only if death occurred on or after 1 October 1985 in accordance with the provisions of 10 U.S.C. 1076, or on or after November 15, 1986 in accordance with the provisions of 10 U.S.C. 1074a.

3. Yes, if at the time of the sponsor's death the person was living in a home provided by or for an authorized sponsor and was dependent on the sponsor for over 50 percent of his or her support. Children residing in the household of the authorized sponsor at the time of death, but not the household of the sponsor's former spouse, are entitled to commissary privileges.

4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support at the time of the sponsor's death or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

5. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

6. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.
7. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's death dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member and is or was at the time of the member's or former member's death dependent on the member for over 50 percent of the child's support.

(3) *Surviving dependents of deceased National Guard and Reserve members in receipt of their notice of eligibility (NOE), Retired Reserve members not yet age 60, and former members not in receipt of retired pay.* The surviving dependents of National Guard and Reserve members who have died before the age of 60 are eligible for the benefits shown in Table 18 *to part 161* if the deceased sponsor was:

(i) A Reserve member who had earned 20 qualifying years for retirement and received their NOE for retired pay at age 60, but HAD NOT transferred to the Retired Reserve.

(ii) A Retired Reserve member eligible for pay at age 60, not yet age 60.

(iii) A former member who had met time-in-service requirements.

TABLE 18 TO PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF NATIONAL GUARD AND RESERVE MEMBERS WHO HAVE DIED BEFORE AGE 60

	CHC	DC	C	MWR	E
Widow or Widower:					
Unremarried	1, 2	1	Yes, 8	Yes, 8	Yes, 8.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes, 8	Yes, 8	Yes, 8.
Children, Unmarried, Under 21 Years (Including Orphans):					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member whose paternity has been judicially determined or voluntarily acknowledged.	1, 2	1	3,8	4,8	4,8.
Ward	1, 2, 5	1, 5	3, 5, 8	4, 5, 8	4, 5, 8.
Pre-adoptive Child	1, 2, 6	1, 6	3, 6, 8	4, 6, 8	4, 6, 8.
Foster Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	1, 2, 7	1, 7	3, 7, 8	4, 7, 8	4, 7, 8.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	3, 8	3, 8	3, 8	3, 8.

Notes:
1. Yes, on or after the date the member would have become age 60.
2. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA or
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
3. Yes, if at the time of the sponsor's death, the person was living in a home provided by or for an authorized sponsor and was dependent on the sponsor for over 50 percent of his or her support. Children residing in the household of the authorized sponsor at the time of death, but not the household of the sponsor's former spouse, are entitled to commissary privileges. Medical care is only authorized on or after the date the uniformed service member would have become age 60.
4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support at the time of the sponsor's death or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).
5. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:
a. Dependent on the member for over 50 percent support.
b. Residing with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disibility or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
6. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.
7. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's or former member's death dependent on the former member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member and is, or was at the time of the member's or former member's death, dependent on the member or former member for over 50 percent of the child's support.
8. Eligible dependents of deceased former members who died prior to age 60 receive commissary, MWR, and exchange benefits. If the former member dies after applying for pay upon reaching age 60 then the eligible dependents are entitled to medical care only in accordance with notes 1 and 2 as applicable.

(4) *Surviving dependents of deceased uniformed services retirees or deceased MOH recipients.* The surviving dependents of deceased uniformed services retirees or deceased MOH recipients are eligible for the benefits shown in Table 19 *to part 161*.

TABLE 19 TO PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF DECEASED UNIFORMED SERVICES RETIREES AND DECEASED MOH RECIPIENTS

	CHC	DC	C	MWR	E
Widow or Widower:					
Unremarried	1, 2, 3	3, 4	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, illegitimate child of spouse.	1, 2, 3	3, 5	6	4	4.
Ward	1, 2, 3, 7	3, 4, 7	7	7	7.
Pre-adoptive Child	1, 2, 3, 8	3, 4, 8	8	8	8.
Foster Child	No	No	6	6	6.
Children, Unmarried, 21 Years and Over	1, 2, 3, 9	3, 4, 9	6, 9	9	9.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	6	4	4.

Notes:

1. Yes, if the deceased uniformed service member was a retired uniformed service member entitled to retired pay, including TDRL or PDRL, or a non-regular Service retiree, age 60 or over, in receipt of retired pay, and if the person is:
a. Not entitled to Medicare Part A hospital insurance through the SSA; or,
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
2. Yes, if the deceased MOH recipient was not otherwise entitled to medical care as of, or after October 30, 2000 in accordance with section 706 of Public Law 106–398 and if the person is:
a. Not entitled to Medicare Part A hospital insurance through the SSA; or,
b. Entitled to Medicare Part A, hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
3. No, if the deceased uniformed service member was a non-regular Service Retiree in accordance with the provision of 10 U.S.C. 12731 after the enactment of Public Law 110–181, sections 647 and 1106. The eligible surviving dependents will become eligible for CHC and DC on the anniversary of the 60th birthday of the deceased uniformed service member. Eligibility for CHC also requires that the person is:
a. Not entitled to Medicare Part A hospital insurance through the SSA; or,
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support at the time of the sponsor's death or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).
5. Yes, if the deceased was a retired uniformed services member entitled to retired pay, including TDRL or PDRL, or a non-regular Service retiree, age 60 or over, in receipt of retired pay, or a deceased MOH recipient not otherwise entitled to medical care as of or after, October 30, 2000, or a deceased non-regular Service retiree entitled in accordance with the provisions of 10 U.S.C. 12731 after the enactment of Public Law 110–181, sections 647 and 1106 on the anniversary of the 60th birthday of the deceased uniformed Service member.
6. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse are not considered to be members of the authorized sponsor's household for commissary privileges.
7. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:
a. Dependent on the member for over 50 percent support.
b. Residing with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.
8. Yes, if, for determinations of dependency made on or after October 5, 1994, and prior to the death of the member, the child had been placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.
9. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's or former member's death dependent on the former member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member and is or was at the time of the member's or former member's death dependent on the member or former member for over 50 percent of the child's support.

(5) *Surviving Dependents of 100 Percent DAVs.* Surviving dependents of honorably discharged veterans rated as 100 percent disabled or 100 percent unemployable by the VA from a uniformed services-connected injury or disease at the time of his or her death are eligible for benefits as shown in Table 20 *to part 161.*

TABLE 20 TO PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF 100 PERCENT DAVS

	CHC	DC	C	MWR	E
Widow or Widower: (DoD Beneficiary):					
Unremarried	No	No	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, illegitimate child of spouse.	No	No	1	4	4.
Ward	No	No	2	2	2.

TABLE 20 TO PART 161—BENEFITS FOR SURVIVING DEPENDENTS OF 100 PERCENT DAVS—Continued

	CHC	DC	C	MWR	E
Pre-adoptive Child	No	No	3	3	3.
Children, Unmarried, 21 Years and Over	No	No	1, 5	1, 5	1, 5.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	1	4	4.

Notes:

1. Yes, if at the time of the sponsor's death, the person was living in a home provided by or for an authorized sponsor and was dependent on the sponsor for over 50 percent of his or her support. Children residing in the household of the authorized sponsor at the time of death are entitled to commissary privileges.

2. Yes, if, for determination of dependency made on or after July 1, 1994, was placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months; and was at the time of the sponsor's death:

a. Dependent on the member for over 50 percent support.

b. Residing with the member or former member unless separated by the necessity of military service or to receive institutional care as a result of a disability or incapacitation or under such other circumstances as the administering Secretary may, by regulation, prescribe.

3. Yes, if, for determinations of dependency made on or after July 1, 1994, and prior to the death of the member, the child had been placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption.

4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support at the time of the sponsor's death or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

5. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is or was at the time of the member's or former member's death, dependent on the former member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member and is, or was at the time of the member's or former member's death, dependent on the member or former member for over 50 percent of the child's support.

§ 161.18 Benefits for abused dependents.

(a) Abused dependents of active duty uniformed services members entitled to retired pay based on 20 or more years of service who, on or after October, 23, 1992, while a member, have their eligibility to receive retired pay terminated as a result of misconduct involving the abuse of the spouse or dependent child pursuant to 10 U.S.C. 1408(h), are eligible for benefits as shown in Table 21. For the purposes of these benefits the eligible spouse or child may not reside in the household of the sponsor. See § 161.19 for additional information on abused dependents under the 10/20/10 former spouse rule.

TABLE 21 TO PART 161—BENEFITS FOR ABUSED DEPENDENTS OF RETIREMENT ELIGIBLE UNIFORMED SERVICES MEMBERS

	CHC	DC	C	MWR	E
Lawful Spouse	1, 2, 6	2, 6	2, 6	2, 6	2, 6.
Children, Unmarried, Under 18 Years:					
Legitimate, adopted, stepchild, pre-adoptive	1, 3	3	4	4	4.
Children, Unmarried, 18 Years and Over (If entitled above)	1, 4, 5	4, 5	4, 5	4, 5	4, 5.

Notes:

1. Yes, if:

a. Not entitled to Medicare Part A hospital insurance through the SSA.

b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.

2. Yes, if a court order provides for an annuity for the spouse.

3. Yes, if a member of the household where the abuse occurred.

4. Yes, if a member of the household where the abuse occurred and dependent on that sponsor for over 50 percent of his or her support at the time the abuse occurred.

5. Yes, if the child:

a. Is older than 18 years old and is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 18, or occurred before the age of 23 while a full-time student.

6. The spouse must have been married to the uniformed service member for at least 10 years, the uniformed service member must have completed 20 creditable years for retired pay, and they must have been married at least 10 years during the 20 years of creditable service (see § 161.19). The uniformed services shall prescribe specific procedures to verify the eligibility of an applicant.

(b) Dependents of active duty uniformed service members (who have served for a continuous period greater than 30 days) not entitled to retired pay who have received a dishonorable or bad-conduct discharge, dismissal from a uniformed service as a result of a court martial conviction for an offense involving physical or emotional abuse of the spouse or child, or was administratively discharged as a result of such an offense, separated on or after November 30, 1993, are eligible for transitional privileges in accordance with DoD Instruction 1342.24, ''Transitional Compensation for Abused Dependents'' (available at *http://www.dtic.mil/whs/directives/corres/pdf/134224p.pdf*). For the purposes of these benefits the eligible spouse or child may not reside in the household of the sponsor. A maximum of up to 36 months of medical benefits can be granted by the uniformed services to the transitional compensation dependent.

TABLE 22 TO PART 161—BENEFITS FOR ABUSED DEPENDENTS OF NON-RETIREMENT ELIGIBLE UNIFORMED SERVICES MEMBERS

	CHC	DC	C	MWR	E
Lawful Spouse	1, 2	2	2	2	2.
Children, Unmarried, Under 18 Years:					
Legitimate, adopted, and stepchild	1, 2	2	2	2	2.
Children, Unmarried, 18 Years and Over (If entitled above)	1, 2, 3	2, 3	2, 3	2, 3	2, 3.

Notes:
1. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA.
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
2. Yes, if
a. Residing with the member at the time of the dependent-abuse offense and not residing with the member while receiving transitional compensation for abused dependents.
b. Married to and residing with the member at the time of the dependent-abuse offense and while receiving transitional compensation for abused dependents.
3. Yes, if:
a. 18 years of age or older and incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or was when a punitive or other adverse action was carried out on the member) dependent on the member for over one-half of the child's support; or
b. 18 years of age or older, but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or was when a punitive or other adverse action was carried out on the member) dependent on the member for over one-half of the child's support.

§ 161.19 Benefits for former spouses.

(a) *20/20/20 former spouses.* Unremarried former spouses of a uniformed services member or retired member, married to the member or retired member for a period of at least 20 years, during which period the member or retired member performed at least 20 years of service that is creditable in determining the member's or retired member's eligibility for retired or retainer pay, or equivalent pay pursuant to 10 U.S.C. 1408 and 1072(2)(F), and the period of the marriage and the service overlapped by at least 20 years are eligible for benefits as shown in Tables 23 and 24 *to part 161.* The benefit eligibility period begins on qualifying date of divorce from the uniformed services member.

(1) *20/20/20 former spouses of an active duty, regular retired, or a non-regular retired sponsor at age 60.* 20/20/20 former spouses of an active duty, regular retired, or a non-regular retired sponsor at age 60 are eligible for benefits as shown in Table 23 *to part 161.*

TABLE 23 TO PART 161—BENEFITS FOR 20/20/20 FORMER SPOUSES OF ACTIVE DUTY, REGULAR RETIRED, AND NON-REGULAR RETIRED MEMBERS AT AGE 60

	CHC	DC	C	MWR	E
Former Spouse:					
Unremarried	1, 2	1	Yes	Yes	Yes.
Remarried	No	No	No	No	No.
Unmarried	No	No	Yes	Yes	Yes.

Notes:
1. Yes, if the former spouse certifies in writing that he or she has no medical coverage under an employer-sponsored health plan.
2. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA.
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance with the exception of those individuals who qualify in accordance with section 706 of Public Law 111–84.

(2) *20/20/20 former spouses of a national guard, reserve member, or retired reserve member under age 60.* (i) In the case of former spouses of National Guard, Reserve, or Retired Reserve members or former members who are entitled to retired pay at age 60, but have not yet reached age 60, the former spouse is only entitled to commissary, MWR, and exchange benefits as shown in Table 24 *to part 161.* When the Retired Reserve member or former member attains or would have attained, age 60, the former spouse will be entitled to benefits as shown in Table 23 *to part 161.*

(ii) In the case of former spouses of National Guard members or Reserve members ordered to active duty, or Retired Reserve members under age 60 recalled to active duty, they continue to receive benefits as shown in Table 24 *to part 161* if the orders are for a period of 30 days or less. If the National Guard member, Reserve member, or recalled Retired Reserve member is on active duty orders in excess of 30 days, the former spouse will receive benefits as shown in Table 23 *to part 161.*

TABLE 24 TO PART 161—BENEFITS FOR 20/20/20 FORMER SPOUSES FOR RETIRED RESERVE UNDER AGE 60

	CHC	DC	C	MWR	E
Former Spouse:					
Unremarried	No	No	Yes	Yes	Yes.
Remarried	No	No	No	No	No.

TABLE 24 TO PART 161—BENEFITS FOR 20/20/20 FORMER SPOUSES FOR RETIRED RESERVE UNDER AGE 60—Continued

	CHC	DC	C	MWR	E
Unmarried	No	No	Yes	Yes	Yes.

(b) *20/20/15 former spouses.* Unremarried former spouses described in paragraph (a)(1) of this section, with the period of overlap of marriage and the member's creditable service at least 15 years, but less than 20 years, are not eligible for the commissary, MWR, or exchange benefits.

(1) *20/20/15 former spouses of an active duty, regular retired, or a non-regular retired sponsor at age 60.* 20/20/15 former spouses of an active duty, regular retired, or a non-regular retired sponsor at age 60 are eligible for benefits as shown in Table 25 *to part 161.*

TABLE 25 TO PART 161—BENEFITS FOR 20/20/15 FORMER SPOUSES OF ACTIVE DUTY, REGULAR RETIRED, AND NON-REGULAR RETIRED AT AGE 60

	CHC	DC	C	MWR	E
Former Spouse:					
Unremarried	1, 2, 3	1, 3	No	No	No.
Remarried	No	No	No	No	No.
Unmarried	No	No	No	No	No.

Notes:
1. Yes, if former spouse certifies in writing that he or she has no medical coverage under an employer-sponsored health plan.
2. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA; or
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
3. Yes, if the:
a. Final decree of divorce, dissolution, or annulment of the marriage was before April 1, 1985; or
b. Marriage ended on, or after, September 29, 1988, entitlements shall exist for 1 year, beginning on the date of the divorce, dissolution, or annulment pursuant to 10 U.S.C. 1076 and 1072(2)(H).

(2) *20/20/15 former spouses of a retired reserve member under age 60.* (i) In the case of former spouses of Retired Reserve members or former members who are entitled to retired pay at age 60, but have not yet reached age 60, the former spouse has no entitlement under age 60. The benefit eligible period is 1 year from the date of divorce. If any period of eligibility extends beyond the Retired Reserve or former member's 60th birthday then the former spouse will receive benefits as shown in Table 25 *to part 161* for that period.

(ii) In the case of former spouses of Reserve members or Retired Reserve members under age 60 recalled to active duty on orders for a period of 30 days or less they are not entitled to any benefits as shown in Table 26 *to part 161.* If the Reserve member or recalled Retired Reserve member is on active duty orders in excess of 30 days, the former spouse will receive benefits as shown in Table 25 *to part 161* if they are within 1 year from the date of divorce from the uniformed service member.

TABLE 26 TO PART 161—BENEFITS FOR 20/20/15 FORMER SPOUSES OF A RETIRED RESERVE MEMBER UNDER AGE 60

	CHC	DC	C	MWR	E
Former Spouse:					
Unremarried	No	No	No	No	No.
Remarried	No	No	No	No	No.
Unmarried	No	No	No	No	No.

(c) *10/20/10 former spouses.* Unremarried former spouses of a member or retired member, married to the member or retired member for a period of at least 10 years to a member or retired member who performed at least 20 years of service that is creditable in determining the member's or retired member's eligibility for retired or retainer pay, when the period of overlap of marriage and the member's creditable service was at least 10 years and the former spouse is in receipt of an annuity as a result of the member being separated from the service due to misconduct involving dependent abuse pursuant to 10 U.S.C. 1408(h), are eligible for benefits as shown in Table 27 *to part 161.*

TABLE 27 TO PART 161—BENEFITS FOR 10/20/10 FORMER SPOUSES

	CHC	DC	C	MWR	E
Former Spouse:					
Unremarried	1, 2	1, 2	Yes	Yes	Yes
Remarried	No	No	No	No	No.

TABLE 27 TO PART 161—BENEFITS FOR 10/20/10 FORMER SPOUSES—Continued

	CHC	DC	C	MWR	E
Unmarried	1, 2	1, 2	Yes	Yes	Yes.

Notes:
1. Yes, if:
a. Not entitled to Medicare Part A hospital insurance through the SSA.
b. Entitled to Medicare Part A hospital insurance and enrolled in Medicare Part B medical insurance or qualified as an exception in accordance with section 706 of Public Law 111–84.
2. The spouse must have been married to the uniformed service member for at least 10 years, the uniformed service member must have completed 20 creditable years for retired pay, and they must have been married at least 10 years during the 20 years of creditable service (see § 161.18, paragraph (a)(1)). The uniformed services shall prescribe specific procedures to verify the eligibility of an applicant.

§ 161.20 Benefits for civilian personnel.

(a) Civilian personnel may be eligible for certain benefits described in this section based on their affiliation with DoD, Service-specific guidelines, or other authorizing conditions. The definition of ''civilian personnel'' (e.g., civilian employee, DoD contractor, Red Cross employee) is specific to each benefit set described.

(1) Civilian personnel in the United States, to include civilian employees of the DoD and other Government agencies, as well as DoD contractors and personnel covered by PL 91–648 (also known and hereinafter referred to as Public Law 91–648, ''Intergovernmental Personnel Act'' (IPA)), may be issued a DoD ID card as a condition of employment or assignment in accordance with subpart B of this part. Civilian personnel in the United States are eligible for benefits as shown in Table 28 *to part 161.*

TABLE 28 TO PART 161—BENEFITS FOR CIVILIAN EMPLOYEES IN THE UNITED STATES

	CHC	DC	C	MWR	E
Self	No	No	No	1	No.
Dependents	No	No	No	No	No.

Note:
1. In accordance with DoD Instruction 1015.10, retired DoD civilian employees are eligible, on a space available basis, to the limited use of MWR facilities based on the discretion of the installation commander.

(2) Civilian personnel required to reside on a military installation within the CONUS, Hawaii, or Alaska and their dependents, when residing in the same household, are eligible for benefits as shown in Table 29 *to part 161.* For the purposes of this benefit set, ''civilian personnel'' includes civilian DoD employees and IPA personnel.

TABLE 29 TO PART 161—BENEFITS FOR CIVILIAN PERSONNEL AND DEPENDENTS WHEN REQUIRED TO RESIDE ON A MILITARY INSTALLATION IN CONUS, HAWAII, OR ALASKA

	CHC	DC	C	MWR	E
Self	No	No	1	Yes	2.
Lawful Spouse	No	No	1	Yes	2.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, or illegitimate child of spouse.	No	No	1, 3	3	2, 3.
Ward	No	No	1, 3, 4	3, 4	2, 3, 4.
Pre-adoptive	No	No	1, 3, 5	3, 5	2, 3, 5.
Foster Child	No	No	1, 3	3	2, 3.
Children, Unmarried, 21 Years and Over	No	No	1, 6	6	2, 6.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	No	1, 3	3	2, 3.

Notes:
1. Yes, but commissary privileges do not include the purchase of tobacco products in those States, including the District of Columbia, that impose a tax on such products.
2. Yes, are entitled to limited exchange privileges, which include purchase of all items except uniform articles and State tax-free items.
3. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
4. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
5. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
6. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member and is, dependent on the member or former member for over 50 percent of the child's support.

(3) DoD civilian personnel stationed or employed outside the continental United States (OCONUS) and their accompanying dependents, when residing in the same household, are eligible for benefits as shown in Table

30. For the purposes of this benefit set, ''civilian personnel'' includes civilian DoD employees, DoD contractors, and IPA personnel. Overseas commanders may never authorize benefits not authorized by this section, but they may deny privileges indicated when base support facilities cannot handle the burden imposed.

TABLE 30 TO PART 161—BENEFITS FOR DOD CIVILIAN PERSONNEL STATIONED OCONUS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee, or Illegitimate child of spouse.	No	1, 2	2	2	2.
Ward	No	1, 2, 3	2, 3	2, 3	2, 3.
Pre-adoptive	No	1, 2, 4	2, 4	2, 4	2, 4.
Foster Child	No	No	2	2	2
Children, Unmarried, 21 Years and Over	No	1, 5	5	5	5.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	No	1, 2	2	2.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Medical care at uniformed services facilities shall be rendered in accordance with Service instructions. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
5. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b.Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member and is, dependent on the member for over 50 percent of the child's support.

(4) Civilian personnel of non-DoD Government agencies stationed or employed OCONUS, and their dependents, when residing in the same household, are eligible for benefits as shown in Table 31. For the purposes of this benefit set, ''civilian personnel'' includes civilian employees of non-DoD Government agencies (e.g., Federal employees of the Department of State). Commissary, MWR, and exchange privileges are authorized by overseas commanders to the persons designated in Table 31 when it is within the capability of the facilities and it shall not impair the military mission. Overseas commanders may never authorize benefits beyond those authorized by this section, but they may deny privileges indicated when base support facilities cannot handle the burden imposed.

TABLE 31 TO PART 161—BENEFITS FOR NON-DOD GOVERNMENT AGENCIES CIVILIAN PERSONNEL STATIONED OR EMPLOYED OCONUS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee, or Illegitimate child of spouse.					
Ward	No	1, 2, 3	2, 3	2, 3	2, 3.
Pre-adoptive	No	1, 2, 4	2, 3	2, 4	2, 4.
Foster Child	No	No	2	2	2.
Children, Unmarried, 21 Years and Over	No	1, 5	5	5	5.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	1, 2	2	2	2.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Medical care at uniformed services facilities shall be rendered in accordance with Service instructions. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
5. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member and is, dependent on the member or former member for over 50 percent of the child's support.

(5) Civilian personnel stationed or employed in Puerto Rico or Guam and their dependents, when residing in the same household, are eligible for benefits as shown in Table 32. For the purposes of this benefit set, ''civilian personnel'' includes civilian DoD employees under a valid transportation agreement, as well as civilian employees of other Government agencies, DoD contractors, and IPA personnel.

TABLE 32 TO PART 161—BENEFITS FOR CIVILIAN PERSONNEL STATIONED OR EMPLOYED IN PUERTO RICO OR GUAM AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	2	Yes	3.
Lawful Spouse	No	1	2	Yes	3.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee or illegitimate child of spouse.	No	1, 4	2, 4	4	3, 4.
Ward	No	1, 4, 5	2, 4, 5	4, 5	3, 4, 5.
Pre-adoptive	No	1, 4, 6	2, 4, 6	4, 6	3, 4, 6.
Foster Child	No	No	2, 4	2, 4	2, 3, 4.
Children, Unmarried, 21 Years and Over	No	1, 7	2, 7	7	3, 7.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	1, 4	2, 4	4	3, 4.

Notes:

1. Yes, on a space-available, fully reimbursable basis only if residing in a household on a military installation. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. In cases where deviations are granted by the Secretary of a Military Department or the Commander of a Combatant Command permitting access to commissary and exchange to non-DoD Federal employees and employees of firms under contract to the U.S. Government, the installation commander shall establish procedures to verify status, maintain databases, and issue appropriate identification.
3. Yes, are entitled to limited exchange privileges, which include purchase of all items except articles of uniform and State tax-free items.
4. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
5. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
6. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
7. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(6) DoD OCONUS hires are foreign nationals in host countries who are employed by U.S. forces, consistent with any agreement with the host country as defined in Volume 1231 of DoD Instruction 1400.25. They are entered into DEERS for the purposes of issuing a CAC and are not eligible for benefits as shown in Table 33 *to part 161.*

TABLE 33 TO PART 161—BENEFITS FOR DOD OCONUS HIRES

	CHC	DC	C	MWR	E
Self	No	No	No	No	No.

(7) Uniformed and non-uniformed full-time paid personnel of the Red Cross assigned to duty with the uniformed services within the CONUS, Hawaii, Alaska, and Puerto Rico and their accompanying dependents, when required to reside in the same household on a military installation are eligible for benefits as shown in Table 34 *to part 161.*

TABLE 34 TO PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE RED CROSS ASSIGNED TO DUTY WITH THE UNIFORMED SERVICES IN CONUS, HAWAII, OR ALASKA AND REQUIRED TO RESIDE ON A MILITARY INSTALLATION AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	1.
Lawful Spouse	No	No	Yes	Yes	1.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee, or illegitimate child of spouse.	No	No	2	2	1, 2.
Ward	No	No	2, 3	2, 3	1, 2, 3.
Children, Unmarried, 21 Years and Over	No	No	4	4	1, 4.

TABLE 34 TO PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE RED CROSS ASSIGNED TO DUTY WITH THE UNIFORMED SERVICES IN CONUS, HAWAII, OR ALASKA AND REQUIRED TO RESIDE ON A MILITARY INSTALLATION AND ACCOMPANYING DEPENDENTS—Continued

	CHC	DC	C	MWR	E
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	No	2	2	1, 2.

Notes:
1. If authorized by installation commander, entitled to exchange privileges.
2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
5. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(8) Uniformed and non-uniformed full-time paid personnel of the Red Cross assigned to duty with the uniformed services OCONUS and their accompanying dependents, when residing in the same household, are eligible for benefits as shown in Table 35 *to part 161.*

TABLE 35 TO PART 161—BENEFITS FOR FULL-TIME PAID PERSONNEL OF THE RED CROSS ASSIGNED TO DUTY WITH THE UNIFORMED SERVICES OCONUS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee or illegitimate child of spouse.	No	1, 2	2	2	2.
Ward	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	No	1, 4	4	4	4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption	No	1, 2	2	2	2.

Notes:
1. Yes, on a space-available basis at rates specified in uniformed services instructions. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(9) Area executives, center directors, and assistant directors of the United Service Organizations (USO) serving OCONUS and their accompanying dependents when residing in the same household are eligible for benefits as shown in Table 36 *to part 161.*

TABLE 36 TO PART 161—BENEFITS FOR AREA EXECUTIVES, CENTER DIRECTORS, AND ASSISTANT DIRECTORS OF THE USO AND ACCOMPANYING DEPENDENTS SERVING OCONUS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, or illegitimate child of spouse.	No	1, 2	2	2	2.
Ward	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	No	1, 4	4	4	4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	1, 2	2	2	2.

Notes:
1. Yes, on a space-available, fully reimbursable basis. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.
2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(10) USS personnel serving OCONUS and their accompanying dependents, when residing in the same household, are eligible for benefits as shown in Table 37 *to part 161.*

TABLE 37 TO PART 161—BENEFITS FOR USS PERSONNEL SERVING OCONUS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of employee, or illegitimate child of spouse.	No	1, 2	2	2	2.
Ward	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	No	1, 4	4	4	4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	1, 2	2	2	2.

Notes:

1. Yes, on a space-available, fully reimbursable basis. Additional guidelines are contained in DoD Instruction 1100.22 and Volume 1231 of DoD Instruction 1400.25.

2. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support.

3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.

4. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(11) MSC civil service Marine personnel deployed OCONUS on MSC-owned and operated vessels are eligible for benefits as shown in Table 38 *to part 161.*

TABLE 38 TO PART 161—BENEFITS FOR MSC PERSONNEL DEPLOYED OCONUS ON MSC-OWNED AND OPERATED VESSELS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	2.

Notes:

1. Yes, on a space-available, fully reimbursable basis.

2. Entitled to limited exchange privileges, which includes purchase of all items except distinctive uniform items and State tax-free items.

(12) Ship's officers and members of the crews of NOAA vessels are eligible for benefits in accordance with 33 U.S.C. 3074 as shown in Table 39. Ship's officers are not commissioned officers, but civilian employees of NOAA.

TABLE 39 TO PART 161—BENEFITS FOR SHIP'S OFFICERS AND MEMBERS OF THE CREWS OF NOAA VESSELS

[NOAA Wage Mariner Employees]

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.
Lawful Spouse	No	No	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, Illegitimate child of employee, or Illegitimate child of spouse.	No	No	1	1	1.
Ward	No	No	1, 2	1, 2	1, 2.
Pre-adoptive	No	No	1, 3	1, 3	1, 3.
Foster Child	No	No	1	1	1.
Children, Unmarried, 21 Years and Over	No	No	4	4	4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent-by-Adoption.	No	No	1	1	1.

Notes:

1. Yes, if dependent on an authorized sponsor for over 50 percent of his or her support or children of a sponsor residing in the household of a former spouse (20–20–20 or 10–20–10).

2. Yes if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
3. Yes if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member.
4. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(13) Officers and crews of vessels, lighthouse keepers, and depot keepers of the former Lighthouse Service are eligible for benefits as shown in Table 40 *to part 161.*

TABLE 40 TO PART 161—BENEFITS FOR OFFICERS AND CREWS OF VESSELS, LIGHTHOUSE KEEPERS AND DEPOT KEEPERS OF THE FORMER LIGHTHOUSE SERVICE

	CHC	DC	C	MWR	E
Self	No	No	Yes	Yes	Yes.

(14) Presidential appointees who have been confirmed by the Senate (PASs), non-career and career SES employees, and SES equivalents of the DoD and the Military Services are eligible for benefits as shown in Table 41 *to part 161.*

TABLE 41 TO PART 161—BENEFITS FOR PRESIDENTIAL APPOINTEES

	CHC	DC	C	MWR	E
Self	No	1	No	No	No.

Note:
1. Designation for PASs and other designated civilian officials within the DoD and the Military Departments. This is a specific reimbursable care value at the interagency rate outside the National Capital Region.

(15) Contract surgeons overseas during the period of their contract are eligible for benefits as shown in Table 42 *to part 161.*

TABLE 42 TO PART 161—BENEFITS FOR CONTRACT SURGEONS OVERSEAS

	CHC	DC	C	MWR	E
Self	No	No	No	Yes	Yes.

(16) State employees of the National Guard may be identified in DEERS for the purpose of issuing a CAC to access DoD networks. There are no benefits assigned and no dependent benefits are extended as shown in Table 43 *to part 161.*

TABLE 43 TO PART 161—BENEFITS FOR STATE GUARD EMPLOYEES

	CHC	DC	C	MWR	E
Self	No	No	No	No	No.

§ 161.21 Benefits for retired civilian personnel.

(a) *Retired DoD civilian employees.* Retired appropriated and NAF employees of the DoD are eligible for benefits as shown in Table 44 *to part 161.*

TABLE 44 TO PART 161—BENEFITS FOR RETIRED DOD CIVILIAN EMPLOYEES

	CHC	DC	C	MWR	E
Self	No	No	No	1	No.

Note:
1. In accordance with DoD Instruction 1015.10, retired DoD civilian employees are eligible, on a space available basis, to the limited use of MWR facilities based on the discretion of the installation commander. The August 26, 2008, USD(P&R) Memorandum, ''Department of Defense Civilian Retiree Identification Cards'' authorized the issuance of a DoD ID card to this population.

(b) *Retired NOAA Wage Mariner employees and their eligible dependents.* Retired NOAA Wage Mariners (retired ship's officers and members of the crews of NOAA vessels) are eligible for benefits in accordance with 33 U.S.C. 3074 as shown in Table 45 *to part 161.*

TABLE 45 TO PART 161—BENEFITS FOR RETIRED NOAA WAGE MARINER EMPLOYEES AND THEIR ELIGIBLE DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	No	Yes	No	Yes.
Lawful Spouse	No	No	Yes	No	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of record of female member, or illegitimate child of male member, whose paternity has been judicially determined.	No	No	1	No	1.
Ward	No	No	1, 2	No	1, 2.
Pre-adoptive Child	No	No	1, 3	No	1, 3.
Foster Child	No	No	1	No	1.
Children, Unmarried, 21 Years and Over	No	No	1, 4	No	1, 4.

Notes:

1. Yes, if a member of a household maintained by or for an authorized sponsor and dependent on that sponsor for over 50 percent of his or her support. Children residing in the household of a separated spouse continue to be eligible for commissary privileges until there is a final divorce decree. In the case of a divorce, children residing in the household of a former spouse ARE NOT considered to be members of the authorized sponsor's household for commissary privileges.
2. Yes, if, for determinations of dependency made on or after July 1, 1994, placed in the legal custody of the member or former member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
3. Yes, if, for determinations of dependency made on or after October 5, 1994, placed in the home of the member or former member by a placement agency (recognized by the Secretary of Defense) or by another source authorized by State or local law to provide adoption placement, in anticipation of the legal adoption by the member or former member.
4. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the former member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member or former member, and is dependent on the member or former member for over 50 percent of the child's support.

§ 161.22 Benefits for foreign affiliates.

(a) *Sponsored NATO and PFP personnel in the United States.* Active duty officer and enlisted personnel of NATO and PFP countries serving in the United States under the sponsorship or invitation of the DoD or a Military Service and their accompanying dependents living in the sponsor's U.S. household are eligible for benefits as shown in Table 46 *to part 161.*

TABLE 46 TO PART 161—BENEFITS FOR SPONSORED NATO AND PFP PERSONNEL AND ACCOMPANYING DEPENDENTS IN THE UNITED STATES

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	2	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:.					
Legitimate, adopted, stepchild Illegitimate child of member, or Illegitimate child of spouse.	2, 3	1, 3	3	3	3.
Ward	No	No	3, 4	3, 4	3, 4.
Children, Unmarried, 21 Years and Over	2, 3, 5	1, 3, 5	1, 5	1, 5	1, 5.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	3	3	3.

Notes:

1. Yes, for outpatient care no charge and for inpatient care at full reimbursable rate.
2. Yes, for outpatient care only.
3. Yes, if residing in the household of the foreign service member in the United States.
4. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
5. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(b) *Sponsored non-NATO personnel in the United States.* Active duty officer and enlisted personnel of non-NATO countries serving in the United States under DoD or Service sponsorship or invitation and their dependents, living in the non-NATO personnel's U.S. household, are eligible for benefits as shown in Table 47 *to part 161.*

TABLE 47 TO PART 161—BENEFITS FOR SPONSORED NON-NATO PERSONNEL AND ACCOMPANYING DEPENDENTS IN THE UNITED STATES

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	No	1, 3	2	2	2.
Ward	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	No	1, 2, 4	2, 4	2, 4	2, 4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	2	2	2.

Notes:
1. Yes, for outpatient care only on a reimbursable basis.
2. Yes, if residing in the household of the foreign service member in the United States.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(c) *Non-sponsored NATO personnel in the United States.* Active duty officer and enlisted personnel of NATO countries who, in connection with their official NATO duties, are stationed in the United States but are not under DoD or Service sponsorship and their accompanying dependents living in the non-sponsored NATO personnel's U.S. household are eligible for benefits as shown in Table 48 *to part 161.*

TABLE 48 TO PART 161—BENEFITS FOR NON-SPONSORED NATO AND PFP PERSONNEL IN THE UNITED STATES AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	No	Yes	Yes.
Lawful Spouse	2	1	No	No	No.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	2, 3	1, 3	No	No	No.
Ward	No	No	No	No	No.
Children, Unmarried, 21 Years and Over	2, 3, 4	1, 3, 4	No	No	No.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	No	No	No.

Notes:
1. Yes, for outpatient care no charge and for inpatient care at full reimbursable rate.
2. Yes, for outpatient care only.
3. Yes, if residing in the household of the foreign service member in the United States.
4. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

(d) *NATO and non-NATO personnel OCONUS.* Active duty officer and enlisted personnel of NATO and non-NATO countries serving OCONUS and outside their own country under DoD or Service sponsorship or invitation and their accompanying dependents living with the sponsor are eligible for benefits as shown in Table 49 *to part 161.* These benefits may be extended to this category of personnel not under DoD or Service sponsorship or invitation when it is determined by the major overseas commander that the granting of such privileges is in the best interests of the United States and such personnel are connected with, or their activities are related to, the performance of functions of the Service establishment.

TABLE 49 TO PART 161—BENEFITS FOR NATO, PFP, AND NON-NATO PERSONNEL OCONUS AND ACCOMPANYING DEPENDENTS

	CHC	DC	C	MWR	E
Self	No	1	Yes	Yes	Yes.
Lawful Spouse	No	1	Yes	Yes	Yes.
Children, Unmarried, Under 21 Years:.					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	No	1, 2	2	2	2.

TABLE 49 TO PART 161—BENEFITS FOR NATO, PFP, AND NON-NATO PERSONNEL OCONUS AND ACCOMPANYING DEPENDENTS—Continued

	CHC	DC	C	MWR	E
Ward	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	No	1, 2, 3	2, 4	2, 4	2, 4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	2	2	2.

Notes:
1. Yes, for outpatient care only on a reimbursable basis.
2. Yes, if residing in the household of the foreign service member and dependent on over 50 percent support.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if the child:
a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or
b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support

(e) *Korean Augmentation to the U.S. Army (KATUSA).* Military service is mandatory for all Republic of Korea (ROK) male citizens. Those male citizens who speak English often become KATUSA serving with the U.S. Army forces in the ROK. This arrangement is provided for in the status of forces agreement between the United States and ROK. The KATUSAs are identified in DEERS for the purpose of issuing CACs for access to the U.S. installations in the ROK. No other benefits are provided as shown in Table 50 *to part 161.*

TABLE 50 TO PART 161—BENEFITS FOR KATUSA

	CHC	DC	C	MWR	E
Self	No	No	No	No	No.

(f) *Foreign national civilians.* Civilian employees of a foreign government who are assigned a support role with the DoD or Military Services or attending school at one of the DoD or uniformed services advanced schools may be identified in DEERS for the purpose of issuing a CAC. The foreign national civilian must be sponsored by the DoD or a Military Service regardless of whether the foreign national civilian is from a NATO, PFP, or non-NATO country. There are no benefits assigned and no dependent benefits are extended as shown in Table 51 *to part 161.*

TABLE 51 TO PART 161—BENEFITS FOR FOREIGN NATIONAL CIVILIANS

	CHC	DC	C	MWR	E
Self	No	No	No	No	No.

(g) *Foreign National Contractors.* Contractor personnel, contracted to a foreign government, who are assigned a support role with the DoD or Military Services or as a representative of a foreign government at one of the DoD or uniformed services advanced schools may be identified in DEERS for the purpose of issuing a CAC for physical and logical access requirements. The foreign national contractor must be sponsored by the DoD or a Military Service regardless of whether the foreign national civilian is from a NATO, PFP, or a non-NATO country. There are no benefits assigned and no dependent benefits are extended as shown in Table 52 *to part 161.*

TABLE 52 TO PART 161—BENEFITS FOR FOREIGN NATIONAL CONTRACTORS

	CHC	DC	C	MWR	E
Self	No	No	No	No	No.

(h) *Personnel Covered by a Reciprocal Health Care Agreement (RHCA) in the United States.* For countries that have bilateral RHCAs with the DoD, RHCAs provide that a limited number of foreign force members and their dependents in the United States may be provided inpatient medical care at MTFs on a space-available basis without cost (except for a subsistence charge, if it applies). Provision of such care is contingent on comparable care being made available to a comparable number of U.S. military personnel and their dependents in the foreign country. Benefits are provided as shown in Table 53 *to part 161.*

TABLE 53 TO PART 161—BENEFITS FOR FOREIGN FORCE MEMBERS AND ELIGIBLE DEPENDENTS RESIDING IN THE UNITED STATES WHO ARE COVERED BY AN RHCA

	CHC	DC	C	MWR	E
Self	No	1	5	6	7.
Lawful Spouse	No	1	5	6	7.
Children, Unmarried, Under 21 Years:					
Legitimate, adopted, stepchild, illegitimate child of member, or illegitimate child of spouse.	No	1, 2	2	2	2.
Ward	No	No	2, 3	2, 3	2, 3.
Children, Unmarried, 21 Years and Over	No	1, 2, 4	2, 4	2, 4	2, 4.
Father, Mother, Father-in-Law, Mother-in-Law, Stepparent, or Parent by Adoption.	No	No	2	2	2.

Notes:

1. As determined by the appropriate RHCA.
2. Yes, if residing in the household of the foreign force member in the United States.
3. Yes, if, for determination of dependency made on or after July 1, 1994, placed in the legal custody of the member as a result of a court of competent jurisdiction in the United States (or possession of the United States) for a period of at least 12 consecutive months.
4. Yes, if the child:

a. Has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary, and is dependent on the member for over 50 percent of the child's support; or

b. Is incapable of self-support because of a mental or physical incapacity that existed before age 21, or occurred before the age of 23 while a full-time student, while a dependent of a member, and is dependent on the member for over 50 percent of the child's support.

5. Yes, if authorized by DoD Instruction 1330.17.
6. Yes, if authorized by DoD Instruction 1015.10.
7. Yes, if authorized by DoD Instruction 1330.21.

Dated: December 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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