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# FEDERAL REGISTER

Vol. 79 Monday,

No. 8 January 13, 2014

Pages 2075–2358

OFFICE OF THE FEDERAL REGISTER

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## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

### 7 CFR Parts 400, 407 and 457

**[Docket No. FCIC–11–0009]**

**RIN 0563–AC26**

## General Administrative Regulations; Mutual Consent Cancellation; Food Security Act of 1985, Implementation; Denial of Benefits; and Ineligibility for Programs Under the Federal Crop Insurance Act

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) finalizes the General Administrative Regulations to revise regulations addressing Ineligibility for Programs under the Federal Crop Insurance Act. The intended effect of this action is to eliminate redundancies, improve clarity, remove or update obsolete references, and add references to other provisions regarding ineligibility for Federal crop insurance.

**DATES:** *Effective date:* This rule is effective February 12, 2014.

*Applicability date:* The changes will apply for the 2015 and succeeding crop years for all crops with a contract change date after February 12, 2014.

**FOR FURTHER INFORMATION CONTACT:** Tim Hoffmann, Product Administration and Standards Division, Risk Management Agency, United States Department of Agriculture, Beacon Facility, Stop 0812, Room 421, P.O. Box 419205, Kansas City, MO 64141–6205, telephone (816) 926–7730.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule is not-significant for the purpose of Executive Order 12866 and, therefore, it has not been reviewed by OMB.

### Paperwork Reduction Act of 1995

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0563–0085, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

### E-Government Act Compliance

FCIC is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

### Executive Order 13132

It has been determined under section 1(a) of Executive Order 13132, Federalism, that this rule does not have sufficient implications to warrant consultation with the States. The provisions contained in this rule will not have a substantial direct effect on States, or on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

### Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

### Regulatory Flexibility Act

FCIC certifies that this regulation will not have a significant economic impact on a substantial number of small entities. Program requirements for the Federal crop insurance program are the same for all producers regardless of the size of their farming operation. However, FCIC does waive certain administrative fees for limited resource farmers to help ensure that small entities are given the same opportunities as large entities to obtain crop insurance. This regulation provides the rules regarding ineligibility for crop insurance under the Act based on actions or inactions of the producer, such as violations of the Controlled Substance Act, debarment from Federal government programs, and failure to pay premiums and administrative fees when due. As such, all producers are treated equally under this regulation. A Regulatory Flexibility Analysis has not been prepared since this regulation does not have an unduly burdening impact on small entities, and therefore, this regulation is exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605).

### Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

### Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

### Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988 on civil justice reform. The provisions of this rule will not have a retroactive effect. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith.

**Environmental Evaluation**

This action is not expected to have a significant economic impact on the quality of the human environment, health, or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

**Background**

This rule finalizes changes to 7 CFR part 400 by revising subpart U—Ineligibility for Programs Under the Federal Crop Insurance Act that were published by FCIC on December 5, 2011, as a notice of proposed rulemaking in the **Federal Register** at 76 FR 75799—75805. The public was afforded 61 days to submit comments after the regulation was published in the **Federal Register**.

A total of 25 comments were received from 4 commenters. The commenters were insurance providers and an insurance service organization.

The public comments received regarding the proposed rule and FCIC's responses to the comments are as follows:

*General Comment*

*Comment:* A commenter questioned whether the provisions in the proposed rule would apply only to convictions that occur after the effective date of the final rule.

*Response:* Yes. The laws and regulations in effect at the time of a conviction will apply.

*Section 400.677 Definitions*

*Comment:* A commenter stated the definition of ''conviction'' is vague, will lead to delays in determinations, and is unclear what the effective date of the conviction will be for purposes of determining ineligibility.

*Response:* FCIC does not agree the definition of ''conviction'' is vague or will result in delays in determinations. The definition only defines the term; it does not include provisions regarding the effective date or consequences of a conviction. The effective date and duration of ineligibility due to a conviction is provided in section 400.683. No changes were made as a result of this comment.

*Comment:* A commenter questioned the phrase ''functional equivalent of a judgment'' within the definition of ''conviction,'' and states the definition of the term ''conviction'' should be limited to ''criminal judgments.''

*Response:* FCIC agrees the reference to other resolutions that are the functional equivalent of a judgment is not necessary because the definition already includes the phrase ''a judgment or any other determination of guilt.'' The commenter did not define ''criminal judgment'' or state how it would differ from the proposed definition of ''conviction'' which includes ''a judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction.'' Accordingly, the reference to other resolutions that are the functional equivalent of a judgment were removed in the final rule; however, no change was made to limit the definition to ''criminal judgments.''

*Comment:* A commenter questioned what role the Excluded Parties List System (EPLS) plays in the Ineligible Tracking System (ITS) for the insurance provider.

*Response:* The EPLS and ITS are separate sources of data, each with a separate function and purpose. ITS is a list of persons who have been determined to be ineligible for crop insurance because of various reasons related to the crop insurance program. This list is created and maintained by FCIC. The EPLS is a list of persons who have met the criteria for inclusion and whose names were submitted by all government agencies to the General Services Administration (GSA). GSA creates and maintains the EPLS. Therefore, to the extent that FCIC reports to GSA ineligible persons who meet the criteria for inclusion in the EPLS, there is some overlap of the two lists. However, there are persons on the EPLS who may not appear on the ITS because of violations related to other government programs. Similarly, there are persons included on the ITS who do not appear on the ELPS because they do not meet the criteria from inclusion. There is no role for the insurance provider regarding submitting data to the EPLS. However, insurance providers are precluded from insuring or doing business with anyone on the ITS or the EPLS. Therefore, the insurance provider is required to check both the ITS and EPLS to ensure that it is not insuring or doing business with an ineligible person.

*Comment:* A commenter questioned whether the definition of the EPLS will change how the insurance provider transmits or receives information.

*Response:* The rule does not provide instructions regarding how insurance providers transmit or receive any applicable information regarding the EPLS. Since the ELPS is maintained by GSA, GSA will provide information to the public on how it can be accessed. This rule is just intended to provide notice to the insurance providers that they do need to access to EPLS to ensure that it is not insuring or doing business with an ineligible person.

*Comment:* A commenter questioned the timeframe for the ''meaningful opportunity to contest'' and whether the definition of ''meaningful opportunity to contest'' is a change from the notification process provided in the 2011 Ineligible Tracking System Handbook that allows 30 days from the date of Notice of Debt for the insured to challenge the debt.

*Response:* Nothing in this rule is intended to change the established time frames for filing for mediation, arbitration or judicial review contained in existing regulations, policy provisions, and procedures. To the extent that any time frame will be changed, such change will occur in the applicable regulation, policy provision, or procedure. Therefore, no changes have been made as a result of this comment.

*Comment:* A commenter questioned whether the term ''Livestock Price Reinsurance Agreement'' should be defined and whether the provisions of the rule apply to policies covered under the Livestock Price Reinsurance Agreement.

*Response:* The provisions contained within 7 CFR, part 400, subpart U apply to all policies insured under the Federal Crop Insurance Act, including those reinsured under the Livestock Price Reinsurance Agreement. FCIC agrees the term ''Livestock Price Reinsurance Agreement'' should be defined in the final rule. The definition was added and the term was referenced where applicable in the final rule.

*Section 400.679 Criteria for Ineligibility*

*Comment:* A few commenters stated the provisions in section 400.679(d) should apply only to individuals and not to all ''persons'' as defined in the rule.

*Response:* FCIC agrees and has made the changes in section 400.679 and other applicable sections in the final rule.

*Comment:* A commenter stated the references to the regulations at 7 CFR part 3017 are incorrect because those regulations are obsolete and have been replaced with 2 CFR part 180 and 2 CFR part 417.

*Response:* FCIC agrees 7 CFR part 3017 is obsolete. All references to 7 CFR part 3017 have been corrected in the final rule to reference 2 CFR part 180 and 2 CFR part 417. Further, these are no longer the only provisions related to debarment since permanent debarment has been added by the 2008 Farm Bill. Therefore, FCIC has clarified the

provisions in section 400.679 to make the distinction between suspensions and debarments under 2 CFR part 180 and 2 CFR part 417 and debarments under 7 U.S.C. 2209j.

*Comment:* A few commenters stated sections 400.679(c) and (f) are vague, ambiguous, and impose an unnecessary administrative burden on insurance providers and insured producers. They state subsection (f) is ambiguous because it is unclear whether the phrase ''ineligible person,'' refers to persons made ineligible under 2 CFR part 417, previously 7 CFR part 3017, or all persons ineligible under section 400.679 of the proposed rule. They also state the phrase ''knowingly doing business'' will impose an unnecessary administrative burden on the insurance providers if it is applied to ineligible persons outside of 2 CFR part 180 and 2 CFR part 417.

*Response:* The phrase ''ineligible person'' in section 400.679(f) of the proposed rule referred to persons found ineligible under 2 CFR part 180 and 2 CFR part 417, previously 7 CFR part 3017, and 7 U.S.C. 2209j, as a result of the 2008 Farm Bill. The language in the final rule has been amended to refer to persons debarred or suspended under 2 CFR part 180, 2 CFR part 417, and 7 U.S.C. 2209j to provide more clarity. With respect to the burdens, both 2 CFR parts 180 and 417 makes it clear that knowingly doing business with an ineligible person can subject a person to debarment. This applies to all persons, including insurance providers so FCIC cannot change the requirement or exempt insurance providers. As part of normal business operations, insurance providers must be in compliance with USDA regulations, policies and procedures regarding debarment, suspension and eligibility. FCIC has revised the provisions to clarify that it only applies to knowingly doing business with debarred persons as required by the debarment regulations and statutes.

*Comment:* A commenter stated section 400.679(e) should be eliminated or limit its application to those persons who have been listed in the EPLS.

*Response:* FCIC understands that there may be problems of identifying persons who have committed crimes for knowingly defrauding the United States. Further, as drafted, the proposed rule presumed that permanent debarment was automatic after such a conviction but there is still a process that must be followed for the Secretary to debar a person and once that process is completed, the debarred person will be reported to the EPLS. In addition, to make clear that this applies to persons listed on the EPLS, FCIC has referenced debarments under 2 CFR part 180, 2 CFR part 417, and 7 U.S.C. 2209j.

*Section 400.680 Controlled Substance*

*Comment:* A commenter questioned the logic of barring someone convicted of a controlled substance violation from obtaining Federal crop insurance. The commenter stated there is no statutory authority for barring someone convicted of possession of or trafficking in a controlled substance, and the references to such in the rule should be deleted. The commenter stated that Chapter 13 of Title 21 is not applicable to the Federal crop insurance program because eligibility for Federal crop insurance is contingent upon various ''payments'' and the term ''Federal benefit'' does not include any benefit for which payments are required for eligibility.

*Response:* FCIC disagrees that there is no statutory authority for barring someone convicted of possession of or trafficking in a controlled substance. The statutory provisions of Chapter 13 of Title 21 regarding convictions for the possession of or trafficking in a controlled substance are applicable to Federal crop insurance because eligibility for Federal crop insurance is not contingent upon any payment. Therefore, no changes have been made as a result of this comment.

*Comment:* A commenter stated that convictions for possession of or trafficking a controlled substance do not result in automatic denial of Federal benefits, or denial of such benefits for a set amount of time, according to Title 21. The determination regarding the denial of Federal benefits and for how long is at the court's discretion; therefore, section 400.680 is incorrect.

*Response:* FCIC agrees the language in the proposed rule was inaccurate regarding automatic denial of benefits under the Act for conviction of the possession of or trafficking in controlled substances. The final rule has been amended to be consistent with the provisions of Title 21 regarding such convictions.

*Section 400.682 Determination and Notification*

*Comment:* A commenter questioned whether National Appeals Division (NAD) appealable disputes are changing.

*Response:* Neither the proposed rule or final rule change appealable disputes under the NAD regulations.

*Section 400.683 Period of Ineligibility*

*Comment:* A commenter stated the term ''crop year'' for determining when ineligibility begins for a person convicted of a controlled substance violation is vague and needs to be further defined or expanded.

*Response:* The proposed rule did not define the term ''crop year.'' The term ''crop year'' is defined in the policy for applicable commodities, and the public was not provided the opportunity to comment on those definitions under the proposed rule. In addition, the applicability of the term ''crop year'' regarding persons convicted under Federal or State law of planting, cultivation, growing, producing, harvesting or storing a controlled substance is statutory.

*Comment:* A commenter stated they understood that they, as an insurance provider, would deny coverage to an applicant who is not a United States citizen, United States non-citizen national, or a qualified alien, but were not aware of any obligation or requirement to report such individuals as part of the ITS process.

*Response:* Sections 400.682 and 400.684 of the proposed rule did provide that insurance providers must notify FCIC of applicants who are not a United States citizen, United States non-citizen national, or a qualified alien and that such individuals would be placed on the ITS. FCIC agrees that insurance providers are not required to report individuals who are not a United States citizen, United States non-citizen national, or a qualified alien to FCIC. FCIC also agrees that such individuals are not placed on ITS if the sole reason they are ineligible is because they are not a United States citizen, United States non-citizen national, or a qualified alien. The final rule has been amended to remove the reporting requirement of such individuals and the reference that such individuals would be placed on the ITS.

*Section 400.684 Effect of Ineligibility*

*Comment:* A couple of commenters stated the proposed rule had two subsections labeled ''b'' under section 400.684.

*Response:* FCIC agrees and has made the applicable changes in the final rule.

*Comment:* A commenter stated they agree with the consolidation of the provisions in 7 CFR, part 400, subpart F, into 7 CFR, part 400, subpart U, to eliminate redundancies. However, the commenter also stated the provisions in 7 CFR, part 400, subpart F, that allowed insurance providers to continue to receive reinsurance if the insurance provider follows all the regulations and procedures were not retained and consolidated in the proposed rule. The commenter stated the elimination of those provisions could result in an insurance provider being penalized

even though it had followed all of the applicable regulations and procedures.

*Response:* FCIC agrees the provisions of 7 CFR, part 400, subpart F, regarding the continuation of reinsurance in cases involving controlled substance violations where the insurance provider followed all FCIC procedures and regulations should have been retained and consolidated in the proposed rule. The applicable provisions have been added to the final rule.

*Comment:* A commenter stated that subsections 400.684(b)(3) and (4), for general and limited liability partnerships and joint ventures, respectively, are the same and could be combined.

*Response:* FCIC agrees the provisions for general partnerships, limited liability partnerships and joint ventures are repetitive and although legally there may be distinctions between these entities, they are being treated the same for the purposes of this final rule. Therefore, FCIC has combined the provisions and renumbers the subsequent provisions accordingly.

*Comment:* A few commenters stated section 400.684(b)(5)(redesignated as 400.684(b)(4)) is ambiguous, denies appeal rights and liability protections to insured producers and insurance providers, could adversely affect a person's eligibility for program benefits even when that person is not a party to a contract, and that FCIC should revise or eliminate the subsection because it creates a burden that outweighs the potential benefits.

*Response:* FCIC does not agree the subsection is ambiguous, denies any appeal rights or liability protections or could affect a person who is not a party to the applicable policy. The provision applies to different types of entities and specifies that it applies to the persons who are in control of the actions of such entities or are responsible for the action or inaction that resulted in the ineligibility. Since entities have no ability to take action except through the persons conducting the business of the entity, it is appropriate to hold such individuals responsible for their actions or inactions. Further, appeal rights will be afforded such individuals the same as they would for any other person determined to be ineligible. While certain state laws protect individuals within certain entities, the crop insurance program is funded with taxpayer dollars and FCIC has the responsibility to ensure those dollars are properly spent. The provisions are necessary to ensure the integrity of the Federal crop insurance program and prevent producers from circumventing their ineligibility by hiding behind the façade of an entity. Therefore, no changes have been made as a result of this comment.

*Section 400.686 Administration and Maintenance*

*Comment:* A commenter stated that subsection 400.686(d) should be rewritten to read ''AIPs must check to ensure that the persons with whom they are doing business are eligible to participate in the programs authorized under the Act. The ITS does not include all persons ineligible to receive government benefits, such as persons debarred, disqualified or suspended from receiving government benefits as a result of being listed in EPLS.''

*Response:* FCIC disagrees with the commenters suggested changes. The provision applies to all participants in the program, and that includes not only insurance providers but it also includes partners, cooperators, and contractors, to ensure that the persons with whom they are doing business are eligible to participate in the programs authorized under the Act. The provision has been clarified to specify that insurance providers, partners, cooperators, and contractors must check ITS and other sources, such as the EPLS, to identify ineligible persons. Further, there appears to be some confusion regarding the EPLS. The EPLS is a source of information about certain persons who are ineligible for certain benefits or transactions. The government agency that reported the person to EPLS actually determined the person's ineligibility.

In addition to the changes described above, FCIC has made minor editorial changes, revisions to specific sections of 7 CFR, part 400, subpart U, and revisions to 7 CFR, parts 407 and 457 as follows:

Part 400, Subpart U

1. Revised the definition of ''debt'' and ''delinquent debt'' for consistency with § 400.682 and § 400.684 regarding debtors that file bankruptcy. The definitions in the proposed rule were in conflict with the existing provisions regarding the eligibility of a person in bankruptcy in section 400.683(b)(1). The final rule clarifies that only discharge of the debt in bankruptcy will restore eligibility.

2. Revised § 400.682(a) because of the inconsistency in the proposed rule regarding bankruptcy. The intent of the proposed rule was to specify that filing for bankruptcy did not make a person eligible for crop insurance. To be eligible the debt must be discharged in bankruptcy. However, nothing in this rule was intended to abrogate any existing bankruptcy laws regarding the collection of a debt while the producer is in bankruptcy. Therefore, FCIC has clarified that a debtor who has filed for bankruptcy may be notified of the amount of debt owed and their ineligibility for insurance; however, no request for payment of the debt can be made, unless approved in writing by the Office of General Counsel. The clarified language will ensure that insurance providers do not request payment of a debt when they are aware the debtor has filed bankruptcy.

3. Revised § 400.683 to distinguish between suspensions and debarments under 2 CFR part 180 and 2 CFR part 417 and debarments under 7 U.S.C. 2209j because the effective date for each is different and that was not clear in the proposed rule.

4. Revised § 400.684(a)(1) to clarify that filing bankruptcy does not make an ineligible person eligible for crop insurance or preclude the ineligible person from being placed on the ITS. There was an inconsistency in the proposed rule and the intent was to not allow debtors to be eligible for insurance until their debt was discharged in bankruptcy and FCIC had revised the provisions to be consistent. This does not change the law regarding the collection of debts from persons in bankruptcy so FCIC has clarified that while insurance providers are precluded from requesting payment of the debt once a person files bankruptcy, such filing does not make the person eligible to obtain crop insurance.

5. Revised § 400.684(b)(3) to include limited partnerships and limited liability companies. The proposed rule impacted partners and members of limited partnerships and limited liability companies differently than members of limited liability partnerships, which was not the intent of FCIC. In addition, the proposed rule created program vulnerability because it would allow certain partners and members to evade ineligibility determinations. The revision will address the program vulnerability and ensure equal treatment of partners and members of limited partnerships, limited liability partnerships, and limited liability companies. Also revised § 400.684(b)(3) to include references to joint ventures because although they may be legally different, they are treated the same as of limited partnerships, limited liability partnerships, and limited liability companies for the purposes of this rule. As a result, § 400.684(b)(4) has been deleted and § 400.684(b)(5) has been redesignated as § 400.684(b)(4).

6. Revised § 400.684(b)(5) (redesignated § 400.684(b)(4)) to remove limited partnerships and limited liability companies. The proposed rule impacted partners and members of limited partnerships and limited liability companies differently than members of limited liability partnerships, which was not the intent of FCIC. In addition, the proposed rule created program vulnerability because it would allow certain partners and members to evade ineligibility determinations. The revision will address the program vulnerability and ensure equal treatment of partners and members of limited partnerships, limited liability partnerships, and limited liability companies.

Part 407, Area Risk Insurance Policy Basic Provisions

1. Revise sections 2(k) and (p) to be consistent with the provisions in 7 CFR, part 400, subpart U. After it had published the proposed rule for 7 CFR, part 400, subpart U, FCIC discovered the Area Risk Insurance Policy Basic Provisions regarding debt for persons in bankruptcy were inconsistent with the existing provisions.

Part 457, Common Crop Insurance Policy Basic Provisions

1. Revise section 2(f) to be consistent with the provisions in 7 CFR, part 400, subpart U. After it had published the proposed rule for 7 CFR, part 400, subpart U, FCIC discovered the Common Crop insurance Policy Basic Provisions regarding debt for persons in bankruptcy were inconsistent with the existing provisions.

**List of Subjects in 7 CFR Part 400, 407 and 457**

Administrative practice and procedure, crop insurance, reporting and recordkeeping requirements.

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation amends 7 CFR parts 400, 407 and 457 as follows:

## PART 400—GENERAL ADMINISTRATIVE REGULATIONS

■ 1. The authority citation for 7 CFR part 400 continues to read as follows:

**Authority:** 7 U.S.C. 1506(1), 1506(o).

### Subpart C [Removed and Reserved]

■ 2. Remove and reserve subpart C.

### Subpart F [Removed and Reserved]

■ 3. Remove and reserve subpart F.

■ 4. Revise subpart U to read as follows:

**Subpart U—Ineligibility for Programs Under the Federal Crop Insurance Act**


400.675 Purpose.
400.676 [Reserved]
400.677 Definitions.
400.678 Applicability.
400.679 Criteria for ineligibility.
400.680 Controlled substance.
400.681 Written payment agreement.
400.682 Determination and notification.
400.683 Period of ineligibility.
400.684 Effect of ineligibility.
400.685 Criteria for regaining eligibility.
400.686 Administration and maintenance.


## Subpart U—Ineligibility for Programs Under the Federal Crop Insurance Act

### § 400.675 Purpose.

This subpart prescribes conditions under which a person may be determined to be ineligible to participate in any program administered under the authority of the Federal Crop Insurance Act. This subpart also establishes the criteria for regaining eligibility.

### § 400.676 [Reserved]

### § 400.677 Definitions.

As used in this subpart:

*Act* means the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

*Applicant* means a person who has submitted an application for crop insurance coverage under the Act.

*Authorized person* means any current or past officer, employee, elected official, managing general agent, agent, or contractor of an insurance provider, FCIC, or any other government agency whose duties require access to the ITS to administer the Act.

*Controlled substance* has the same meaning provided in 7 CFR 3021.610.

*Conviction* means a judgment or any other determination of guilt of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or plea, including a plea of no contest.

*Date of delinquency* means: The termination date specified in the applicable policy for administrative fees and premiums owed for insurance issued under the authority of the Act, and any interest and penalties on those amounts, if applicable; and the due date specified in the notice to the person of the amount due for any other amounts due the insurance provider or FCIC for insurance issued under the authority of the Act. Other amounts due include, but are not limited to, indemnities, prevented planting payments, or replant payments found not to have been earned or that were overpaid, premium billed with a due date after the termination date for the crop year in which premium is earned, and any interest, administrative fees, and penalties on such amounts, if applicable. Payments postmarked or received before the date of delinquency by the insurance provider or its agent for debts owed to the insurance provider, or by FCIC for debts owed to FCIC, are not delinquent.

*Debt* means an amount of money that has been determined to be owed by any person to FCIC or an insurance provider, excluding money owed to an insurance provider's agent, under any program administered under the Act. The debt may have arisen from nonpayment of interest, penalties, premium, or administrative fee; overpayment of indemnity, prevented planting or replant payment; cost of collection; or other causes. A debt does not include debts discharged in bankruptcy.

*Debtor* means a person who owes a debt and that debt is delinquent.

*Delinquent debt* means a debt that is not satisfied on or before the date of delinquency. To avoid delinquency or ineligibility due to a delinquent debt, a debtor may enter into a written payment agreement acceptable to the insurance provider or FCIC to pay any such debt as long as all payments are made by the due dates specified in such written payment agreement. A delinquent debt does not include debts discharged in bankruptcy or any debt to an insurance provider's agent.

*Employer Identification Number (EIN)* means a Tax Identification Number issued by the Internal Revenue Service used to identify a business entity, and may also be referred to as a Federal Tax Identification Number.

*Excluded Parties List System (EPLS)* means a list maintained by the General Services Administration that provides a source of current information about persons who are excluded or disqualified from covered transactions, including the date the person was determined ineligible and the date the period of ineligibility ends.

*Federal Crop Insurance Corporation (FCIC)* means a wholly owned government corporation within the USDA.

*Ineligible person* means a person who is denied participation in any program administered under the authority of the Act.

*Ineligible Tracking System (ITS)* means an electronic system to identify persons who are ineligible to participate in any program pursuant to this subpart.

*Insurance Provider* means a legal entity which has entered into a Standard Reinsurance Agreement, Livestock Price Reinsurance Agreement, or other reinsurance agreement, as

applicable, with FCIC for the applicable reinsurance year.

*Livestock Price Reinsurance Agreement* means a cooperative financial assistance agreement between FCIC and an insurance provider to deliver eligible livestock price insurance contracts under the authority of the Act and establishes the terms and conditions under which FCIC will provide subsidy and reinsurance on eligible livestock price insurance policies sold.

*Meaningful opportunity to contest* means the opportunity for the insured to resolve disagreements with a decision by the insurance provider through requesting a review of the decision by the insurance provider, mediation, arbitration, or judicial review, as applicable.

*Person* means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or political subdivision or agency of a State. ''Person'' does not include the United States Government or any agency thereof.

*Qualified alien* has the same meaning provided in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641).

*Social Security Number (SSN)* means an individual's Social Security Number as issued under the authority of the Social Security Act.

*Standard Reinsurance Agreement (SRA)* means a cooperative financial assistance agreement between FCIC and an insurance provider to deliver eligible crop insurance contracts under the authority of the Act and establishes the terms and conditions under which FCIC will provide subsidy and reinsurance on eligible crop insurance policies sold.

*Substantial beneficial interest* has the same meaning as contained in the applicable policy.

*USDA* means the United States Department of Agriculture.

*United States non-citizen national* has the same meaning provided in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. § 1408).

*Written payment agreement* means a written document between a debtor and the insurance provider, or FCIC, that is signed and dated by all applicable parties to satisfy financial obligations of the debtor with scheduled installment payments under conditions that modify the terms of the original debt in accordance with § 400.681.

**§ 400.678 Applicability.**

This subpart applies to any program administered under the authority of the Act, including but not limited to:

(a) The catastrophic risk protection plan of insurance;

(b) The additional coverage plans of insurance as authorized under section 508(c) of the Act;

(c) Private insurance products authorized under section 508(h) or 523(d) of the Act and reinsured by FCIC; and

(d) Persons entering contracts or cooperative agreements under sections 506(l), 522(c), 522(d), or 524(a) of the Act.

**§ 400.679 Criteria for ineligibility.**

Except as otherwise provided, a person is ineligible to participate in any program administered under the authority of the Act if the person meets one or more of the following criteria:

(a) Has a delinquent debt:

(1) The existence and delinquency of the debt must be verifiable.

(2) The person has to be provided a meaningful opportunity to contest the debt.

(3) If the person contests the debt, such action does not delay or preclude:

(i) Effect of the determination of ineligibility;

(ii) Determination or notification of ineligibility in accordance with § 400.682;

(iii) Termination of the applicable crop insurance policies; or

(iv) Ineligible persons being reported in accordance with § 400.682 or the ineligible persons being recorded in the ITS.

(4) If the person is determined not to owe the debt, eligibility is reinstated retroactive to the date of the determination of ineligibility, any applicable policies will be reinstated, and any applicable indemnity, prevented planting or replant payment earned may be paid provided the person has continued to comply with the terms of the policy;

(b) Is an individual and has been convicted of a controlled substance violation according to § 400.680;

(c) Has been disqualified under section 515(h) of the Act.;

(d) Is an individual and is not a United States citizen, United States non-citizen national, or a qualified alien. Such individuals may not be recorded in the ITS; however, such individuals are ineligible under the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 U.S.C. 1611;

(e) Has been suspended or debarred for committing a crime specified in 2 CFR part 180 or 2 CFR part 417, or 7 U.S.C. 2209j (Ineligibility determinations will not be stayed pending review. However, reversal of the determination of ineligibility will reinstate eligibility retroactive to the date of the determination of ineligibility, and any applicable policies will be reinstated); or

(f) Has been debarred for knowingly doing business with a person debarred or suspended under 2 CFR part 180 or 2 CFR part 417 or 7 U.S.C. 2209j.

**§ 400.680 Controlled substance.**

(a) This section implements section 1764 of the Food Security Act of 1985 (Pub. L. 99–198) and Chapter 13 of Title 21 requiring the denial of Federal Benefits, including crop insurance, to individuals convicted of controlled substance violations in accordance with paragraphs (b) and (c) of this section.

(b) Notwithstanding any other provision of law, an individual will be ineligible to participate in any program authorized under the Act, as provided in § 400.683, if the individual is convicted under Federal or State law of planting, cultivating, growing, producing, harvesting, or storing a controlled substance in any crop year.

(c) Notwithstanding any other provision of law, an individual may, as determined by the court, be ineligible to participate in any program authorized under the Act, as provided in § 400.683, if the person is convicted under Federal or State law of possession of or trafficking in a controlled substance.

**§ 400.681 Written payment agreement.**

(a) Written payment agreements shall:

(1) Require scheduled installment payments that will allow for full repayment of the debt within the time frame allotted in paragraph (a)(2) of this section;

(2) Not exceed two years in duration; and

(3) Not be modified, replaced, or consolidated after it has been executed in accordance with paragraph (b) of this section.

(b) To avoid being determined to be ineligible through the execution of a written payment agreement:

(1) For a debt arising from any unpaid premium, administrative fees, or catastrophic risk protection fees:

(i) Only one written payment agreement is permitted per termination date. A written payment agreement may cover multiple crops provided they all have the same termination date; and

(ii) The written payment agreement must be signed by both parties, the debtor and the insurance provider or FCIC, as applicable, on or before the

termination date specified in the applicable policy to prevent an ineligible determination for a delinquent debt.

(2) For all other debts, the written payment agreement must be signed by both parties, the debtor and the insurance provider or FCIC, as applicable, on or before the due date specified in the notice to the person of the amount due to prevent an ineligible determination for a delinquent debt.

**§ 400.682 Determination and notification.**

(a) The insurance provider must send a written notice of the debt to the person, including the time frame in which the debt must be paid, and provide the person with a meaningful opportunity to contest the amount or existence of the debt. Once a debtor has filed bankruptcy and the insurance provider is formally informed of such through the court or the debtor, no request for payment of the debt can be made, unless approved in writing by the Office of General Counsel. The debtor may be notified of the amount of debt and ineligibility for crop insurance.

(1) The insurance provider shall evaluate the person's response, if any, and determine if the debt is owed and delinquent.

(2) Upon request by FCIC, the insurance provider shall submit all documentation related to the debt to FCIC.

(b) If an insurance provider or any other person has evidence that a person meets criteria set forth in § 400.679(a), (b), (c), (e) or (f), they must immediately notify FCIC.

(c) After the insurance provider determines a person has met one or more of the criteria in § 400.679 and notifies FCIC, FCIC will issue and mail a Notice of Ineligibility to the person's last known address and to the insurance provider. Notices sent to such address will be conclusively presumed to have been received by that person.

(d) The Notice of Ineligibility will state the criteria upon which the determination of ineligibility has been based, a brief statement of the facts to support the determination, the time period of ineligibility, and the right to appeal the determination to be placed on the ITS in accordance with paragraph (e) of this section.

(e) Within 30 days of receiving the Notice of Ineligibility, the ineligible person may appeal FCIC's determination to be placed on ITS to the National Appeals Division in accordance with 7 CFR part 11. The existence and amount of the debt is determined by the insurance provider, not FCIC; therefore, those determinations are not appealable to the National Appeals Division.

(f) If the person appeals FCIC's determination to be placed on ITS to the National Appeals Division, the insurance provider will be notified and provided with an opportunity to participate in the proceeding, if permitted by 7 CFR part 11.

**§ 400.683 Period of ineligibility.**

(a) The beginning of the period of ineligibility will be:

(1) For ineligibility as a result of a delinquent debt, beginning on the date stated in the applicable policy;

(2) For ineligibility as a result of a conviction under Federal or State law of:

(i) Planting, cultivating, growing, producing, harvesting, or storing a controlled substance, the beginning of the crop year in which the individual is convicted; or

(ii) Possession of or trafficking in a controlled substance, the beginning of the crop year in which the individual is convicted, unless determined otherwise by the court.

(3) For ineligibility as a result of a disqualification, debarment, or suspension under 515(h) of the Act, 2 CFR part 180, 2 CFR part 417, the date the person was disqualified, debarred, or suspended by debarring official, Administrative Law Judge, or such other person authorized to take such action; and

(4) For debarment under 7 U.S.C. 2209j, the beginning of the crop year in which the person is convicted.

(b) The duration of the period of ineligibility will be:

(1) For ineligibility as a result of a delinquent debt, until the debt has been paid in full discharged in bankruptcy, or the person has executed a written payment agreement.

(2) For ineligibility as a result of a conviction under Federal or State law of:

(i) Planting, cultivating, growing, producing, harvesting, or storing a controlled substance, four crop years succeeding the crop year in which the person was convicted; and

(ii) Possession of a controlled substance or trafficking in a controlled substance, in addition to the time of ineligibility imposed in paragraph (b)(2)(i) of this section, until the period of time imposed by a court has expired.

(3) For ineligibility as a result of a disqualification, debarment, or suspension under section 515(h) of the Act, or 2 CFR part 180 and 2 CFR part 417 until the period of time of disqualification, debarment, or suspension, as applicable, has expired.

(4) For ineligibility as a result of not being a United States citizen, United States non-citizen national, or a qualified alien, until the date such individual becomes a United States citizen, United States non-citizen national, or a qualified alien.

(5) For ineligibility as a result of a conviction falling under 7 U.S.C. 2209j, permanent unless otherwise determined by the Secretary of Agriculture for a period of not less than 10 years.

**§ 400.684 Effect of ineligibility.**

(a) The effect of ineligibility depends on the basis for the determination.

(1) Persons who are ineligible as a result of a delinquent debt are ineligible for crop insurance authorized under the Act for a certain time period in accordance with § 400.683. Filing for bankruptcy does not make the person eligible for crop insurance or preclude the ineligible person from being placed on the ITS in accordance with § 400.684(b)(1).

(2) Persons who are ineligible as a result of a suspension or debarment are precluded from:

(i) Participating in all programs authorized under the Act, including but not limited to:

(A) Obtaining crop insurance;

(B) Acting as an agent, loss adjuster, insurance provider, or affiliate, as defined in the Standard Reinsurance Agreement or Livestock Price Reinsurance Agreement, or successor agreements;

(C) Entering into any contracts with FCIC under sections 506(l) and section 522(c) of the Act; and

(D) Entering into any cooperative agreements or partnerships under sections 506(l), 522(d) and 524(a) of the Act; and

(ii) Participating in any other covered transaction as specified in 2 CFR part 180 and 2 CFR part 417.

(3) Persons who are ineligible because of disqualification under section 515(h) of the Act are precluded from participating in all programs authorized under the Act indicated in paragraph (a)(2)(i) of this section, and those listed in section 515(h)(3)(B) and (C) of the Act.

(4) Individuals who are ineligible because of a conviction of a violation of the controlled substance provisions or are not a United States citizen, United States non-citizen national, or a qualified alien are precluded from participating in any program authorized under the Act indicated in paragraph (a)(2)(i) of this section.

(5) Persons who are ineligible as a result of a conviction falling under 7 U.S.C. 2209j, are precluded from

participating in any program offered by USDA.

(b) Once a person has been determined to be ineligible:

(1) The ineligible person will be placed on the ITS and may be reported to other government agencies, unless the ineligible person is an individual and the sole reason for ineligibility is because the individual is not a United States citizen, United States non-citizen national, or qualified alien.

(2) If the ineligible person is an individual:

(i) All crop insurance policies in which the ineligible person is the sole insured will terminate if the person is ineligible for any reason other than a controlled substance violation, or be void if the person is ineligible due to conviction of a controlled substance violation according to § 400.680, and the person will remain ineligible for crop insurance for the applicable period specified in § 400.683; and

(ii) The ineligible person must be reported on all policies in which the ineligible person has a substantial beneficial interest in the applicant or insured, and the insured share under such policy will be reduced commensurate with the ineligible person's substantial beneficial interest in the applicant or insured for as long as the ineligible person remains ineligible in accordance with § 400.683.

(3) If the ineligible person is a general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture and is ineligible as a result of:

(i) A delinquent debt:

(A) All partners or members of the ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture will be ineligible;

(B) The ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture and all partners and members of the ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture will remain ineligible for crop insurance for the applicable period specified in § 400.683;

(C) All crop insurance policies in which the ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture is the sole insured will terminate;

(D) All crop insurance policies in which the ineligible partner or member is the sole insured will terminate; and

(E) The ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture and all ineligible partners or members must be reported on any other policy in which they have a substantial beneficial interest in the applicant or insured, and the insured share under such policies will be reduced commensurate with the ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture or the ineligible partners' or members' substantial beneficial interest in the applicant or insured for as long as they remain ineligible in accordance with § 400.683; or

(ii) Meeting the criteria specified in § 400.679(c), (e) or (f):

(A) All crop insurance policies in which the ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture is the sole insured will terminate, and the ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture will remain ineligible for crop insurance for the applicable period specified in § 400.683; and

(B) The ineligible general partnership, limited partnership, limited liability partnership, limited liability company, or joint venture must be reported on any other policy in which it has a substantial beneficial interest in the applicant or insured, and the insured share under such policies will be reduced commensurate with the ineligible general partnership's, limited partnership's, limited liability partnership's, limited liability company's, or joint venture's substantial beneficial interest in the applicant or insured for as long as it remains ineligible in accordance with § 400.683.

(4) If the ineligible person is an association, estate, trust, corporation, or other similar entity, and is ineligible as a result of:

(i) A delinquent debt:

(A) Any partners, members, shareholders, administrators, executors, trustees, or grantors may be individually ineligible if the delinquent debt occurred as a result of their actions or inactions, as determined by the insurance provider or FCIC;

(B) All policies in which the ineligible association, estate, trust, corporation, or other similar entity is the sole insured will terminate, and it will remain ineligible for crop insurance for the applicable period specified in § 400.683.

(C) The ineligible association, estate, trust, corporation, or other similar entity must be reported on any other policy in which it has a substantial beneficial interest in the applicant or insured, and the insured share under such policies will be reduced commensurate with the ineligible entity's substantial beneficial interest in the applicant or insured for as long as the person remains ineligible in accordance with § 400.683;

(D) All policies in which a partner, member, shareholder, administrator, executor, trustee, or grantor determined ineligible according to § 400.684(b)(4)(i)(A) is the sole insured will terminate, and the person will remain ineligible for crop insurance for the applicable period specified in § 400.683; and

(E) The ineligible partner, member, shareholder, administrator, executor, trustee, or grantor must be reported on any other policy in which they have a substantial beneficial interest in the applicant or insured, and the insured share under such policies will be reduced commensurate with the ineligible person's substantial beneficial interest in the applicant or insured for as long as the person remains ineligible in accordance with § 400.683; or

(ii) Meeting the criteria specified in § 400.679(c), (e) or (f):

(A) All crop insurance policies in which the ineligible association, estate, trust, corporation, or other similar entity is the sole insured will terminate, and the ineligible association, estate, trust, corporation, or other similar entity will remain ineligible for crop insurance for the applicable period specified in § 400.683; and

(B) The ineligible association, estate, trust, corporation, or other similar entity must be reported on any other policy in which it has a substantial beneficial interest in the applicant or insured, and the insured share under such policies will be reduced commensurate with the ineligible association, estate, trust, corporation, or other similar entity's substantial beneficial interest in the applicant or insured for as long as it remains ineligible in accordance with § 400.683.

(5) If an applicant or insured is a corporation, partnership, joint venture, trust, corporation, limited liability company, limited liability partnership, limited partnership, or other similar entity that was created to conceal the interest of an ineligible person or to evade the ineligibility determination of a person with a substantial beneficial interest in the applicant or insured, the policy will be void.

(6) All crop insurance policies in which the ineligible person is insured as landlord/tenant will terminate on the next termination date. The other person(s) on such policy may submit a new application for crop insurance

coverage on or before the applicable sales closing date to obtain insurance coverage for the crop, if they are otherwise eligible for such coverage.

(c) The spouse and minor child of an individual insured is considered to be the same as the individual for purposes of this subpart and subject to the same ineligibility, except when:

(1) The individual is ineligible due to a conviction of a controlled substance violation in accordance with § 400.680;

(2) The individual is ineligible as a result of a felony conviction for knowingly defrauding the United States in connection with any program administered by USDA;

(3) The individual is ineligible because they are not a United States citizen, United States non-citizen national, or a qualified alien;

(4) The individual is ineligible as a result of a disqualification, debarment, or suspension;

(5) The spouse can prove they are legally separated or otherwise legally separate under the applicable State dissolution of marriage laws; or

(6) The minor child has a separate legal interest in such person or is engaged in a separate farming operation from the individual.

(d) Notwithstanding § 400.684(f), when a policy is voided in accordance with this subpart:

(1) No indemnities or payments will be paid for the voided policy;

(2) Any indemnities or payments already made for the voided policy will be declared overpayments and must be repaid in full; and

(3) No premiums will be due and any premium paid will be refunded except when the policy is void due to a conviction of a controlled substance violation according to § 400.680, in which case the insured will still be required to pay 20 percent of the premium the insured would otherwise be required to pay to offset costs in the servicing of the policy.

(e) When the insured share of a policy is reduced in accordance with this subpart:

(1) Any indemnities or payments commensurate with the share reduced already made will be declared overpayments and must be repaid in full; and

(2) Any premiums paid by the insured commensurate with the share reduced will be refunded.

(f) Any insurance written by an insurance provider to any person who is ineligible under the provisions of this subpart is not eligible for reinsurance by FCIC. All premium subsidies, expenses, or other payments made by FCIC for insurance written for any person who is ineligible under the provisions of this subpart must be immediately refunded to FCIC. However, with regard to policies that would be void due to a conviction of a controlled substance violation according to § 400.680, if the insurance provider follows the procedures of FCIC and the requirements of the regulations, reinsurance will continue to be provided under the reinsurance agreement on the policy unless it is shown that the agent or insurance provider had knowledge of the facts which would indicate ineligibility on the part of the insured and failed to act on that knowledge.

**§ 400.685 Criteria for regaining eligibility.**

After the period of ineligibility as specified in § 400.683 has ended, the ineligible person is eligible to participate in programs authorized under the Act, provided the person meets all eligibility requirements.

(a) After a person regains eligibility for crop insurance when their policy was terminated or voided, the person must submit a new application for crop insurance coverage on or before the applicable sales closing date to obtain insurance coverage for the crop. If the date of regaining eligibility occurs after the applicable sales closing date for the crop, the person may not participate until the following year unless that crop policy allows for applications to be accepted after the sales closing date.

(b) If a person who was determined ineligible according to this subpart is subsequently determined to be an eligible person for crop insurance through mediation, arbitration, appeal, or judicial review, such person's policies will be reinstated effective at the beginning of the crop year for which the producer was determined ineligible, and such person will be entitled to all applicable benefits under such policies, provided the person meets all eligibility requirements and complies with the terms of the policy.

**§ 400.686 Administration and maintenance.**

(a) Ineligible producer data will be maintained in a system of records established and maintained by the Risk Management Agency in accordance with the Privacy Act (5 U.S.C. 552a).

(1) The ITS contains identifying information of the ineligible person, including but not limited to, name, address, telephone number, SSN or EIN, reason for ineligibility, and time period of ineligibility.

(2) Information in the ITS may be used by an authorized person. The information may be furnished to other users as may be appropriate or required by law or regulation, including but not limited to, FCIC contracted agencies, other government agencies, credit reporting agencies, and collection agencies, and in response to judicial orders in the course of litigation. The individual information may be made available in the form of various reports and notices.

(3) Supporting documentation regarding the determination of ineligibility and reinstatement or regaining of eligibility will be maintained by FCIC, or its contractors, insurance providers, Federal agencies, and State agencies. This documentation will be maintained and retained consistent with the electronic information contained within the ITS.

(b) Information may be entered into the ITS by FCIC employees or contractors, or insurance providers.

(c) All persons applying for crop insurance policies or with an existing policy, issued or reinsured by FCIC, will be subject to validation of their eligibility status against the ITS. Applications, transfers, or benefits approved and accepted are considered approved or accepted subject to review of eligibility status in accordance with this subpart.

(d) Insurance providers, partners, cooperators, and contractors must check to ensure that the persons with whom they are doing business are eligible to participate in the programs authorized under the Act. Insurance providers, partners, cooperators, and contractors must check the ITS but the ITS may not include all persons ineligible to receive government benefits, such as persons debarred, disqualified or suspended from receiving government benefits by an agency other than FCIC. Insurance providers, partners, cooperators, and contractors must check other sources that contain ineligible persons, including but not limited to EPLS, or successor list, provide data on persons ineligible to participate in programs authorized under the Act.

## PART 407—AREA RISK PROTECTION INSURANCE REGULATIONS

■ 5. The authority citation for 7 CFR part 407 continues to read as follows:

**Authority:** 7 U.S.C. 1506(l), 1506(o).

■ 6. Amend § 407.9 as follows:

■ a. Amend section 2(k)(1)(i)(B) by adding the word ''or'' after the semicolon at the end;

■ b. Amend section 2(k)(1)(i)(C) by removing the phrase ''; or'' and adding a period in its place;

■ c. Remove section 2(k)(1)(i)(D);

■ d. Amend section 2(k)(1)(ii) by removing the phrase ''2(k)(2)(i)(A), (B), (D) or (E)'' and adding the phrase ''2(k)(2)(i)(A), (B) or (D)'' in its place;
■ e. Amend section 2(k)(2)(i)(C) by adding the word ''or'' after the semicolon at the end;
■ f. Amend section 2(k)(2)(i)(D) by removing the phrase ''; or'' and adding a period in its place;
■ g. Remove section 2(k)(2)(i)(E);
■ h. Amend section 2(k)(2)(ii) by removing the phrase ''2(k)(2)(i)(A), (B), (D) or (E)'' and adding the phrase ''2(k)(2)(i)(A), (B) or (D)'' in its place;
■ i. Revise section 2(k)(3)(iii); and
■ j. Amend section 2(p)(2) by removing the phrase ''or you file a petition to discharge the debt in bankruptcy'' in the last sentence and adding the phrase ''or you have your debts discharged in bankruptcy'' in its place.

The revised text reads as follows:

**§ 407.9 Area risk protection insurance policy.**

* * * * *

2. Life of Policy, Cancellation, and Termination.

* * * * *

(k) * * *

(3) * * *

(iii) Have your debts discharged in bankruptcy.

* * * * *

## PART 457—COMMON CROP INSURANCE REGULATIONS

■ 7. The authority citation for 7 CFR part 457 continues to read as follows:

**Authority:** 7 U.S.C. 1506(l), 1506(p).

■ 8. Amend § 457.8 as follows:
■ a. Amend section 2(f)(1)(i)(B) by adding the word ''or'' after the semicolon at the end;
■ b. Amend section 2(f)(1)(i)(C) by removing the phrase ''; or'' and adding a period in its place;
■ c. Remove section 2(f)(1)(i)(D);
■ d. Amend section 2(f)(1)(ii) by removing the phrase ''2(f)(2)(i)(A), (B), (D) or (E)'' and adding the phrase ''2(f)(2)(i)(A), (B) or (D)'' in its place;
■ e. Amend section 2(f)(2)(i)(C) by adding the word ''or'' after the semicolon at the end;
■ f. Amend section 2(f)(2)(i)(D) by removing the phrase ''; or'' and adding a period in its place;
■ g. Remove section 2(f)(2)(i)(E);
■ h. Amend section 2(f)(2)(ii) by removing the phrase ''2(f)(2)(i)(A), (B), (D) or (E)'' and adding the phrase ''2(f)(2)(i)(A), (B) or (D)'' in its place;
■ i. Revise section 2(f)(3)(iii); and
■ j. Amend section 2(f)(5) by removing the phrase ''or you file a petition to discharge the debt in bankruptcy'' in the last sentence and adding the phrase ''or you have your debts discharged in bankruptcy'' in its place.

The revised text reads as follows:

**§ 457.8 The application and policy.**

* * * * *

2. Life of Policy, Cancellation, and Termination.

* * * * *

(f) * * *

(3) * * *

(iii) Have your debts discharged in bankruptcy.

* * * * *

Signed in Washington, DC, on December 20, 2013.

**Brandon Willis,**

*Manager, Federal Crop Insurance Corporation.*

[FR Doc. 2013–31357 Filed 1–10–14; 8:45 am]

**BILLING CODE 3410–08–P**

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 115

**RIN 3245–AG56**

### Surety Bond Guarantee Program

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The Small Business Administration (SBA) is issuing this final rule to conform the regulations governing the Surety Bond Guarantee Program to certain provisions of the National Defense Authorization Act for Fiscal Year 2013 (NDAA), including the provisions that increase the contract amounts for which SBA is authorized to guarantee bonds, grant SBA the authority to partially deny liability under its bond guarantee, and prohibit SBA from denying liability based on material information that was provided as part of the guarantee application in the Prior Approval Program. This rule also makes changes to the Quick Bond Guarantee Application and Agreement, the timeframes for taking certain actions related to claims, and the dollar threshold for determining when a change in the Contract or bond amounts meets certain criteria or requires certain action. Finally, the final rule eliminates references to the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act) that have expired.

**DATES:** This rule is effective February 12, 2014.

**FOR FURTHER INFORMATION CONTACT:** Barbara J. Brannan, Office of Surety Guarantees, 202–205–6545, email: *Barbara.brannan@sba.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Background Information

The U.S. Small Business Administration (SBA) guarantees bid, payment and performance bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. SBA's guarantee gives Sureties an incentive to provide bonding for small businesses and thereby assists small businesses in obtaining greater access to contracting opportunities. SBA's guarantee is an agreement between a Surety and SBA that SBA will assume a certain percentage of the Surety's loss should a contractor default on the underlying contract.

On August 1, 2013, SBA published a notice of proposed rulemaking with a request for comments in the **Federal Register**. The rule proposed to: (1) Conform SBA's Surety Bond Guarantee Program (''SBG Program'') to certain provisions of the National Defense Authorization Act of 2013 (NDAA); (2) clarify the extent to which a Principal may subcontract work performed under the Contract; (3) make changes to the Quick Bond Guarantee Application and Agreement; (4) increase the dollar threshold for determining when a change in the Contract or bond amounts may result in denial of liability or require certain actions; (5) reduce the timeframes for taking certain actions related to claims; and (6) eliminate references to the provisions of the American Recovery and Reinvestment Act of 2009 (Recovery Act) that have expired. See 78 FR 46528.

The comment period was open until September 30, 2013. SBA received two comments, both from trade associations, that expressed their support for the proposed rule and indicated that the changes are favorable to small businesses. With respect to the proposed increases in the dollar thresholds, one commenter noted that a Surety may not be in a position to notify SBA or seek SBA's approval when a change order exceeds the specified dollar threshold because a Surety may be required contractually to waive notice of contract amount changes. Under section 115.32(d), a Prior Approval Surety is required to notify SBA of any required changes in the Contract or bond amount that aggregate 25% or $50,000 (to be increased to $100,000 under this final rule) ''as soon as the Surety acquires knowledge of the change''. Thus, the Surety is required to provide notice to SBA under this provision upon acquiring knowledge of

these aggregated changes. It is important to note that, under section 115.15(b), the Surety is required to monitor the Principal's progress on bonded Contracts guaranteed by SBA and, accordingly, SBA would expect the Surety to be aware of changes in the Contract or bond amounts. Moreover, for increases in the original bond amount as a result of a single change order of at least 25% or $50,000 (to be increased to $100,000 by this final rule), the Surety must, under section 115.32(d), obtain SBA's prior written approval of such increase (and such approval is conditioned upon payment by the Surety of the increase in the Principal's guarantee fee).

In addition, as the commenter observed, SBA now has the discretion, under section 115.19, to deny liability in whole or *in part.* The commenter suggested that SBA propose regulations to address the use of such discretion where the Surety does not obtain approval or notify SBA of the change in the Contract or bond amount. However, the exercise of this discretion must be based on the circumstances of each case and will be determined on a case-by-case basis.

SBA is adopting the rule as proposed and as described in the section-by-section analysis below.

**II. Section By Section Analysis**

*Section 115.10.* SBA is revising the definition of ''Applicable Statutory Limit'' to include the maximum amounts of any Contract or Order for which SBA is authorized by the NDAA to guarantee, or commit to guarantee, a Bid Bond, Payment Bond, Performance Bond, or Ancillary Bond. The statutory limits set by the NDAA are (1) $6.5 million (as adjusted for inflation in accordance with 41 U.S.C. 1908); and (2) $10 million if a contracting officer of a Federal agency certifies that such guarantee is necessary. In addition, SBA is including a reference in the definition to the maximum amounts of any Contract or Order when SBA guarantees the bond in connection with a procurement related to a major disaster pursuant to section 12079 of Public Law 110–246. Under this provision, which was enacted on June 18, 2008, the maximum amounts are: (1) $5 million; and (2) $10 million on Federal Contracts or Orders at the request of the Head of any Federal agency involved in reconstruction efforts in response to a major disaster. The authority to guarantee bonds under this provision is subject to the availability of funds appropriated in advance specifically for the purpose of guaranteeing bonds for any Contract or Order related to a major disaster. SBA does not expect this authority to be often used, given NDAA's increase in the maximum amounts for any Contract or Order up to $6.5 million (and $10 million if a Federal contracting officer certifies that such guarantee is necessary) and the requirement that funds be appropriated in advance specifically for guaranteeing bonds related to a major disaster. No changes have been made to this provision as proposed.

*Section 115.12(b).* SBA is deleting the reference to the ''Contract Bonds'' section of the current ''Manual of Rules, Procedures and Classifications of the Surety Association of America'' and is replacing this reference with two specific types of bonds, Commercial and Fidelity bonds, which are not eligible for an SBA guarantee. No changes have been made to this provision as proposed.

*Section 115.12(e)(3).* This provision is being deleted in its entirety, as it relates to requirements imposed by the Recovery Act that expired on September 30, 2010. No changes have been made to this provision as proposed.

*Section 115.12(e)(4).* This provision is being renumbered as (e)(3), and now reflects the authority to guarantee bonds on Federal Contracts or Orders greater than $6.5 million, but not exceeding $10 million, upon a signed certification of a Federal contracting officer, as authorized by the NDAA. No changes have been made to this provision as proposed.

*Section 115.12(e)(5).* This provision has been renumbered as (e)(4), and implements an alternative statutory authority provided SBA under Public Law 110–246 for guaranteeing bonds for procurements related to a major disaster. References to requirements imposed by the Recovery Act that expired on September 30, 2010, have been deleted. No changes have been made to this provision as proposed.

*Section 115.13(a)(5).* SBA is revising this provision to clarify that, to be eligible for a bond guaranteed by SBA, the Principal must retain full responsibility for the oversight and management of the Contract, including any work performed by any subcontractor, and may not subcontract the full scope of the statement of work. No changes have been made to this provision as proposed.

*Section 115.17(b)(2).* SBA is reducing the time frame allowed for a Surety to reimburse or credit SBA for salvage and recovery from 90 days to 45 days after the Surety receives any salvage and recovery. No changes have been made to this provision as proposed.

*Section 115.19.* SBA is revising the introductory paragraph of this provision to conform it to current law by deleting the time frame reference required by the Recovery Act, which has expired, and by inserting the relevant requirements of the NDAA, including the authority of SBA to deny liability, in whole or in part, within its discretion if any of the circumstances in paragraphs (a) through (h) of this section exist, and the prohibition on denying liability based on material information that was provided to SBA as part of the Surety's guarantee application in the Prior Approval Program. SBA made one minor clarification to the provision as proposed by revising the introductory language in section 115.19 to make it clear that the material information must have been provided to SBA in the Surety's application. SBA is also amending section 115.19(c)(1) by increasing the dollar threshold for determining whether the Surety has committed a material breach of one or more terms or conditions of its Prior Approval or PSB Agreement from $50,000 to $100,000. In addition, SBA is amending section 115.19(d) by increasing the dollar threshold for determining whether the Surety has committed a substantial violation of SBA regulations from $50,000 to $100,000, and is amending section 115.19(e)(2) by increasing the dollar threshold for determining whether a Prior Approval Surety has agreed to or acquiesced in any material alteration in the terms, conditions, or provisions of the bond from $50,000 to $100,000. In each of these sections, the phrase ''whichever is less'' is being added after the $100,000 to clarify the meaning of this requirement. No other changes have been made to this provision as proposed.

*Section 115.30(d)(2).* SBA is deleting the phrase ''or the warranty/maintenance period'' from this provision to allow the Quick Bond Application and Agreement (SBA Form 990A) to be used for a Contract that includes a maintenance period of 2 years or less (for defective workmanship or materials only), and with SBA's approval, for longer maintenance periods and broader coverage, as provided in section 115.10 under the definition of ''Contract''. In addition, SBA is increasing the allowable liquidated damages provision from $250.00 per day to $1,000.00 per day. No changes have been made to this provision as proposed.

*Section 115.31(d).* SBA is revising the final sentence of this provision by basing the example on the current statutory limit of $6.5 million. No

changes have been made to this provision as proposed.

*Section 115.32(d).* SBA is amending this provision by changing the dollar threshold for determining when the Prior Approval Surety must notify SBA of the change and/or obtain SBA's approval from at least $50,000 to $100,000. The phrase ''whichever is less'' has been added to clarify the meaning of this requirement. No changes have been made to this provision as proposed.

*Section 115.35(c)(1).* SBA is reducing the time frame allowed for a Prior Approval Surety to submit a claim to SBA from one year to 90 days after the Surety pays the claim. In addition, the title of the SBA Form 994H, ''Default Report, Claim for Reimbursement and Record of Administrative Action,'' has been changed to ''Default Report, Claim for Reimbursement and Report of Recoveries,'' to reflect the current version of the form. No changes have been made to this provision as proposed.

*Section 115.35(c)(4).* SBA is reducing the time frame for SBA to pay a claim submitted by a Surety in the Prior Approval Program from 90 days to 45 days after receipt of the requisite information. No changes have been made to this provision as proposed.

*Section 115.36(a)(3).* SBA is reducing the time frame allowed for a Surety to reimburse SBA its share of a settlement from 90 days to 45 days after receipt. No changes have been made to this provision as proposed.

*Section 115.67(a).* SBA is increasing the dollar threshold for determining when a PSB Surety must present checks for additional fees due from the Principal and Surety from $50,000 to $100,000. The phrase ''whichever is less'' has been added to clarify the meaning of this requirement. No changes have been made to this provision as proposed.

*Section 115.69.* For imminent breach payments that exceed 10% of the Contract amount, SBA is revising this provision to give the PSB Surety the opportunity to request SBA to approve the amount prior to the Surety making the Imminent Breach payment. SBA will approve such payment if SBA finds that the payment is necessary and reasonable. If the Surety does not request prior SBA approval for such payments, SBA may refuse to reimburse the Surety if SBA finds that the payment that exceeds 10% of the Contract amount was not necessary and reasonable. No changes have been made to this provision as proposed.

*SBA 115.70(a).* SBA is reducing the time frame allowed for a PSB Surety to submit a claim to SBA from one year to 90 days after the Surety pays the claim. SBA is also reducing the time frame for SBA to pay a claim submitted by a Surety in the PSB Program from 90 days to 45 days after receipt of the requisite information. No changes have been made to this provision as proposed.

*Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612)*

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule does not constitute a significant regulatory action under Executive Order 12866. This is also not a ''major rule'' under the Congressional Review Act, 5 U.S.C. 800.

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

SBA has determined that this final rule will not have substantial, direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, SBA has determined that this final rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

SBA has determined that this final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

Regulatory Flexibility Act, 5 U.S.C. 601–612

The Regulatory Flexibility Act (RFA) requires administrative agencies to consider the effect of their actions on small entities, small non-profit enterprises, and small local governments. Pursuant to the RFA, when an agency issues a rulemaking, the agency must prepare a regulatory flexibility analysis which describes the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. There are twenty-one Sureties that participate in the SBA program, and no part of this final rule would impose any additional cost or any significant burden on them. Consequently, this final rule does not meet the substantial number of small businesses criterion anticipated by the Regulatory Flexibility Act.

**List of Subjects in 13 CFR Part 115**

Claims, Reporting and recordkeeping requirements, Small businesses, Surety bonds.

For the reasons stated in the preamble, SBA amends 13 CFR part 115 as follows:

## PART 115—SURETY BOND GUARANTEE

■ 1. The authority citation for part 115 is revised to read as follows:

**Authority:** 5 U.S.C. app 3; 15 U.S.C. 687b, 687c, 694a, 694b note; and Pub. L. 110–246, Sec. 12079, 122 Stat. 1651.

■ 2. In § 115.10, revise the definition of ''Applicable Statutory Limit'' to read as follows:

**§ 115.10 Definitions.**

* * * * *

*Applicable Statutory Limit* means the maximum amount, set forth below, of any Contract or Order for which SBA is authorized to guarantee, or commit to guarantee, a Bid Bond, Payment Bond, Performance Bond, or Ancillary Bond:

(1) $6.5 million (as adjusted for inflation in accordance with 41 U.S.C. 1908);

(2) $10 million if a contracting officer of a Federal agency certifies, in accordance with section 115.12(e)(3), that such guarantee is necessary; or

(3) if SBA is guaranteeing the bond in connection with a procurement related to a major disaster pursuant to section 12079 of Pub. L. 110–246, see section 115.12(e)(4).

* * * * *

■ 3. Amend § 115.12 as follows:

■ a. Revise paragraph (b);

■ b. Remove paragraph (e)(3);

■ c. Redesignate paragraphs (e)(4) and (5) as paragraphs (e)(3) and (4), respectively;

■ d. In newly redesignated paragraph (e)(3), revise the heading and the first sentence;

■ e. Revise newly redesignated paragraph (e)(4) introductory text, remove newly redesignated paragraph (e)(4)(iii), and redesignate paragraph (e)(4)(iv) as paragraph (e)(4)(iii);

■ f. In newly redesignated paragraph (e)(4)(iii), remove ''paragraph (e)(5)'' and add in its place ''paragraph (e)(4)''.

The revisions read as follows:

**§ 115.12 General program policies and provisions.**

* * * * *

(b) *Eligibility of bonds.* Bid Bonds and Final Bonds are eligible for an SBA guarantee if they are executed in connection with an eligible Contract, as defined in § 115.10, Definitions. Commercial and Fidelity bonds are not eligible for SBA guarantees. Ancillary Bonds may also be eligible for SBA's guarantee. A performance bond must not prohibit a Surety from performing the Contract upon default of the Principal.

* * * * *

(e) * * *

(3) *Federal Contracts or Orders in excess of $6,500,000 (as adjusted for inflation in accordance with section 1908 of title 41, United States Code).* SBA is authorized to guarantee bonds on Federal Contracts or Orders greater than $6,500,000 (as adjusted for inflation in accordance with 41 U.S.C. 1908), but not exceeding $10,000,000, upon a signed certification of a Federal contracting officer. * * *

(4) *Alternative authority to guarantee bonds for Contracts and Orders related to a major disaster area.* Subject to the availability of funds appropriated in advance specifically for the purpose of guaranteeing bonds for any Contract or Order related to a major disaster, SBA may, as an alternative to the authority otherwise set forth in this Part, guarantee bonds on any Contract or Order under the following terms and conditions:

* * * * *

■ 4. In § 115.13, amend paragraph (a)(5) by revising the second sentence and adding a third sentence to read as follows:

**§ 115.13 Eligibility of Principal.**

(a) * * *

(5) * * * SBA will not guarantee bonds for Principals who are primarily brokers. In addition, the Principal must retain full responsibility for the oversight and management of the Contract, including any work performed by any subcontractor, and may not subcontract the full scope of the statement of work.

* * * * *

**§ 115.17 [Amended]**

■ 5. In § 115.17, amend paragraph (b)(2) by removing ''90 days'' and adding ''45 days'' in its place.

■ 6. Amend § 115.19 by revising the introductory text and by removing ''$50,000'' wherever it appears in paragraphs (c)(1), (d), and (e)(2) and adding in its place ''$100,000, whichever is less''.

The revision reads as follows:

**§ 115.19 Denial of liability.**

In addition to equitable and legal defenses and remedies under contract law, the Act, and the regulations in this Part, SBA is relieved of liability in whole or in part within its discretion if any of the circumstances in paragraphs (a) through (h) of this section exist, except that SBA shall not deny liability on Prior Approval bonds based solely upon material information that was provided to SBA as part of the Surety's guarantee application.

* * * * *

**§ 115.30 [Amended]**

■ 7. In § 115.30, in paragraph (d)(2)(ii)(C), remove the phrase ''or the warranty/maintenance period'', and in paragraph (d)(2)(ii)(D), remove ''$250'' and add ''$1,000'' in its place.

■ 8. Amend § 115.31 by revising the final sentence of paragraph (d) to read as follows:

**§ 115.31 Guarantee percentage.**

* * * * *

(d) * * * For example, if a contract amount increases to $6,800,000, SBA's share of the loss under an 80% guarantee is limited to 76.5% [6,500,000/6,800,000 = 95.6% x 80% = 76.5%].

* * * * *

**§ 115.32 [Amended]**

■ 9. In § 115.32, amend paragraph (d)(1) by removing ''$50,000'' and adding ''$100,000, whichever is less'' in its place.

■ 10. Amend § 115.35 by revising paragraph (c)(1), and in paragraph (c)(4), by removing ''90 days'' and adding ''45 days'' in its place.

The revision reads as follows:

**§ 115.35 Claims for reimbursement of Losses.**

* * * * *

(c) *Claim reimbursement requests.* (1) Claims for reimbursement for Losses which the Surety has paid must be submitted (together with a copy of the bond, the bonded Contract, and any indemnity agreements) with the initial claim to OSG on a ''Default Report, Claim for Reimbursement and Report of Recoveries'' (SBA Form 994H), within 90 days from the time of each disbursement. Claims submitted after 90 days must be accompanied by substantiation satisfactory to SBA. The date of the claim for reimbursement is the date of receipt of the claim by SBA, or such later date as additional information requested by SBA is received.

* * * * *

**§ 115.36 [Amended]**

■ 11. In § 115.36, amend paragraph (a)(3) by removing ''90 days'' and adding ''45 days'' in its place.

**§ 115.67 [Amended]**

■ 12. In § 115.67, amend paragraph (a) by removing ''$50,000'' and adding ''$100,000, whichever is less'' in its place.

■ 13. Revise § 115.69 to read as follows:

**§ 115.69 Imminent Breach.**

*(a) No prior approval requirement.* SBA will reimburse a PSB Surety for the guaranteed portion of payments the Surety makes to avoid or attempt to avoid an Imminent Breach of the terms of a Contract covered by an SBA guaranteed bond. The aggregate of the payments by SBA under this section cannot exceed 10% of the Contract amount, unless the Administrator finds that a greater payment (not to exceed the guaranteed portion of the bond penalty) is necessary and reasonable. The PSB Surety does not need to obtain prior SBA approval to make Imminent Breach payments, except that the PSB Surety may request SBA to approve payments that exceed 10% of the Contract amount prior to the Surety making the payment. In no event will SBA make any duplicate payment under any provision of these regulations in this part.

*(b) Recordkeeping requirement.* The PSB Surety must keep records of payments made to avoid Imminent Breach.

**§ 115.70 [Amended]**

■ 14. In § 115.70, amend paragraph (a) by removing the term ''1 year'' in the first sentence and adding ''90 days'' in its place and by removing the term ''90 days'' in the third sentence and adding ''45 days'' in its place.

**Jeanne A. Hulit,**

*Acting Administrator.*

[FR Doc. 2014–00295 Filed 1–10–14; 8:45 am]

**BILLING CODE 8025–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 91, 121, and 125

**[Docket No.: FAA–2013–0579; Amendment Nos. 91–329, 121–364 and 125–62]**

**RIN 2120–AK27**

## Flight Data Recorder Airplane Parameter Specification Omissions and Corrections

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; disposition of comments.

**SUMMARY:** On December 31, 2012, the FAA published a final rule with a request for comments amending the operating regulations for flight data recorders by correcting errors in recording rates in three different appendices. These errors created requirements that could not be met by certain airplanes without extensive modification, which was not intended when the requirements were adopted. The corrected recording rates are as intended when the applicable flight data recorder parameter requirements were adopted, but which had been omitted from the then current publication of the regulatory text.

**DATES:** January 13, 2014.

**ADDRESSES:** You may review the public docket for this rulemaking (Docket No. FAA–2012–1333) at the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the public docket on the Internet at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this action contact Chris Parfitt, Flight Standards Service, Aircraft Maintenance Division–Avionics Maintenance Branch, AFS–360, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 385–6398; email *chris.parfitt@faa.gov.*

For legal questions concerning this action contact Karen Petronis, International Law, Legislation and Regulations Division (AGC–200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3073, email *Karen.Petronis@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

The final rule amended three appendices in 14 CFR related to flight data recorder (FDR) requirements:

- First, Appendix E to part 91 was amended to correct a typographical error introduced when the rule was published. For the altitude parameter, the sampling rate per second was listed as 11. The correct rate had always been 1 sample per second.
- The second and third corrections concerned identical standards in Appendix M to part 121 and Appendix E to part 125. When footnote 5 was added in 1999 to each Appendix, the sampling interval was left off for certain airplanes. The correction put the sampling interval of once per second back in the footnote for the affected airplanes.

None of these changes required action by airplane owners, operators or manufacturers as the affected airplanes already complied with the requirements of the originally adopted rules and the corrections adopted. Since these requirements were intended in the original rules, there was no new impact on safety.

### Discussion of Comments

The FAA received no comments on the final rule.

### Conclusion

Since no comments were submitted in response to the final rule, the FAA has determined that no revisions to the rule are warranted.

Issued under authority of 49 U.S.C. 106(f) and 44701(a)(5) in Washington, DC.

**Lirio Liu,**

*Director, Office of Rulemaking.*

[FR Doc. 2014–00383 Filed 1–10–14; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

## DEPARTMENT OF THE TREASURY

### 19 CFR Part 12

**[CBP Dec. 14–02]**

**RIN 1515–AD99**

## Extension of Import Restrictions Imposed on Certain Archaeological Material From China

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the U.S. Customs and Border Protection (CBP) regulations to reflect the extension of import restrictions on certain archaeological material from the People's Republic of China (China) and makes a technical change to the regulations to clarify that the restriction to monumental sculpture and wall art at least 250 years old should be calculated as of January 14, 2009, the date the Memorandum of Understanding (MOU) became effective. These restrictions, which were originally imposed by CBP Dec. 09–03, are due to expire on January 14, 2014, unless extended.

The Assistant Secretary for Educational and Cultural Affairs, United States Department of State, has determined that conditions continue to warrant the imposition of import restrictions on the archaeological materials from China. Accordingly, the restrictions will remain in effect for an additional five years, and the CBP regulations are being amended to indicate this further extension through January 14, 2019. Additionally, the Designated List of cultural property described in CBP Dec. 09–03 is revised in this document to clarify that the agreement applies to monumental sculpture and wall art at least 250 years old as of January 14, 2009. These restrictions are being extended pursuant to determinations of the United States Department of State made under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. CBP Dec. 09–03 contains the Designated List of archaeological materials that describes the articles to which the restrictions apply.

**DATES:** *Effective Date:* January 14, 2014.

**FOR FURTHER INFORMATION CONTACT:** For legal aspects, Lisa Burley, Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, Office of International Trade, (202) 325–0215. For operational aspects, William R. Scopa, Chief, Partner Government Agencies Branch, Trade Policy and Programs, Office of International Trade, (202) 863–6554.

**SUPPLEMENTARY INFORMATION:**

### Background

Pursuant to the provisions of the 1970 United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention, codified into U.S. law as the Convention on Cultural Property

Implementation Act (Pub. L. 97–446, 19 U.S.C. 2601 *et seq.*) (hereafter, the ''Cultural Property Implementation Act'' or the ''Act''), signatory nations (State Parties) may enter into bilateral or multilateral agreements to impose import restrictions on eligible archaeological and ethnological materials under procedures and requirements prescribed by the Act. Under the Act and applicable CBP regulations (19 CFR 12.104g), the restrictions are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States (19 U.S.C. 2602(b)). This period may be extended for additional periods, each such period not to exceed five years, where it is determined that the factors justifying the initial agreement still pertain and no cause for suspension of the agreement exists (19 U.S.C. 2602(e); 19 CFR 12.104g(a)).

On January 14, 2009, the United States entered into a bilateral agreement with the People's Republic of China (China), concerning the imposition of import restrictions on certain archaeological materials representing China's cultural heritage from the Paleolithic Period (c. 75,000 B.C.) through the end of the Tang Period (A.D. 907) and monumental sculpture and wall art at least 250 years old. On January 16, 2009, CBP published CBP Dec. 09–03 in the **Federal Register** (74 FR 2838), which amended 19 CFR 12.104g(a) to reflect the imposition of these restrictions.

Import restrictions listed in 19 CFR 12.104g(a) are effective for no more than five years beginning on the date on which the agreement enters into force with respect to the United States. This period can be extended for additional periods not to exceed five years if it is determined that the factors which justified the initial agreement still pertain and no cause for suspension of the agreement exists. (19 CFR 12.104g(a)).

On April 1, 2013, by publication in the **Federal Register** (78 FR 19565), the United States Department of State proposed to extend the MOU between the U.S. and China concerning the imposition of import restrictions on archaeological material from the Paleolithic Period through the Tang Period and monumental sculpture and wall art at least 250 years old.

On August 1, 2013, after reviewing the findings and recommendations of the Cultural Property Advisory Committee, the Assistant Secretary for Educational and Cultural Affairs, United States Department of State, concluding that the cultural heritage of China continues to be in jeopardy from pillage of certain archaeological materials, made the necessary determination to extend the import restrictions for an additional five years. On January 8, 2014, diplomatic notes were exchanged reflecting the extension of the restrictions for an additional five-year period as described in this document.

By request of China, and pursuant to the statutory and decision-making process, the Designated List of materials covered by the restrictions is being amended to clarify that the agreement applies to monumental sculpture and wall art that was at least 250 years old as of January 14, 2009, the date the MOU first entered into force. Thus, CBP is amending 19 CFR 12.104g(a) accordingly to reflect the extension of the import restrictions and the intention of the parties to cover monumental sculpture and wall art that was at least 250 years old as of January 14, 2009, through January 14, 2019, in accordance with the conditions set forth in 19 U.S.C. 2606 and 19 CFR 12.104c.

In this document, the Designated List of articles that was published in CBP Dec. 09–03 (*see* 74 FR 2838, dated January 16, 2009) is amended to clarify that the intentions of both parties is to include monumental sculpture and wall art that was at least 250 years old as of January 14, 2009.

*Designated List*

This Designated List, amended as set forth in this document, includes archaeological materials representing China's cultural heritage from the Paleolithic Period (c. 75,000 B.C.) through the end of the Tang Period (A.D. 907) and monumental sculpture and wall art at least 250 years old as of January 14, 2009. The Designated List and additional information about the agreement may also be found at the following Internet Web site address: *http://eca.state.gov/cultural-heritage-center/international-cultural-property-protection/bilateral-agreements/china*.

**Designated List of Archaeological Material of China**

*Simplified Chronology*

Paleolithic period (c. 75,000–10,000 BC).
Neolithic period (c. 10,000–2000 BC).
Erlitou and other Early Bronze Age cultures (c. 2000–1600 BC).
Shang Dynasty and other Bronze Age Cultures (c. 1600–1100 BC).
Zhou Dynasty (c. 1100–256 BC).
Qin Dynasty (221–206 BC).
Han Dynasty (206 BC–AD 220).
Three Kingdoms (AD 220–280).
Jin Dynasty (AD 265–420).
Southern and Northern Dynasties (AD 420–589).
Sui Dynasty (AD 581–618).
Tang Dynasty (AD 618–907).

**I. Ceramic**

The ceramic tradition in China extends back to at least the 6th millennium B.C. and encompasses a tremendous variety of shapes, pastes, and decorations. Chinese ceramics include earthenwares, stonewares and porcelains, and these may be unglazed, glazed, underglazed, painted, carved, impressed with designs, decorated with applied designs or a combination of all of these. Only the most distinctive are listed here. Vessels are the most numerous and varied types of ceramics. Ceramic sculptures include human, animal, mythic subjects, and models of scenes of daily life. Architectural elements include decorated bricks, baked clay tiles with different glaze colors, and acroteria (ridge pole decorations).

*A. Vessels*

1. Neolithic Period

Archaeological work over the past thirty years has identified numerous cultures of the Neolithic period from every part of China, all producing distinctive ceramics. Early Neolithic cultures (c. 7500–5000 BC) include such cultures as Pengtoushan (northern Hunan Province), Peiligang (Henan Province), Cishan (Hebei Province), Houli (Shandong Province), Xinglongwa (eastern Inner Mongolia and Liaoning Province), Dadiwan and Laoguantai (Gansu and Shaanxi Province), Xinle (Liaodong peninsula, Liaoning Province), among others. Examples of Middle Neolithic cultures (c. 5000–3000 BC) include Yangshao (Shaanxi, Shanxi, and Henan Provinces), Daxi (eastern Sichuan and western Hubei Provinces), Hemudu (lower Yangzi River valley, Zhejiang Province), Majiabang (Lake Tai/Taihu area to Hangzhou Bay, Zhejiang and southern Jiangsu Provinces), Hongshan (eastern Inner Mongolia, Liaoning, and northern Hebei Provinces), and Dawenkou (Shandong Province), among others. Later Neolithic cultures (c. 3500–2000 BC) include Liangzhu (lower Yangzi River Valley), Longshan (Shandong and Henan Provinces), Taosi (southern Shanxi Province), Qujialing (middle Yangzi River valley in Hubei and Hunan Provinces), Baodun (Chengdu Plain, Sichuan Province), Shijiahe (western Hubei Province), and Shixia (Guangdong Province), among many others.

Neolithic vessels are sometimes inscribed with pictographs. When present, they are often single incised marks on vessels of the Neolithic period, and multiple incised marks (sometimes around the rim) on late Neolithic vessels.

a. *Yangshao:* The ''classic'' form of Neolithic culture, c. 5000–3000 BC in Shanxi, Shaanxi, Gansu, Henan, and adjacent areas. Hand-made, red paste painted with black, sometimes white motifs, that are abstract and depict plants, animals, and humans. Forms include bulbous jars with lug handles, usually with a broad shoulder and narrow tapered base, bowls, open mouth vases, and flasks (usually undecorated) with two lug handles and a pointed base.

b. *Shandong Longshan:* Vessels are wheel-made, black, very thin-walled, and highly polished, sometimes with open cut-out decoration. Forms include tall stemmed cups (*dou*), tripods (*li* and *ding*), cauldrons, flasks, and containers for water or other liquids.

2. Erlitou, Shang, and Zhou Vessels

a. Vessels are mostly utilitarian gray paste cooking tripod basins, cooking and storage jars, wide mouth containers, pan circular dishes with flat base, and broad three legged version of pan. The latter also appear in fine gray and black pastes. The forms of these include the kettle with lid (*he*), tripod liquid heating vessel with pouring spout (*jue*), tripod cooking pot (*ding*), goblet or beaker (*gu*), tripod water heater without pouring spout (*jia*).

b. *Shang and Zhou:* Vessels may be wheel-made or coiled. Vessels can be utilitarian gray paste cooking vessels, often cord-impressed, or more highly decorated types. Surfaces can be impressed and glazed yellow to brown to dark green. White porcelain-like vessels also occur. Forms include those of the Erlitou plus wide-mouth containers and variously shaped jars and serving vessels.

3. Qin Through Southern and Northern Vessels

Most vessels are wheel-made. The main developments are in glazing. Earthenwares may have a lead-based shiny green glaze. Grey stonewares with an olive color are called Yue ware.

4. Sui and Tang Vessels

**Note:** Most vessels are wheel-made.

a. *Sui:* Pottery is plain or stamped.

b. *Tang:* A three-color glazing technique is introduced for earthenwares (*sancai*). Green, yellow, brown, and sometimes blue glazes are used together on the same vessel. For stoneware, the olive glaze remains typical.

*B. Sculpture*

1. *Neolithic:* Occasional small figurines of animals or humans. From the Hongshan culture come human figures, some of which appear pregnant, and human faces ranging from small to life size, as well as life-size and larger fragments of human body parts (ears, belly, hands, and others).

2. *Shang through Eastern Zhou:* Ceramic models and molds for use in the piece-mold bronze casting process. Examples include frontal animal mask (*taotie*), birds, dragons, spirals, and other decorative motifs.

3. *Eastern Zhou, Qin and Han:* Figures are life-size or smaller. They are hand- and mold-made, and may be unpainted, painted, or glazed. Figures commonly represent warriors on foot or horseback, servants, acrobats, and others. Very large numbers date to the Han Dynasty. In some cases, the ceramic male and female figurines are anatomically accurate, nude, and lack arms (in these cases, the figures were originally clad in clothes and had wooden arms that have not been preserved). Other ceramic objects, originally combined to make scenes, take many forms including buildings, courtyards, ships, wells, and pig pens.

4. *Tang:* Figures depicting Chinese people, foreigners, and animals may be glazed or unglazed with added paint. Approximately 15 cm to 150 cm high.

*C. Architectural Decoration and Molds*

1. *Han:* Bricks having a molded surface with geometric or figural design. These depict scenes of daily life, mythic and historical stories, gods, or demons.

2. *Three Kingdoms through Tang:* Bricks may be stamped or painted with the same kinds of scenes as in the Han Dynasty.

3. *Han through Tang:* Roof tiles may have a corded design. Eaves tiles with antefixes have Chinese characters or geometric designs. Glazed acroteria (ridge pole decorations) in owl tail shape.

**II. Stone**

*A. Jade*

Ancient Chinese jade is, for the most part, the mineral nephrite. It should be noted, however, that many varieties of hard stone are sometimes called ''jad'' (yu) in Chinese. True nephrite jade can range in color from white to black, and from the familiar shades of green to almost any other color. Jade has been valued in China since the Neolithic period. Types commonly encountered include ornaments, amulets, jewelry, weapons, insignia, and vessels.

1. Ornaments and Jewelry

a. *Neolithic (Hongshan):* Types are mostly hair cylinders or pendant ornamental animal forms such as turtles, fish-hawks, cicadas, and dragons. One common variety is the so-called ''pigdragon'' (*zhulong*), a circular ring form with a head having wrinkled snout (the ''pig'') and long dragon-like body.

b. *Neolithic (Liangzhu):* Types include awl-shaped pendants, three-prong attachments, openwork crown-shapes, beads, birds, fishes, frogs.

c. *Neolithic (Shandong Longshan) and Erlitou:* Ornaments for body and clothing such as stick pins and beads.

d. *Shang and Zhou:* Earrings, necklaces, pectorals, hair stickpins, ornaments, sometimes in the shape of small animals, dragons, or other forms; belt buckles, and garment hooks. During the Zhou Dynasty, there appear elaborate pectorals made of jade links, and jade inlay on bronze.

e. *Qin, Han and Three Kingdoms:* Pectoral ornaments and small-scale pendants continue to be produced. Types include pectoral slit earrings, large disks (*bi*), openwork disks (*bi*), openwork plaques showing a mythic bird (*feng*), and various types of rings. Entire burial suits of jade occur during the Han Dynasty. More frequently occurring are Han Dynasty belthooks, decorated with dragons, and garment hooks.

2. Weapons, Tools, and Insignia

a. *Neolithic (Liangzhu):* Types include weapons such as broad-bladed axes (*yue*), long rectangular or trapezoidal blades (*zhang*), often with holes along the back (non-sharpened) edge for hafting; tools such as hoe, adze, knife blades.

b. *Neolithic (Shandong Longshan) and Erlitou:* Broad axe (*yue*) and halberd or ''dagger axe'' (*ge*).

c. *Shang and Zhou:* Broad axes (*yue*) and halberd (*ge*) may be attached to turquoise inlaid bronze shafts.

d. *Neolithic (Liangzhu) to Zhou:* Tool types include hoe, adze, knife blades.

e. *Neolithic (Shandong Longshan) to Zhou:* Insignia blades based on tool shapes such as long hoe, flat adze, and knife.

3. Ceremonial Paraphernalia

*Neolithic—Han:* Types include flat circular disks (*bi*) with a cut-out central hole and prismatic cylindrical tubes (*cong*), usually square on the outside with a circular hole through its length,

often with surface carving that segments the outer surface into three or more registers. The *cong* tubes are often decorated with a motif on each corner of each register showing abstract pairs of eyes, animal and/or human faces. *Cong* tubes, while most closely linked with the Liangzhu culture, were widely distributed among the many late Neolithic cultures of China.

4. Vessels

a. *Shang through Han:* Types include eared cups and other tableware.

b. *Qin through Tang:* Tableware forms such as cups, saucers, bowls, vases, and inkstones.

5. Other

Chimes from all eras may be rectangular or disk-shaped.

*B. Amber*

Amber is used for small ornaments from the Neolithic through Tang dynasties.

*C. Other Stone*

1. Tools and Weapons

a. *Paleolithic and later eras:* Chipped lithics from the Paleolithic and later eras including axes, blades, scrapers, arrowheads, and cores.

b. *Neolithic and later eras:* Ground stone including hoes, sickles, spades, axes, adzes, pestles, and grinders.

c. *Erlitou through Zhou:* As with jade, weapon types include blades, broad axes (*yue*), and halberds (*ge*).

2. Sculpture

Stone becomes a medium for large-scale images in the Qin and Han. It is put to many uses in tombs. It also plays a major role in representing personages associated with Buddhism, Daoism, and Confucianism.

a. Sculpture in the round.

**Note:** This section includes monumental sculpture at least 250 years old as of January 14, 2009.

i. *Shang:* Sculpture includes humans, often kneeling with hands on knees, sometimes with highly decorated incised robes, owls, buffalo, and other animals. The Jinsha site near Chengdu, Sichuan, dating to the late Shang Dynasty, has yielded numerous examples of stone figurines in a kneeling position, with carefully depicted hair parted in the center, and with hands bound behind their back.

ii. *Han to Qing:* The sculpture for tombs includes human figures such as warriors, court attendants, and foreigners. Animals include horse, tiger, pig, bull, sheep, elephant, and fish, among many others.

iii. The sculpture associated with Buddhism is usually made of limestone, sandstone, schist and white marble. These be covered with clay, plaster, and then painted. Figures commonly represented are the Buddha and disciples in different poses and garments.

iv. The sculpture associated with Daoism is usually sandstone and limestone which may be covered and painted. Figures commonly represented are Laozi or a Daoist priest.

v. The sculpture associated with Confucianism represents Confucius and his disciples.

b. Relief Sculpture.

i. *Han:* Relief sculpture is used for all elements of tombs including sarcophagi, tomb walls, and monumental towers. Images include hunting, banqueting, historical events, processions, scenes of daily life, fantastic creatures, and animals.

ii. *Tang:* Tomb imagery now includes landscapes framed by vegetal motifs.

c. Art of cave or grotto temples.

*Han—Qing:* Note that this section includes monumental sculpture at least 250 years old as of January 14, 2009. These temples, mostly Buddhist, combine relief sculpture, sculpture in the round, and sometimes mural painting. The sculptures in the round may be stone or composites of stone, wood, and clay and are painted with bright colors.

d. Stelae.

*Han—Qing:* Note that this section includes monumental sculpture at least 250 years old as of January 14, 2009. Tall stone slabs set vertically, usually on a tortoise-shaped base and with a crown in the form of intertwining dragons. Stelae range in size from around 0.60m to 3m. Some include relief sculpture consisting of Buddhist imagery and inscription, and others are secular memorials with long memorial inscription on front and back faces.

3. Architectural Elements

a. *Erlitou through Zhou:* Marble or other stone is used as a support for wooden columns and other architectural or furniture fixtures.

b. *Qing:* Note that this section includes monumental sculpture at least 250 years old as of January 14, 2009. Sculpture is an integral part of Qing Dynasty architecture. Bridges, archways, columns, staircases and terraces throughout China are decorated with reliefs. Colored stones may be used, including small bright red, green, yellow and black ones. Statue bases are draped with imitations of embroidered cloths. Stone parapets are carved with small, elaborately adorned fabulous beasts.

4. Musical Instruments

*Neolithic through Han, and later:* Chimestones, chipped and/or ground from limestone and other resonant rock. They may be highly polished, carved with images of animals or other motifs, and bear inscriptions in Chinese characters. They usually have a chipped or ground hole to facilitate suspension from a rack.

**III. Metal**

The most important metal in traditional Chinese culture is bronze (an alloy of copper, tin and lead), and it is used most frequently to cast vessels, weapons, and other military hardware. Iron artifacts are not as common, although iron was used beginning in the middle of the Zhou Dynasty to cast agricultural tool types, vessels, weapons and measuring utensils. As with ceramics, only the most distinctive are listed here.

*A. Bronze*

1. Vessels

**Note:** Almost any bronze vessel may have an inscription in archaic Chinese characters.

a. *Erlitou:* Types include variations on pots for cooking, serving and eating food including such vessels as the cooking pot (*ding*), liquid heating vessel with open spout (*jue*), or with tubular spout (*he*), and water heater without spout (*jia*).

b. *Shang:* Bronze vessels and implements include variations on the ceramic posts used for cooking, serving, and eating including but not limited to the tripod or quadripod cooking pot (*ding*), water container (*hu*), and goblet (*gu*). Animal-shaped vessels include the owl, mythic bird, tiger, ram, buffalo, deer, and occasionally elephant and rhinoceros. Most types are decorated with symbolic images of a frontal animal mask (*taotie*) flanked by mythical birds and dragons, or with simpler images of dragons or birds, profile cicadas, and geometric motifs, including a background ''cloud and thunder'' pattern of fine squared spirals.

c. *Zhou:* Types include those of previous eras. Sets begin to be made with individual vessels having similar designs. Late innovations are made to surface treatment: Relief decorations of intertwined dragons and feline appendages; inlay with precious stones and gems; inlay with other metals such as gold and silver; gilding; pictorial narratives featuring fighting, feasting and rituals; and various geometric designs.

d. *Qin and Han:* All vessel types and styles popularized of the immediately preceding era continue.

2. Sculpture

a. *Shang and other Bronze Age Cultures through Zhou:* Wide variety of cast human and animal sculptures. Particularly distinctive are the bronze sculptures from the Sanxingdui Culture in Sichuan which include life-sized human heads (often with fantastic features and sometimes overlaid with gold leaf) and standing or kneeling figurines ranging in size from 5cm to more than 2 meters; tree-shaped assemblages; birds, dragons, and other real and fantastic animals. Bronze sculpture from Chu and related cultures include supports for drums and bell sets (often in the shape of guardian figures, fantastic animals, or intertwined snakes).

b. *Qin and Han:* Decorative bronze types include statues of horses, lamps in the shape of female servants, screen supports in the shape of winged immortals, incense burners in the shape of mountains, mirrors, and inlaid cosmetic boxes.

c. *Buddhist:* In the Han there first appear small portable images of Sakyamuni Buddha. During the next historical eras, such images proliferate and become more varied in terms of size and imagery. Most of these are free-standing, depicting such subjects as the historical Buddha Sakyamuni, Buddhas associated with paradises, Buddha's disciples, and scenes from the *Lotus Sutra.* Gilt bronzes are made from the Han to Tang.

3. Coins

a. *Zhou Media of Exchange and Tool-shaped Coins:* Early media of exchange include bronze spades, bronze knives, and cowrie shells. During the 6th century BC, flat, simplified, and standardized cast bronze versions of spades appear and these constitute China's first coins. Other coin shapes appear in bronze including knives and cowrie shells. These early coins may bear inscriptions.

b. Later, tool-shaped coins began to be replaced by disc-shaped ones which are also cast in bronze and marked with inscriptions. These coins have a central round or square hole.

c. *Qin:* In the reign of Qin Shi Huangdi (221–210 BC) the square-holed round coins become the norm. The new Qin coin is inscribed simply with its weight, expressed in two Chinese characters *ban liang.* These are written in small seal script and are placed symmetrically to the right and left of the central hole.

d. *Han through Sui:* Inscriptions become longer, and may indicate that inscribed object is a coin, its value in relation to other coins, or its size. Later, the period of issue, name of the mint, and numerals representing dates may also appear on obverse or reverse. A new script, clerical (*lishu*), comes into use in the Jin.

e. *Tang:* The clerical script becomes the norm until 959, when coins with regular script (*kaishu*) also begin to be issued.

4. Musical Instruments

a. *Shang:* Instruments include individual clapper-less bells (*nao*), singly and in sets. Barrel drums lay horizontally, have a saddle on top, and rest on four legs.

b. *Zhou through Tang:* Bells and bell sets continue to be important. The bells vary considerably in size in shape. Other instruments include mouth organs (*hulu sheng*), gongs, cymbals, and a variety of types of drums, including drums (*chunyu*) and large ''kettledrums'' from south and southwest China.

5. Tools and Weapons

Tools and implements of all eras include needles, spoons, ladles, lifting poles, axes, and knives. Weapons and military gear include the broad axe, dagger axe, knives, spear points, arrowheads, helmets, chariot fittings, combination of spear and dagger (*ji*), cross-bow, and horse frontlets.

6. Miscellaneous

Other bronze items include but are not limited to mirrors, furniture parts, and utensils such belt buckles, garment hooks, weights, measuring implements, incense burners, lamps, spirit trees, tallies, seals, rings, bells, and cosmetic containers.

*B. Iron*

Iron is used for such utilitarian objects as axes, hammers, chisels, and spades. At the end of the Zhou, steel swords with multi-faceted metal inlay are produced.

1. *Zhou through Han:* Bimetallic weapons such as iron-bladed swords and knives with a bronze hilt.

2. *Three Kingdoms through Sui:* Small scale Buddhist images are cast.

3. *Tang:* Large scale castings include Buddhist statues, bells, lions, dragons, human figures, and pagodas.

*C. Gold and Silver*

During the Shang and Zhou Dynasties, gold is used to produce jewelry and a limited number of vessel types, and as gilding, gold leaf, or inlay on bronze. Gold and silver become widely used in the Han Dynasty and remain so through the Tang Dynasty. Objects include vessels such as cups, ewers, jars, bowls; utensils such as lamps, containers, jewelry, liturgical wares, furniture parts; and Buddhist sculpture such as images of Buddha and reliquaries.

**IV. Bone, Ivory, Horn, and Shell**

*Neolithic through Tang:* The most important uses of these materials is for vessels, seals, small-scale sculptures, and personal ornaments. In the Neolithic period, Erlitou culture, and Shang Dynasty bone (bovine scapula and tortoise plastrons, or lower shells) is used for divination: A carefully prepared bone or shell was thinned by drilling series of holes almost through the bone, to which heat was applied to make the bone crack. In some cases from the Late Shang Dynasty, the bones carry inscriptions revealing the date and nature of the question asked and, occasionally, the outcome of the event. The cowrie shells used as money in the Shang Dynasty and later periods show signs of use. Worked shell imitations of cowries are also known. Ivory and horn are used to craft tableware utensils such as cups and containers as early as the Shang Dynasty; these are sometimes inlaid with turquoise or other stones.

**V. Silks and Textiles**

*Neolithic through Tang:* Silk worms are domesticated in China as early as the Neolithic. Silk cloth is preserved as garments and parts thereof, as a covering for furniture, and as painted or embroidered banners. Techniques include flat weave, moiré, damask, gauze, quilting, and embroidery.

**VI. Lacquer and Wood**

*Neolithic through Tang:* Lacquer is a transparent sap collected from the lac tree. When dissolved, it may be repeatedly applied to a wood or fabric form. The resulting product is sturdy and light. Lacquer vessels first appear in the Neolithic period, and become highly sophisticated and numerous by the middle Zhou through Han Dynasties. In the Sui and Tang Dynasties the practice is invented of creating a hard, thick surface of lacquer with the application of many thin layers. The resulting object may be carved and or inlaid before it hardens completely. Common colors for lacquer are red and black. Object types include: Vessels such as bowls, dishes, and goblets; military gear such shields and armor; musical instruments such as zithers (*qin*) and drums, related supports for drums and for bell sets; and

boxes and baskets with painted or carved lids.

Wooden objects from this era are mainly preserved when painted with lacquer. These include architectural elements, utensils, coffins, musical instruments, and wood sculptures.

**VII. Bamboo and Paper**

*Zhou through Tang:* Types include texts on bamboo and wooden slips, and on paper. The slips may be found singly, or in groups numbering into the thousands. Some Buddhist sutras were printed with movable wooden type.

**VIII. Glass**

*Zhou through Tang:* Glass types include mostly tablewares, such as cups, plates, saucers.

**IX. Painting and Calligraphy**

*A. Wall Painting*

Note that this section includes wall art at least 250 years old as of January 14, 2009. The painted bricks of the Han through Tang tomb walls have already been mentioned. That tradition is partially concurrent with a fresco tradition that runs from the Han through Qing Dynasties. Temples including those in caves or grottos have wall paintings with Buddhist, Confucian, and Daoist themes.

*B. Other Painting*

*Han through Tang:* Paintings, dating to as early as the Southern and Northern, are on such media as banners, hand-scrolls, and fans. Subjects are drawn from Buddhism, Confucianism, and Daoism. Other subjects include landscapes and hunting scenes.

**Inapplicability of Notice and Delayed Effective Date**

This amendment involves a foreign affairs function of the United States and is, therefore, being made without notice or public procedure or a delayed effective date (5 U.S.C. 553(a)(1)).

*Regulatory Flexibility Act*

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply.

*Executive Order 12866*

Because this rule involves a foreign affairs function of the United States, it is not subject to Executive Order 12866.

*Signing Authority*

This regulation is being issued in accordance with 19 CFR 0.1(a)(1).

**List of Subjects in 19 CFR Part 12**

Cultural property, Customs duties and inspection, Imports, Prohibited merchandise.

**Amendment to CBP Regulations**

For the reasons set forth above, part 12 of Title 19 of the Code of Federal Regulations (19 CFR part 12), is amended as set forth below:

## PART 12—SPECIAL CLASSES OF MERCHANDISE

■ 1. The general authority citation for part 12 and the specific authority citation for § 12.104g continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

■ 2. In § 12.104g, the table of the list of agreements imposing import restrictions on described articles of cultural property of State parties is amended in the entry for the People's Republic of China in the column headed ''Cultural Property'' by adding the words ''as of January 14, 2009'' after the word ''old''; and in the column headed ''Decision No.'' by adding ''extended by CBP Dec. 14–02'' immediately after ''CBP Dec. 09–03''.

**Thomas S. Winkowski,**

*Acting Commissioner, U.S. Customs and Border Protection.*

Approved: January 8, 2014.

**Timothy E. Skud,**

*Deputy Assistant Secretary of the Treasury.*

[FR Doc. 2014–00388 Filed 1–10–14; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 14

**[Docket No. FDA–2013–N–1687]**

### Advisory Committee; Pharmacy Compounding Advisory Committee

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending its regulations to update information regarding the Pharmacy Compounding Advisory Committee in FDA's Center for Drug Evaluation and Research in the Agency's list of standing advisory committees. This updated information regarding the Committee includes changes to its charter to reflect the recent enactment of the Drug Quality and Security Act.

**DATES:** This rule is effective January 13, 2014.

**FOR FURTHER INFORMATION CONTACT:** Jayne E. Peterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, FAX 301–847–8533, email: *PCAC@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA announced the original establishment of the Pharmacy Compounding Advisory Committee (the Committee) and amended the regulations at § 14.100 (21 CFR 14.100) to add the Committee to the Agency's standing list of advisory committees in the **Federal Register** of March 10, 1998 (63 FR 11596). The Committee was established under authorities that included the Federal Advisory Committee Act (Pub. L. 92–463), section 1004 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 394), and section 503A of the FD&C Act (21 U.S.C. 353a), as enacted as part of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115), which exempted drugs compounded by pharmacies from the FD&C Act's new drug approval, adequate directions for use, and good manufacturing practice requirements if specified conditions, including two restrictions on commercial speech, were met. Section 503A of the FD&C Act as added by FDAMA also required the Agency to convene and consult with an advisory committee on compounding before issuing specified regulations.

In 2002, FDA terminated the Committee in response to the Supreme Court's decision in *Thompson, et al.* v. *Western States Medical Center Pharmacy, et al.* (535 U.S. 357 (2002)). That decision affirmed a decision of the U.S. Court of Appeals for the Ninth Circuit that held the speech related provisions of section 503A of the FD&C Act, as added by FDAMA, were unconstitutional. The Supreme Court held that the speech related restrictions in section 503A of the FD&C Act violated the First Amendment. The Ninth Circuit had also concluded that the unconstitutional speech restriction could not be severed from the other provisions of section 503A of the FD&C Act. The Supreme Court did not reach

this issue. Therefore, the Ninth Circuit's opinion invalidating section 503A of the FD&C Act in its entirety remained intact. FDA stated its view at the time, which was that the underlying authority in section 503A of the FD&C Act to establish the Pharmacy Compounding Advisory Committee was invalidated and without a statutory basis for the Committee, the Agency terminated the Committee (67 FR 70227, November 21, 2002).

Subsequently, in 2008, the U.S. Court of Appeals for the Fifth Circuit decided *Medical Center Pharmacy* v. *Mukasey* (536 F.3d 383 (5th Cir. 2008)), in which that court disagreed with the Ninth Circuit's holding regarding the severability of section 503A of the FD&C Act as added by FDAMA. The Fifth Circuit found the unconstitutional provisions of section 503A of the FD&C Act to be severable and that the other provisions could remain in effect. Based on this decision, FDA reestablished the Pharmacy Compounding Advisory Committee in 2012.

On November 27, 2013, the President signed into law the Drug Quality and Security Act (Pub. L. 113–54). This law removed the unconstitutional provisions from section 503A and added a new section 503B to the FD&C Act (21 U.S.C. 353b) that also requires FDA to consult with a Pharmacy Compounding Advisory Committee before issuing certain regulations pertaining to outsourcing facilities. As a result, FDA has amended the charter of the Pharmacy Compounding Advisory Committee to reflect the relevant statutory changes.

Under the amended charter, the Committee provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the FD&C Act and, as required, any other product for which FDA has regulatory responsibility, and makes appropriate recommendations to the Commissioner of Food and Drugs (the Commissioner).

The Committee will be composed of a core of 12 voting members including the Chair. Members and the Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of pharmaceutical compounding, pharmaceutical manufacturing, pharmacy, medicine, and related specialties. Membership also includes representatives from the National Association of Boards of Pharmacy and the United States Pharmacopoeia, and representatives of patient and public health advocacy organizations. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee will serve as special Government employees. The core of voting members may include one qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one or more non-voting members who are identified with industry interests.

Under 5 U.S.C. 553(b)(3)(B) and (d) and 21 CFR 10.40(d) and (e), the Agency finds good cause to dispense with notice and public comment procedures and to proceed to an immediate effective date on this rule. Notice and public comment and a delayed effective date are unnecessary and are not in the public interest as this final rule merely updates information regarding the function of the Committee already set out in the charter, and updates information regarding the dates related to the Committee establishment in the list of standing advisory committees in § 14.100. Therefore, the Agency is amending § 14.100.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice requesting nominations for voting members of the Committee, a notice for industry organizations to participate in the nominations for and selection of industry representatives for the Committee, and a notice for consumer organizations to participate in the nominations for and selection of the consumer representative for the Committee.

**List of Subjects in 21 CFR Part 14**

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

## PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

■ 1. The authority citation for 21 CFR part 14 is revised to read as follows:

**Authority:** 5 U.S.C. App. 2; 15 U.S.C. 1451–1461, 21 U.S.C. 41–50, 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264; Pub. L. 107–109; Pub. L. 108–155; Pub. L. 113–54.

■ 2. Section 14.100 is amended by revising paragraph (c)(18) to read as follows:

**§ 14.100 List of standing advisory committees.**

* * * * *

(c) * * *

(18) *Pharmacy Compounding Advisory Committee.*

(i) Date re-established: April 25, 2012.

(ii) Function: Provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act and, as required, any other product for which the Food and Drug Administration has regulatory responsibility, and makes appropriate recommendations to the Commissioner of Food and Drugs.

* * * * *

Dated: January 7, 2014.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2014–00322 Filed 1–10–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[TD 9652]**

**RIN 1545–BI57**

## Sales-Based Royalties and Vendor Allowances

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the capitalization and allocation of royalties that are incurred only upon the sale of property produced or property acquired for resale (sales-based royalties). This document also contains final regulations relating to adjusting inventory costs for a type of an allowance, discount, or price rebate earned on the sale of merchandise (sales-based vendor chargebacks). These regulations modify the simplified production method and the simplified resale method of allocating capitalized costs between ending inventory and cost of goods sold. These regulations affect taxpayers that incur capitalizable sales-based royalties or earn sales-based vendor chargebacks.

**DATES:**

*Effective date:* These regulations are effective on January 13, 2014.

*Comment date:* Comments will be accepted until April 14, 2014.

*Applicability date:* For dates of applicability, see §§ 1.263A–1(l),

1.263A–2(f), 1.263A–3(f), and 1.471–3(g).

**ADDRESSES:** Written (including electronic) comments should be submitted to Internal Revenue Service, CC:PA:LPD:PR (REG–149338–08), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044, or electronically to *www.regulations.gov* (IRS REG–149338–08). Alternatively, comments may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–149338–08), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. All comments will be available for public inspection and copying.

**FOR FURTHER INFORMATION CONTACT:** John Roman Faron, (202) 317–6950 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

This document contains final regulations that amend the Income Tax Regulations (26 CFR part 1) relating to the allocation under section 263A of the Internal Revenue Code (Code) of certain sales-based royalties and relating to the determination of cost of merchandise in inventory under section 471 when a taxpayer earns a type of sales-based vendor allowance. On December 17, 2010, a notice of proposed rulemaking (REG–149335–08) was published in the **Federal Register** (75 FR 78940). Written comments responding to the notice of proposed rulemaking were received. The comments are available for public inspection at *www.regulations.gov* or on request. A public hearing was requested and held on April 13, 2011. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision. The comments are discussed in the preamble.

## Summary of Comments and Explanation of Provisions

### *Sales-Based Royalties*

The proposed regulations clarified that sales-based royalties, like other royalties, may be capitalizable to property a taxpayer produces or acquires for resale. Royalty costs are capitalizable when they are incurred in securing the contractual right to use a trademark, corporate plan, manufacturing procedure, special recipe, or other similar right associated with property produced or property acquired for resale. Sales-based royalty costs are royalties that are incurred only upon the sale of property produced or acquired for resale.

The proposed regulations provided that sales-based royalties required to be capitalized must be allocated only to property that has been sold or, for inventory property, deemed to be sold under the taxpayer's inventory cost flow assumption. In response to concerns that the requirement to allocate sales-based royalties only to cost of goods sold would unduly burden taxpayers using simplified allocation methods, the final regulations provide that the allocation of sales-based royalties to property sold is optional rather than mandatory. Therefore, the final regulations permit taxpayers to either allocate sales-based royalties entirely to property sold and include those costs in cost of goods sold or to allocate sales-based royalties between cost of goods sold and ending inventory using a facts-and-circumstances cost allocation method described in § 1.263A–1(f) or a simplified method provided in § 1.263A–2(b) (the simplified production method) or § 1.263A–3(d) (the simplified resale method). The final regulations also clarify that sales-based royalties that a taxpayer allocates entirely to inventory property sold are included in cost of goods sold and may not be included in determining the cost of goods on hand at the end of the taxable year regardless of the taxpayer's cost flow assumption.

A commentator suggested that the final regulations acknowledge that a sales-based royalty payable by a reseller of inventory to its supplier is a direct acquisition cost under section 471 and included in cost of goods sold when the inventory item is sold. The final regulations do not adopt this comment because whether a cost is a royalty described in § 1.263A–1(e)(3)(ii)(U) or is a contingent acquisition cost is beyond the scope of these regulations.

### *Sales-Based Vendor Allowances in General*

The proposed regulations provided that the amount of an allowance, discount, or price rebate that a taxpayer earns by selling specific merchandise is a reduction in the cost of the merchandise sold or deemed sold under a taxpayer's cost flow assumption. The preamble to the proposed regulations referred to this type of allowance as a sales-based vendor allowance. The proposed regulations required that these allowances reduce cost of goods sold and not reduce ending inventory cost or value of goods on hand at the end of the taxable year.

A commentator disagreed with the requirement in the proposed regulations that the vendor allowances described in the proposed regulations always must reduce cost of goods sold. The commentator disputed that a vendor allowance should reduce cost of goods sold merely because the allowance is dependent on a sale of merchandise. Citing *Pittsburgh Milk Co.* v. *Commissioner,* 26 T.C. 707 (1956), the commentator suggested that sales-based vendor allowances that are the subject of an advance agreement between the vendor and the purchaser at the time the merchandise is purchased must be netted against the original cost of the merchandise and applied to ending inventory or cost of goods sold depending on the taxpayer's inventory cost flow assumption. Accordingly, the commentator suggested that the regulations be revised to provide that a sales-based vendor allowance may properly reduce the value of goods on hand at the end of the taxable year.

The final regulations reflect the commentator's suggestion that a vendor allowance does not reduce the cost of goods sold merely because the allowance is dependent on a sale of merchandise. The proposed regulations were overbroad because they required taxpayers to allocate to cost of goods sold all allowances that arise from selling merchandise. For example, if, after selling a certain number of units, a taxpayer earns a discount off each unit purchased during the taxable year, the allowance properly may be allocable to both the cost of units that remains in ending inventory and the cost of units included in cost of goods sold during the year. Similarly, a sales-volume allowance that provides only a reduction in the cost of any purchases made by a taxpayer in the next taxable year properly reduces the cost of the units of the product purchased in the next year. As the preceding two examples illustrate, the proposed regulations were overbroad in that they could be interpreted to require these allowances to reduce cost of goods sold solely because they arose as a result of selling merchandise. The extent to which a vendor allowance is properly allocable to the cost of goods in ending inventory or the cost of goods sold depends on all facts and circumstances, including the terms and conditions of the agreement between the vendor and the taxpayer. See *Pittsburgh Milk Co.* v. *Commissioner.* As described later in this preamble, the final regulations more clearly identify a type of sales-based vendor allowance that, to clearly reflect income, must reduce the cost of goods sold.

The commentator also asserted that Rev. Rul. 2001–8 (2001–1 CB 726), see

§ 601.601(d)(2), and earlier rulings support the proposition that sales-based vendor allowances are an adjustment to the cost of merchandise physically removed from inventory. Although allowances, discounts, and price rebates properly are treated as adjustments to the price of merchandise, the final regulations do not adopt the commentator's rationale for determining whether these adjustments properly reduce ending inventory or cost of goods sold. Rev. Rul. 2001–8 does not establish a general principle that sales-based vendor allowances reduce the invoice cost of merchandise physically sold. Rev. Rul. 2001–8 addresses a unique cost adjustment (floor stocks payments) that relates to goods physically on hand on a particular date and should not be applied beyond its specific facts.

*Sales-Based Vendor Chargebacks*

In response to comments that the proposed regulations were overbroad, the Treasury and IRS are considering alternatives to a broad definition of sales-based vendor allowances. The final regulations, however, specifically identify one type of sales-based vendor allowance (sales-based vendor chargebacks) that, to clearly reflect income, reduces cost of goods sold and does not reduce the cost of goods on hand at the end of the taxable year. Therefore, the final regulations apply the rule articulated in the notice of proposed rulemaking to sales-based vendor chargebacks. A sales-based vendor chargeback is defined as an allowance, discount, or price rebate that a taxpayer becomes unconditionally entitled to by selling a vendor's merchandise to specific customers identified by the vendor at a price determined by the vendor. Sales-based vendor chargebacks protect a taxpayer from realizing a loss or a reduced profit on the sale of specific merchandise when the taxpayer is obligated by contract with the vendor of the merchandise to resell the merchandise at a specific price (in some cases below the taxpayer's cost). Under the terms and conditions of the agreement between the vendor and the taxpayer and the economics of the transaction, it is inappropriate to treat the allowance as an adjustment to the cost of goods in ending inventory. A sales-based vendor chargeback properly reduces only cost of goods sold because it arises from and relates only to merchandise sold. Thus, it reduces the invoice cost of the merchandise sold and clearly reflects income only if it reduces cost of goods sold.

*Sales-Based Vendor Allowances Other Than Chargebacks*

The final regulations reserve rules for the treatment of other sales-based vendor allowances. Given the factual nature of particular vendor allowance arrangements between sellers and purchasers of merchandise, the IRS and Treasury Department request comments regarding additional guidance defining or describing particular sales-based vendor allowances and on objective rules for allocating such allowances to the purchase price of goods acquired in the future, ending inventory, or cost of goods sold.

**Effective/Applicability Date**

These regulations apply for taxable years ending on or after January 13, 2014.

**Special Analyses**

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

**Drafting Information**

The principal author of these regulations is John Roman Faron of the Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

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

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

Section 1.263A–1 also issued under 26 U.S.C. 263A.

Section 1.263A–2 also issued under 26 U.S.C. 263A.

Section 1.263A–3 also issued under 26 U.S.C. 263A. * * *

Section 1.471–3 also issued under 26 U.S.C. 471. * * *

■ **Par. 2.** Section 1.263A–0 Table of Contents is amended by adding new entries for §§ 1.263A–1(c)(5), (k), and (l); 1.263A–2(b)(3)(ii)(C), (e), and (f); 1.263A–3(d)(3)(i)(C)(*3*) and (f); and revising the entry for § 1.263A–1(e)(3)(ii) to read as follows:

**§ 1.263A–0 Outline of regulations under section 263A.**

* * * * *

**§ 1.263A–1 Uniform Capitalization of Costs.**

* * * * *

(c) * * *

(5) Costs allocable only to property sold.

* * * * *

(e) * * *

(3) * * *

(ii) Examples of indirect costs required to be capitalized.

* * * * *

(k) Change in method of accounting.

(1) In general.

(2) Scope limitations.

(3) Audit protection.

(4) Section 481(a) adjustment.

(5) Time for requesting change.

(l) Effective/applicability date.

**§ 1.263A–2 Rules Relating to Property Produced by the Taxpayer.**

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) Costs allocable only to property sold.

* * * * *

(e) Change in method of accounting.

(1) In general.

(2) Scope limitations.

(3) Audit protection.

(4) Section 481(a) adjustment.

(5) Time for requesting change.

(f) Effective/applicability date.

**§ 1.263A–3 Rules Relating to Property Acquired for Resale.**

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) * * *

(*3*) Costs allocable only to property sold.

* * * * *

(f) Effective/applicability date.

* * * * *

■ **Par. 3.** Section 1.263A–1 is amended by:
■ 1. Adding a paragraph (c)(5).
■ 2. Revising paragraph (e)(3)(i) and paragraph (e)(3)(ii) introductory text.
■ 3. Redesignating paragraph (e)(3)(ii)(U) as paragraph (e)(3)(ii)(U)(*1*), revising the second sentence of newly-designated paragraph (e)(3)(ii)(U)(*1*), and adding a sentence to the end of newly-designated paragraph (e)(3)(ii)(U)(*1*).
■ 4. Adding paragraph (e)(3)(ii)(U)(*2*).
■ 5. Revising paragraph (l).

The additions and revisions read as follows:

**§ 1.263A–1 Uniform capitalization of costs.**

* * * * *

(c) * * *

(5) *Costs allocable to property sold.* A cost that is allocated under this section, § 1.263A–2, or § 1.263A–3 entirely to property sold must be included in cost of goods sold and may not be included in determining the cost of goods on hand at the end of the taxable year.

* * * * *

(e) * * *

(3) * * *

(i) *In general.* (A) Indirect costs are defined as all costs other than direct material costs and direct labor costs (in the case of property produced) or acquisition costs (in the case of property acquired for resale). Taxpayers subject to section 263A must capitalize all indirect costs properly allocable to property produced or property acquired for resale. Indirect costs are properly allocable to property produced or property acquired for resale when the costs directly benefit or are incurred by reason of the performance of production or resale activities. Indirect costs may directly benefit or be incurred by reason of the performance of production or resale activities even if the costs are calculated as a percentage of revenue or gross profit from the sale of inventory, are determined by reference to the number of units of property sold, or are incurred only upon the sale of inventory. Indirect costs may be allocable to both production and resale activities, as well as to other activities that are not subject to section 263A. Taxpayers must make a reasonable allocation of indirect costs between production, resale, and other activities.

(B) *Example.* The following example illustrates the provisions of this paragraph (e)(3)(i):

*Example.* (i) Taxpayer A manufactures tablecloths and other linens. A enters into a licensing agreement with Company L under which A may label its tablecloths with L's trademark if the tablecloths meet certain specified quality standards. In exchange for its right to use L's trademark, the licensing agreement requires A to pay L a royalty of $X for each tablecloth carrying L's trademark that A sells. The licensing agreement does not require A to pay L any minimum or lump-sum royalties.

(ii) The licensing agreement provides A with the right to use L's intellectual property, a trademark. The licensing agreement also requires A to conduct its production activities according to certain standards as a condition of exercising that right. Thus, A's right to use L's trademark under the licensing agreement is directly related to A's production of tablecloths. The royalties the licensing agreement requires A to pay for using L's trademark are the costs A incurs in exchange for these rights. Therefore, although A incurs royalty costs only when A sells a tablecloth carrying L's trademark, the royalty costs directly benefit production activities and are incurred by reason of production activities within the meaning of paragraph (e)(3)(i)(A) of this section.

(ii) *Examples of indirect costs required to be capitalized.* The following are examples of indirect costs that must be capitalized to the extent they are properly allocable to property produced or property acquired for resale:

* * * * *

(U) *Licensing and franchise costs.* (*1*) * * * These costs include the otherwise deductible portion (such as amortization) of the initial fees incurred to obtain the license or franchise and any minimum annual payments and any royalties that are incurred by a licensee or a franchisee. These costs also include fees, payments, and royalties otherwise described in this paragraph (e)(3)(ii)(U) that a taxpayer incurs (within the meaning of section 461) only upon the sale of property produced or acquired for resale.

(*2*) If a taxpayer incurs (within the meaning of section 461) a fee, payment, or royalty described in this paragraph (e)(3)(ii)(U) only upon the sale of property produced or acquired for resale and the cost is required to be capitalized under this paragraph (e)(3), the taxpayer may properly allocate the cost entirely to property produced or acquired for resale by the taxpayer that has been sold.

* * * * *

(l) *Effective/applicability date.* (1) Paragraphs (h)(2)(i)(D), (k), and (l) of this section apply for taxable years ending on or after August 2, 2005.

(2) Paragraphs (c)(5), (e)(3)(i), and (e)(3)(ii)(U) of this section apply for taxable years ending on or after January 13, 2014.

■ **Par. 4.** Section 1.263A–2 is amended by adding paragraphs (b)(3)(ii)(C) and (b)(4)(ii)(A)(*4*) and revising paragraph (f) to read as follows:

**§ 1.263A–2 Rules relating to property produced by the taxpayer.**

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) *Costs allocated to property sold.* Additional section 263A costs incurred during the taxable year, as defined in paragraph (b)(3)(ii)(A)(*1*) of this section, section 471 costs incurred during the taxable year, as defined in paragraph (b)(3)(ii)(A)(*2*) of this section, and section 471 costs remaining on hand at year end, as defined in paragraph (b)(3)(ii)(B) of this section, do not include costs described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

* * * * *

(4) * * *

(ii) * * *

(A) * * *

(*4*) Additional section 263A costs incurred during the test period, as defined in paragraph (b)(4)(ii)(A)(*2*) of this section, and section 471 costs incurred during the test period, as defined in paragraph (b)(4)(ii)(A)(*3*) of this section, do not include costs specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

* * * * *

(f) *Effective/applicability date.* (1) Paragraphs (b)(2)(i)(D), (e), and (f) of this section apply for taxable years ending on or after August 2, 2005.

(2) Paragraphs (b)(3)(ii)(C) and (b)(4)(ii)(A)(*4*) of this section apply for taxable years ending on or after January 13, 2014.

■ **Par. 5.** In § 1.263A–3, paragraphs (d)(3)(i)(C)(*3*), (d)(3)(i)(D)(*3*), (d)(3)(i)(E)(*3*), and (f) are added to read as follows:

**§ 1.263A–3 Rules relating to property acquired for resale.**

* * * * *

(d) * * *

(3) * * *

(i) * * *

(C) * * *

(*3*) *Costs allocable to property sold.* Section 471 costs remaining on hand at year end, as defined in paragraph (d)(3)(i)(C)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

(D) * * *

(*3*) Current year's storage and handling costs, beginning inventory, and current year's purchases, as defined in paragraph (d)(3)(i)(D)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

(E) * * *

(*3*) Current year's purchasing costs and current year's purchases, as defined in paragraph (d)(3)(i)(E)(*2*) of this section, do not include costs that are specifically described in § 1.263A–1(e)(3)(ii) or cost reductions described in § 1.471–3(e) that a taxpayer properly allocates entirely to property that has been sold.

* * * * *

(f) *Effective/applicability date.* Paragraphs (d)(3)(i)(C)(*3*), (d)(3)(i)(D)(*3*), and (d)(3)(i)(E)(*3*) of this section apply for taxable years ending on or after January 13, 2014.

■ **Par. 6.** Section 1.471–3 is amended by:

■ 1. Adding paragraphs (e) and (g).

■ 2. Designating the undesignated text following paragraph (d) as paragraph (f).

The additions read as follows:

**§ 1.471–3 Inventories at cost.**

* * * * *

(e) *Sales-based vendor allowances*—(1) *Treatment of sales-based vendor chargebacks*—(i) *In general.* A sales-based vendor chargeback is an allowance, discount, or price rebate that a taxpayer becomes unconditionally entitled to by selling a vendor's merchandise to specific customers identified by the vendor at a price determined by the vendor. A sales-based vendor chargeback decreases cost of goods sold and does not reduce the cost of goods on hand at the end of the taxable year.

(ii) *Example.* The following example illustrates the provisions of this paragraph (e)(1).

*Example.* (i) W is a wholesaler of pharmaceuticals. W purchases Drug X from the manufacturer, M, for $10x per unit. M has agreements with specific customers that allow those customers to acquire Drug X from M's wholesalers for $6x per unit. Under an agreement between W and M, W is required to sell Drug X to specific customers at the prices M has negotiated with such customers ($6x per unit) and, in exchange, M agrees to provide a price rebate to W equal to the difference between W's cost for Drug X and the price W is required to charge specific customers under the agreement (a difference of $4x per unit). W sells Drug X to specific customer Y for $6x. Under the agreement between W and M, the price rebate can be paid to W, credited against M's invoice to W for W's purchase of Drug X, or it can be credited to W's future purchases of drugs from M.

(ii) Under the terms of the agreement, W is unconditionally entitled to the price rebate of Drug X when it sells Drug X to specific customer Y, a specifically identified customer of M. The price rebate received by W for the sale of Drug X to Y is a sales-based vendor chargeback. Therefore, the amount of the sales-based vendor charge back, $4x per unit for Drug X, whether paid to W, credited against M's invoice to W for W's purchase of Drug X or credited against a future purchase, decreases cost of goods sold and does not reduce the cost of Drug X on hand at the end of the taxable year.

(2) *Treatment of other sales-based vendor allowances.* [Reserved]

* * * * *

(g) *Effective/applicability date.* Paragraph (f) of this section applies to taxable years ending on or after January 13, 2014.

**John Dalrymple,**

*Deputy Commissioner for Services and Enforcement.*

Approved: December 13, 2013.

**Mark J. Mazur,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 2014–00327 Filed 1–10–14; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 33 CFR Part 117

**[Docket No. USCG–2013–1041]**

## Drawbridge Operation Regulation; Vermillion River, Abbeville, LA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of deviation from drawbridge regulation.

**SUMMARY:** The Coast Guard has issued a temporary deviation from the regulation that governs the State Road (SR) 14 Bridge across the Vermilion River, mile 25.4, at Abbeville, Vermilion Parish, Louisiana. The deviation is necessary to affect replacement of the wire rope cables. This is part of the normal maintenance that is required for safe operation of the bridge. This deviation allows the bridge to remain closed to navigation for 14 consecutive days.

**DATES:** This deviation is effective from 6 a.m. on January 20, 2014 to 7 p.m. on February 2, 2014.

**ADDRESSES:** The docket for this deviation, [USCG–2013–1041] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary deviation, call or email James Wetherington, Bridge Administration Branch, Coast Guard, telephone 504–671–2128, email *james.r.wetherington@uscg.mil.* If you have questions on viewing the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the SR 14 Vermilion River, mile 25.4, at Abbeville, Vermilion Parish, Louisiana in order to remove and replace the wire rope cables required to operate the bridge. This maintenance is essential for the continued safe operation of the vertical lift bridge. This temporary deviation allows the bridge to remain closed from 6 a.m. on January 20, 2014 through 7 p.m. on February 2, 2014.

The bridge has a vertical clearance of 6 feet above mean gulf (MGL), elevation 0.0 feet (NGVD 29), in the closed-to-navigation position and 61 feet in the open-to-navigation position.

In accordance with to 33 CFR 117.509(b)(1), the draw of the SR 14 Bridge, mile 25.4, shall open on signal; except that, from 6 p.m. to 10 a.m. the draw shall open on signal if at least four hour notice is given. The draw will be unable to open for a vessel in distress.

Navigation on the waterway consists mainly of commercial tug and barge traffic. The bridge logs for all of January and February show 26 and 50 openings respectively. The time period for the deviation is the slow time for the commercial entities that would be most affected. As a result of coordination between the State, Coast Guard and the waterway users, it has been determined that this closure will not have a significant effect on these vessels.

Vessels able to pass through the bridge in the closed positions may do so at anytime. The bridge will not be able to open for emergencies. There are no alternate routes for vessels that cannot pass through the bridge in the closed-to-navigation position. The Coast Guard will also inform the users of the waterways through our Local and

Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 19, 2013.

**David M. Frank,**

*Bridge Administrator.*

[FR Doc. 2014–00279 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 3, 4, and 60

**RIN 2900–AO64**

## VA Compensation Service and Pension and Fiduciary Service Nomenclature Changes

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) regulations by making nonsubstantive changes to reflect new titles of certain VA offices.

**DATES:** These amendments are effective January 13, 2014.

**FOR FURTHER INFORMATION CONTACT:** Marie Gregory, Pension and Fiduciary Service (21P1), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8863. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** In April 2011, VA divided its Compensation and Pension Service (an office within VA's Veterans Benefits Administration) into two separate Services, the ''Compensation Service'' and the ''Pension and Fiduciary Service.'' This final rule amends VA regulations to reflect this change. No substantive changes are intended by these amendments.

### Administrative Procedure Act

This final rule concerns only agency organization, procedure, or practice and therefore is not subject to the notice and comment provisions of 5 U.S.C. 553(b). This final rule consists of only nonsubstantive changes that will make the regulations more accurate and less confusing to readers. Pursuant to 5 U.S.C. 553(d)(3), the Secretary finds that there is good cause to make these amendments effective on the date of their publication in the **Federal Register**.

### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This final rule will have no such effect on State, local, or tribal governments, or on the private sector.

### Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

### Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov*, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/*, by following the link for ''VA Regulations Published.''

### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule consists of only nonsubstantive changes. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the final regulatory flexibility analysis requirements of section 604.

### Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program numbers and titles are 64.100, Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces; 64.101, Burial Expenses Allowance for Veterans; 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.106, Specially Adapted Housing for Disabled Veterans; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

### Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on January 2, 2014, for publication.

### List of Subjects

*38 CFR Parts 3 and 4*

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

*38 CFR Part 60*

Health care, Housing, Reporting and recordkeeping requirements, Travel, Veterans.

**Robert C. McFetridge,**

*Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, VA amends 38 CFR parts 3, 4, and 60 as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

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

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

**§ 3.1 [Amended]**

■ 2. Amend § 3.1(y)(3) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 3.100 [Amended]**

■ 3. Amend § 3.100:

■ a. In paragraph (a) by removing ''Compensation and Pension Service'' and adding, in its place, ''the Compensation Service or the Pension and Fiduciary Service''.

■ b. In paragraph (b) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service, and the Director, Pension and Fiduciary Service'' and removing ''that service designated by him'' and adding, in its place, ''each service designated by its Director''.

**§ 3.321 [Amended]**

■ 4. Amend § 3.321(b) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 3.328 [Amended]**

■ 5. Amend § 3.328 by:

■ a. Removing ''Compensation and Pension Service'' each place it appears and adding, in its place, ''Compensation Service or the Pension and Fiduciary Service''.

■ b. In paragraph (b), removing ''Veterans Service Center Manager'' each place it appears and adding, in its place, ''Veterans Service Center Manager or Pension Management Center Manager''.

**§ 3.814 [Amended]**

■ 6. Amend § 3.814(d)(2) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 3.815 [Amended]**

■ 7. Amend § 3.815(h) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 3.905 [Amended]**

■ 8. Amend § 3.905(a) by removing ''Director, Compensation and Pension Service'' and adding, in its place, ''Director, Compensation Service, and the Director, Pension and Fiduciary Service''.

## PART 4—SCHEDULE FOR RATING DISABILITIES

### Subpart A—General Policy in Rating

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

**Authority:** 38 U.S.C. 1155, unless otherwise noted.

**§ 4.16 [Amended]**

■ 10. Amend § 4.16(b) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 4.24 [Amended]**

■ 11. Amend § 4.24 by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 4.29 [Amended]**

■ 12. Amend § 4.29(g) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

### Subpart B—Disability Ratings

**§ 4.104 [Amended]**

■ 13. Amend § 4.104, at the diagnostic code 7015 Note, by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 4.117 [Amended]**

■ 14. Amend § 4.117, at the diagnostic code 7714 Note, by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service''.

**§ 4.124a [Amended]**

■ 15. Amend § 4.124a, under the heading Epilepsy and Unemployability, paragraph (4) by removing ''Compensation and Pension Service'' and adding, in its place, ''Compensation Service or the Director, Pension and Fiduciary Service''.

## PART 60—FISHER HOUSES AND OTHER TEMPORARY LODGING

■ 16. The authority citation for part 60 continues to read as follows:

**Authority:** 38 U.S.C. 501, 1708.

**§ 60.2 [Amended]**

■ 17. Amend § 60.2 by removing ''VA's Compensation and Pension Service'' and adding, in its place, ''the Compensation Service or the Pension and Fiduciary Service''.

[FR Doc. 2014–00390 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 36

**RIN 2900–AO67**

### Loan Guaranty: Minimum Property and Construction Requirements

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Department of Veterans Affairs (VA) guaranteed loan regulations by clarifying VA's statutory authority to establish minimum property requirements for properties securing VA-guaranteed loans. It does not make any substantive policy change or affect any substantive rights; rather, it merely cites more complete authority for the existing rule.

**DATES:** *Effective Date:* This rule is effective February 12, 2014.

**FOR FURTHER INFORMATION CONTACT:** John Bell III, Assistant Director for Loan Policy and Valuation (262), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–8823.

**SUPPLEMENTARY INFORMATION:** Minimum property requirements are necessary to ensure that a property is adequate security for a VA-guaranteed loan. Both 38 United States Code (U.S.C.) 3704(a) and 3710(b)(4) prohibit guarantees on properties that do not meet minimum acceptability requirements, as determined by the Secretary.

The implementing regulation found at 38 Code of Federal Regulation (CFR) 36.4351 states that no loan for the purchase or construction of residential property shall be eligible for a VA guaranty unless the property complies with the Secretary's minimum property requirements for planning, construction, and general acceptability. Although § 36.4351 refers to 38 U.S.C. 3704(a), a

statutory provision that applies specifically to new or proposed construction, it does not include a reference to 38 U.S.C. 3710(b)(4), which applies generally to properties securing VA-guaranteed loans. This final rule amends 38 CFR 36.4351 so that it provides references to both of the relevant statutory provisions.

This final rule does not affect any substantive rights or implement any policy changes. Pursuant to 38 U.S.C. 3710(b)(4), VA has had a longstanding policy of requiring that ''the nature and condition of the property [to secure a VA-guaranteed loan] is such as to be suitable for dwelling purposes.'' The requirements for general suitability can be found in chapter 12 of VA Pamphlet M26–7, sometimes called the Lender's Handbook. Similarly, pursuant to 38 U.S.C. 3704(a), VA has for decades retained a comprehensive list of requirements to ensure that homes that have been built for 1 year or less ''meet or exceed minimum requirements for planning, construction, and general acceptability prescribed by the Secretary.'' Those requirements, like those required under section 3710(b)(4), are also found in chapter 12 of M26–7.

With the implementation of this final rule, participants in the VA guaranteed loan program will continue to follow longstanding policy and refer to M26–7 in determining whether a property being used as security can satisfy the statutory requirements for planning, construction, and general acceptability. The only change is a correction to the CFR so that 38 CFR 36.4351 properly reflects full statutory authority for VA's existing policies.

**Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available at VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

**Unfunded Mandates**

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

**Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The impact of this rule will be to clarify the existing statutory authority of the VA to prescribe minimum property requirements for existing and proposed or newly constructed properties. There should be no impact on individuals, small or large entities, or State or local governments. Therefore, this final rule is exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

**Catalog of Federal Domestic Assistance Numbers**

The Catalog of Federal Domestic Assistance Program number and title for the program affected by this document are 64.114, Veterans Housing—Guaranteed and Insured Loans.

**Signing Authority**

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on December 6, 2013, for publication.

**List of Subjects in 38 CFR Part 36**

Condominiums, Housing, Veterans with disabilities, Loan programs—housing and community development, Loan programs—veterans, Grant program—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Dated: January 8, 2014.

**Robert C. McFetridge,**

*Director of Regulations Policy and Management, Office of the General Counsel, Department of Veterans Affairs.*

For the reasons set forth in the preamble, VA amends 38 CFR part 36 as follows:

## PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

**Authority:** 38 U.S.C. 501 and as otherwise noted.

■ 2. Revise § 36.4351 to read as follows:

**§ 36.4351 Minimum property and construction requirements.**

No loan for the purchase or construction of residential property shall be eligible for guaranty or insurance unless such property complies or conforms with those standards of planning, construction, and general acceptability that may be applicable thereto and prescribed by the Secretary pursuant to 38 U.S.C. 3704(a) or 38 U.S.C. 3710(b)(4), or both such sections, as applicable.

(Authority: 38 U.S.C. 3704(a), 3710(b)(4))

[FR Doc. 2014–00386 Filed 1–10–14; 8:45 am]

BILLING CODE 8320–01–P

## POSTAL SERVICE

### 39 CFR Part 775

### National Environmental Policy Act Implementing Procedures

**AGENCY:** Postal Service.

**ACTION:** Interim final rule with request for comments.

**SUMMARY:** The Postal Service (USPS)™ is publishing this interim final rule with request for comments to amend a categorical exclusion, which is currently in the Postal Service's National Environmental Policy Act (NEPA) implementing procedures. This amendment will make the categorical exclusion (CATEX) more consistent with the intended scope of covered activities and with those CATEXs used by other Federal entities for property disposals.

**DATES:** *Effective date:* January 13, 2014.

*Comment date:* Submit comments on or before February 12, 2014.

**ADDRESSES:** Deliver written comments by email to *USPSFAC@usps.gov,* with the subject heading ''CATEX Rulemaking,'' or by mail to Angie Mitchell, U.S. Postal Service, 475 L'Enfant Plaza SW., Room 6611, Washington, DC 20260. You may inspect and photocopy all written comments at the USPS Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor North, Washington, DC, by appointment only between the hours of 9 a.m. and 4 p.m., Monday through Friday by calling 202–268–2906 in advance. Faxed comments will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Charlotte Parrish, Environmental Specialist, at *charlotte.parrish@usps.gov* or 201–714–7216, or Matthew Raeburn, Environmental Counsel, at *matthew.d.raeburn@usps.gov* or 202–268–4570.

**SUPPLEMENTARY INFORMATION:**

The Postal Service is publishing this interim final rule with request for comments to amend a categorical exclusion under the National Environmental Policy Act (NEPA). Amending this categorical exclusion (CATEX) is consistent with NEPA and the Council on Environmental Quality's (CEQ's) regulations. This amendment focuses the CATEX more clearly on activities that, absent extraordinary circumstances, do not normally have the potential for individual or cumulative significant impacts on the quality of the human environment. The amendment also makes the CATEX more consistent with analogous CATEXs used by the General Services Administration (GSA) and other Federal entities. The Postal Service has determined that the activities included in this category—*i.e.,* property disposals undertaken in the normal course of the Postal Service's business—do not normally, absent extraordinary circumstances, individually or cumulatively create the potential for significant effects on the human environment. The updated CATEX is necessary to ensure greater clarity and consistency when the CATEX is used because of the increasing regularity of property disposals by the Postal Service. There have also been changes to the Postal Service's business and infrastructure since its last CATEX revisions in 1997. This amendment maintains the Postal Service's compliance with NEPA while greatly reducing the Postal Service's administrative burden, and the amendment advances the ongoing efforts to enhance the efficiency and effectiveness of timely environmental review processes.

NEPA applies to Federal actions and requires an Environmental Impact Statement (EIS) for major actions significantly affecting the quality of the human environment (42 U.S.C. 4332(C)). NEPA established CEQ, whose regulations at 40 CFR parts 1500–1508 implement NEPA across the Executive Branch. CEQ's regulations require Federal agencies to adopt their own implementing procedures to supplement CEQ's regulations and to establish and use CATEXs to define categories of actions that do not normally, absent extraordinary circumstances, have the potential for individual or cumulative significant impacts on the human environment and, thus, do not necessitate the preparation of an EIS or an environmental assessment (EA) (40 CFR 1507.3(b)(2)(ii), 1508.4).

CEQ also requires that CATEXs be used to reduce paperwork and delay (40 CFR 1500.4(p), 1500.5(k)). In its guidance on ''Establishing, Applying, and Revising Categorical Exclusions under the National Environmental Policy Act'' (75 FR 75628, February 18, 2010), CEQ recommends that agencies periodically review their CATEXs and benchmark them against those of other agencies. An agency can substantiate its own CATEX by comparing another agency's experience promulgating and applying a comparable CATEX. CEQ also encourages agencies to establish new CATEXs and to revise existing CATEXs to eliminate unnecessary paperwork and delay for categories of actions that, absent extraordinary circumstances, do not have significant environmental effects. This approach leaves more resources available to assess, either in an EA or EIS, those proposed Federal actions that are actually likely to have the potential to cause significant environmental effects.

The Postal Service, which is an independent establishment of the executive branch rather than a Federal agency (39 U.S.C. 201), has its own NEPA regulations at 39 CFR part 775. Those regulations include several CATEXs for categories of actions that the Postal Service has determined do not individually or cumulatively have the potential for significant effects on the human environment (39 CFR 775.6). The Postal Service last revised its CATEXs through a rulemaking that became effective on October 1, 1997 (63 FR 45720). One of the CATEXs promulgated in that rulemaking applied to the ''[a]cquisition and disposal through sale, lease, transfer or exchange of real property that does not involve an increase in volumes, concentrations, or discharge rates of wastes, air emissions, or water effluents, and that under reasonably foreseeable uses, have generally similar environmental impacts as compared to those before the acquisition or disposal'' (39 CFR 775.6(e)(8)).

In the 16 years since, the Postal Service became aware of refinements in similar CATEXs in other Federal agency regulations. In particular, the Postal Service examined a similar CATEX for disposals finalized in 2000 by the General Services Administration (GSA) (65 FR 69558). GSA's disposal CATEX is included in that agency's *NEPA Desk Guide,* which the Environmental Protection Agency called ''a good model for other agencies'' (65 FR 69558). Indeed, in July 2013, the U.S. Coast Guard (USCG) used GSA's disposal CATEX as a basis for USCG's own CATEX (78 FR 44140). Whereas the Postal Service's disposal CATEX at 39 CFR 775.6(e)(8)—prior to this interim final rule—could have been read to compare the environmental impact of current and reasonably foreseeable uses only on the property being disposed of, the GSA's and USCG's CATEXs more broadly and realistically compare the reasonably anticipated and reasonably foreseeable uses on the disposal property to other property uses in the surrounding area. In other words, those CATEXs take into account the environmental effects of the agencies' disposals in the context of the surrounding neighborhoods. Both GSA and USCG have determined that a property disposal that results in a use or uses similar to those on surrounding properties does not, when undertaken in

the normal course of business, give rise to the potential for significant impacts and therefor does not necessitate the preparation of an EA (or an EIS).

The frequency of property disposals by the Postal Service has increased dramatically in recent years. For example, the total number of Postal Service facilities fell from 34,175 in 2008 to 32,604 in 2012 (U.S. Postal Service 2012 Sustainability Report (2013)). The Postal Service anticipates that the frequency of property disposals will persist or increase in the foreseeable future. As a result, the Postal Service would reduce paperwork and delay by updating its CATEX to clarify that an EA is not required for the overwhelming majority of its normal course of business property disposals. That determination is based on the Postal Service's experience that such disposals do not normally result in significant environmental effects.

The Postal Service's NEPA procedural safeguards will continue to apply to the Postal Service's application of the amended CATEX. Specifically, the Postal Service's NEPA regulations require that all proposed real property actions, including property disposals, be reviewed using a process that includes the completion of a Facilities Environmental Checklist (FEC). The FEC allows the Postal Service's personnel and consultants to identify and list any potential environmental effects of the proposed action. The FEC's signatory determines whether the proposed action qualifies for a CATEX under NEPA and whether extraordinary circumstances exist that could cause the proposed action to have a significant environmental effect that would preclude the use of the CATEX.

If the person completing the FEC concludes that a CATEX applies, then a Record of Environmental Consideration (REC)—a formal record justifying the use of a CATEX—must be completed and signed by both the project manager and a responsible official at the Postal Service. The REC's signatories must affirm they have reviewed the applicable NEPA guidance and considered the environmental impacts of the proposed property action.

The Postal Service's experience leads it to believe that, as demonstrated by the GSA's and USCG's use of their property disposal CATEXs, its amended CATEX reflects an appropriate and realistic view that such activities undertaken in the normal course of business do not individually or cumulatively have significant impacts on the human environment. The Postal Service also finds those agencies' experience and consideration to be a useful guide. Like the Postal Service, both agencies are responsible for the acquisition and disposal of Federal property. GSA, which is responsible for the acquisition and disposal of most Federal property, has promulgated a property disposal CATEX that reflects its seasoned judgment about the precise scope of real property acquisition and disposal that lacks significant individual and cumulative environmental impact. The Postal Service also notes that neither GSA nor USCG received adverse public comments regarding their property disposal CATEXs (*see* 65 FR 69558; 78 FR 44139).

Although the Postal Service notes minor differences between the phrasing of GSA's and USCG's CATEXs, those differences are not substantive or otherwise of a nature to change the projected environmental consequences of the activities. Because of GSA's preeminent experience with the acquisition and disposal of Federal real property, the Postal Service believes that it is appropriate to amend its own CATEX to match that of the GSA. The Postal Service does not believe that this update to a single CATEX, which follows the model of Federal agencies' existing CATEXs, should be significant or controversial.

The Administrative Procedure Act does not apply to this action (5 U.S.C. 553(a)(2); 39 U.S.C. 410(a)), which is being taken pursuant to the Postal Service's general rulemaking authority under 39 U.S.C. 401(2). Nevertheless, the Postal Service is complying with CEQ Regulations and seeking public input when revising this CATEX. The Postal Service therefore invites comments on the following revision of 39 CFR 775.6(e)(8).

Note that this interim final rule is effective upon its date of publication in the **Federal Register**. The Postal Service will review any comments received during the 30-day comment period. Following the expiration of the comment period, the Postal Service will publish its responses to any adverse comments in a subsequent **Federal Register** notice, together with its determination whether the interim final rule will be made permanent without change, or adjusted in response to the comments received.

**List of Subjects in 39 CFR Part 775**

Environmental impact statements.

For the reasons stated in the preamble, 39 CFR part 775 is amended as follows:

## PART 775—NATIONAL ENVIRONMENTAL POLICY ACT PROCEDURES

■ 1. The authority citation for 39 CFR part 775 continues to read as follows:

**Authority:** 39 U.S.C. 401; 42 U.S.C. 4321 *et seq.;* 40 CFR 1500.4.

■ 2. In § 775.6, paragraph (e)(8) is revised to read as follows:

**§ 775.6 Categorical exclusions.**

* * * * *

(e) * * *

(8) Disposal of properties where the size, area, topography, and zoning are similar to existing surrounding properties and/or where current and reasonable anticipated uses are or would be similar to current surrounding uses (e.g., commercial store in a commercial strip, warehouse in an urban complex, office building in downtown area, row house or vacant lot in an urban area).

* * * * *

**Stanley F. Mires,**

*Attorney, Legal Policy & Legislative Advice.*

[FR Doc. 2014–00324 Filed 1–10–14; 8:45 am]

BILLING CODE P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### 44 CFR Part 67

**[Docket ID FEMA–2013–0002]**

### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601–612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This final rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This final rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is amended as follows:

## PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.11 [Amended]**

■ 2. The tables published under the authority of § 67.11 are amended as follows:

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + elevation in feet (NAVD) # depth in feet above ground ^ elevation in meters (MSL) modified | Communities affected |
|---|---|---|---|
| **Elko County, Nevada, and Incorporated Areas Docket No.: FEMA–B–1127** | | | |
| I–80 Runoff | From approximately 0.60 mile downstream of the I–80 crossing of U.S. Alt 93 to approximately 0.38 mile downstream of the I–80 crossing of U.S. Alt 93. | #2 | City of West Wendover, Unincorporated Areas of Elko County. |
| | From approximately 0.97 mile upstream of the I–80 crossing of U.S. Alt 93 to approximately 1.42 mile upstream of the I–80 crossing of U.S. Alt 93. | #2 | |
| | Approximately 500 feet north of Wendover Boulevard, approximately 0.73 mile east of U.S. Alt 93. | +4355 | |
| | Approximately 80 feet north of I–80, approximately 400 feet east of Maple Street. | +4362 | |
| | Approximately 260 feet downstream of the U.S. Alt 93 crossing of I–80 along U.S. Alt 93. | +4380 | |
| | Approximately 0.74 mile upstream of the I–80 crossing of U.S. Alt 93. | +4530 | |
| North Channel | From approximately 250 feet upstream of U.S. Alt 93 to approximately 0.51 mile upstream of U.S. Alt 93. | #1 | Unincorporated Areas of Elko County. |
| | From approximately 0.95 mile upstream of U.S. Alt 93 to approximately 1.25 mile upstream of U.S. Alt 93. | #1 | |
| | From approximately 0.51 mile upstream of U.S. Alt 93 to approximately 300 feet downstream of Western Pacific Railroad. | #2 | |
| | Approximately 1.60 mile downstream of Landfill Road along U.S. Alt 93. | +4280 | |
| | Approximately 1,900 feet downstream of Landfill Road along U.S. Alt 93. | +4292 | |
| | Approximately 300 feet downstream of Western Pacific Railroad. | +4452 | |
| | Approximately 1,700 feet downstream of I–80 | +4745 | |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + elevation in feet (NAVD) # depth in feet above ground ∧ elevation in meters (MSL) modified | Communities affected |
|---|---|---|---|
| North Channel Tributary ..... | At the culvert at Western Pacific Railroad to approximately 0.38 mile upstream of the culvert at Western Pacific Railroad. | #1 | Unincorporated Areas of Elko County. |
| | Approximately 250 feet upstream of the confluence with North Channel. | +4528 | |
| | Approximately 100 feet upstream of Western Pacific Railroad. | +4678 | |
| North Channel Tributary 2 ..... | Approximately 200 feet upstream of the confluence with North Channel. | +4560 | Unincorporated Areas of Elko County. |
| | Approximately 0.44 mile upstream of the confluence with North Channel. | +4595 | |
| North Channel Tributary 3 ..... | From approximately 0.85 mile downstream of I–80 to approximately 100 feet downstream of I–80. | #1 | Unincorporated Areas of Elko County. |
| | Just upstream of I–80 eastbound ..... | +4802 | |
| | Approximately 100 feet northeast of the I–80 exit to Wendover Boulevard. | +4828 | |
| North East Runoff ..... | Approximately 1 mile north of the intersection of Maple Street and Odle Drive to approximately 1.10 mile northeast of the intersection of Maple Street and Odle Drive. | +4871 | Unincorporated Areas of Elko County. |
| Ponding in Casino Parking Lot. | Approximately 300 feet south of Wendover Boulevard, just east of Camper Drive, to approximately 600 feet east of Camper Drive. | +4377 | City of West Wendover. |
| Ponding in Gas Station Parking Lot. | Approximately 0.40 mile west of U.S. Alt 95, approximately 350 feet north of Wendover Boulevard, to approximately 675 feet north of Wendover Boulevard. | +4420 | City of West Wendover. |
| Ponding in Recreational Center Softball Field. | Approximately 1,250 feet east of Camper Drive, approximately 910 feet south of Wendover Boulevard, to approximately 550 feet south of Wendover Boulevard. | #1 | City of West Wendover, Unincorporated Areas of Elko County. |
| Red Garter Street and Wendover Boulevard Runoff. | From approximately 500 feet downstream of the intersection of Wendover Boulevard and Red Garter Street to approximately 500 feet north of the intersection of Wendover Boulevard and Red Garter Street. | #3 | City of West Wendover, Unincorporated Areas of Elko County. |
| South West Channel ..... | Approximately 1.26 mile downstream of Western Pacific Railroad. | +4408 | Unincorporated Areas of Elko County. |
| | Approximately 0.88 mile upstream of Western Pacific Railroad. | +4602 | |
| South West Channel Tributary. | From approximately 550 feet east of Western Pacific Railroad to approximately 1.02 mile upstream of Western Pacific Railroad. | #1 | Unincorporated Areas of Elko County. |
| | Approximately 1,730 feet downstream of Western Pacific Railroad. | +4482 | |
| | Approximately 0.62 mile upstream of Western Pacific Railroad along Western Pacific Railroad. | +4550 | |
| Wendover Air Force Auxiliary Field Basins. | From approximately 0.95 mile south of the intersection of U.S. Alt 93 and Airport Way to approximately 0.78 mile south of the intersection of U.S. Alt 93 and Airport Way. | #1 | Unincorporated Areas of Elko County. |
| | Approximately 0.83 mile south of the intersection of U.S. Alt 93 and Airport Way. | +4228 | |
| | Approximately 0.38 mile south of the intersection of U.S. Alt 93 and Airport Way. | +4250 | |
| Wendover Air Force Auxiliary Field Drainage. | From approximately 2.00 miles south of the intersection of U.S. Alt 93 and Airport Way to approximately south of the intersection of U.S. Alt 93 and Airport Way. | #1 | Unincorporated Areas of Elko County. |
| | From approximately 2.40 miles south of Scobie Road to approximately 2.00 miles south of Scobie Road, and from approximately 1.88 mile east of U.S. Alt 93 to approximately 2.38 miles east of U.S. Alt 93. | #2 | |
| | Approximately 0.39 mile downstream of the intersection of Airport Way and U.S. Alt 93 along Airport Way. | +4260 | |
| | Approximately 500 feet upstream of Airport Way ..... | +4268 | |
| Wendover Boulevard Runoff | From approximately 0.51 mile east of the intersection of U.S. Alt 93 and Wendover Boulevard along Wendover Boulevard to approximately 600 feet east of the intersection of U.S. Alt 93 and Wendover Boulevard. | #1 | City of West Wendover. |

| Flooding source(s) | Location of referenced elevation | * Elevation in feet (NGVD) + elevation in feet (NAVD) # depth in feet above ground ∧ elevation in meters (MSL) modified | Communities affected |
|---|---|---|---|
| | Approximately 0.51 mile east of the intersection of U.S. Alt 93 and Wendover Boulevard north and south of Wendover Boulevard. | +4345 | |
| Wendover Boulevard to Airport Way Runoff. | From Kelcee Street to just south of Western Pacific Railroad along Airport Way. | #2 | City of West Wendover. |
| | From approximately 0.40 mile east of the intersection of U.S. Alt 93 and Western Pacific Railroad to approximately 1,109 feet east of the intersection of U.S. Alt 93 and Western Pacific Railroad. | #2 | |
| | Between Wendover Boulevard, U.S. Alt 93, and Scobie Road, approximately 470 feet south of Wendover Boulevard. | +4286 | |
| West Channel | From approximately 0.40 mile upstream of the confluence with South West Channel to approximately 0.72 mile upstream of the confluence with South West Channel. | #1 | Unincorporated Areas of Elko County. |
| | Approximately 100 feet upstream of the confluence with South West Channel. | +4453 | |
| | Approximately 0.39 mile upstream of the confluence with South West Channel. | +4498 | |
| | Approximately 0.72 mile upstream of the confluence with South West Channel. | +4535 | |
| | Approximately 3.25 miles upstream of the confluence with South West Channel. | +4696 | |
| Western Pacific Railroad and U.S. Route 93 Runoff. | Approximately 1,050 feet downstream of the U.S. Alt 93 crossing of Western Pacific Railroad. | +4298 | City of West Wendover, Unincorporated Areas of Elko County. |
| | Approximately 0.49 mile upstream of the U.S. Alt 93 crossing of Western Pacific Railroad. | +4326 | |

* National Geodetic Vertical Datum.
+ North American Vertical Datum.
# Depth in feet above ground.
∧ Mean Sea Level, rounded to the nearest 0.1 meter.

**ADDRESSES**

**City of West Wendover**

Maps are available for inspection at 1111 North Gene L. Jones Way, West Wendover, NV 89883.

**Unincorporated Areas of Elko County**

Maps are available for inspection at 155 9th Street, Elko, NV 89801.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 18, 2014.

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2014–00329 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 46 CFR Parts 30, 150, and 153

**[Docket No. USCG–2013–0423]**

**RIN 1625–AB94**

## 2012 Liquid Chemical Categorization Updates

**AGENCY:** Coast Guard, DHS.

**ACTION:** Interim rule; additional delay of effective date.

**SUMMARY:** The Coast Guard announces the additional delay of the effective date of this interim rule from January 16, 2014, to January 16, 2015. The delay until 2015 will allow the Coast Guard to investigate and, if necessary, correct technical errors that were brought to the Coast Guard's attention by public comments on the interim rule.

**DATES:** The effective date of the interim rule published at 78 FR 50147, August 16, 2013, delayed until January 16, 2014 at 78 FR 56837, September 16, 2013 is further delayed until January 16, 2015.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, email or call Mr. Patrick Keffler, Coast Guard; email: *Patrick.A.Keffler@uscg.mil;* telephone: 202–372–1424. If you have questions on viewing or submitting material to the docket, call Chery Collins, Program Manager, Docket Operations, telephone 202–366–9826.

**SUPPLEMENTARY INFORMATION:** This document is issued under the authority of 5 U.S.C. 552(a). The August 16, 2013 interim rule (78 FR 50147) related to this document promotes the Coast Guard's marine safety mission by

updating and revising regulatory tables that list liquid hazardous materials, liquefied gases, and compressed gases that have been approved for maritime transportation in bulk, and that indicate how the pollution potential of each substance has been categorized. The Coast Guard is delaying the effective date of this interim rule from January 16, 2014, to January 16, 2015. The delay until 2015 will allow the Coast Guard to investigate and, if necessary, correct technical errors that were brought to the Coast Guard's attention by public comments on the interim rule.

Dated: January 8, 2014.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2014–00502 Filed 1–9–14; 4:15 pm]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### 23 CFR Part 771

### Federal Transit Administration

### 49 CFR Part 622

**[Docket No. FHWA–2013–0007]**

**RIN 2125–AF48**
**RIN 2132–AB05**

## Environmental Impact and Related Procedures

**AGENCY:** Federal Highway Administration, Federal Transit Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) joint procedures that implement the National Environmental Policy Act (NEPA) by adding new categorical exclusions (CE) for projects within an existing operational right-of-way and projects receiving limited Federal funding, as described in sections 1316 and 1317, respectively, of the *Moving Ahead for Progress in the 21st Century Act* (MAP–21).

**DATES:** Effective on February 12, 2014.

**FOR FURTHER INFORMATION CONTACT:** For the Federal Highway Administration: Kreig Larson, Office of Project Delivery and Environmental Review, HEPE, (202) 366–2056, or Jomar Maldonado, Office of the Chief Counsel, (202) 366–1373, Federal Highway Administration, 1200 New Jersey Ave. SE., Washington, DC 20590–0001. For the Federal Transit Administration: Megan Blum at (202) 366–0463, Office of Planning and Environment (TPE), (202) 366–0463; or Dana Nifosi at (202) 366–4011, Office of Chief Counsel (TCC). Office hours are from 8:00 a.m. to 4:30 p.m. E.T., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 6, 2012, President Obama signed into law MAP–21, Public Law 112–141, 126 Stat. 405, which contains new requirements that the FHWA and the FTA, hereafter referred to as the ''Agencies,'' must meet in complying with NEPA (42 U.S.C. 4321 *et seq.*). Sections 1316 and 1317 of MAP–21 require the Secretary of Transportation to promulgate regulations designating two types of actions as categorical exclusions in 23 CFR part 771: (1) Any project (as defined in 23 U.S.C. 101(a)) within an existing operational right-of-way; and (2) any project that receives less than $5,000,000 of Federal funds or with a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost, respectively. The Agencies are carrying out this rulemaking on behalf of the Secretary.

The Agencies' joint procedures at 23 CFR part 771 describe how the Agencies comply with NEPA and the Council on Environmental Quality (CEQ) regulations implementing NEPA, and include categorical exclusions that identify actions the Agencies have determined do not normally have the potential for significant environmental impacts and therefore do not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS), pursuant to 40 CFR 1508.4. Section 771.117 applies to FHWA actions and section 771.118 applies to FTA actions. Sections 771.117(c) and 771.118(c) establish specific lists of categories of actions, or (c)-list CEs, that the Agencies have determined normally do not individually or cumulatively have a significant effect on the human environment, and do not require an EA or EIS. Sections 771.117(d) and 771.118(d) establish example lists of categorical exclusions, or (d)-list CEs, that the Agencies also have determined are normally categorically excluded from further NEPA review but require Agency approval based on additional documentation demonstrating that the specific criteria for the CE are satisfied and that no significant environmental impacts will result from the action. Additionally, sections 771.117 and 771.118 include the requirement for considering unusual circumstances, which is how the Agencies consider extraordinary circumstances in accordance with the CEQ regulations. These refer to circumstances in which a normally excluded action may have a significant environmental effect and, therefore, requires an EA or EIS. Examples of unusual circumstances include substantial controversy on environmental grounds, significant impacts on properties protected by section 4(f) of the Department of Transportation (DOT) Act (23 U.S.C. 138; 49 U.S.C. 303) or section 106 of the National Historic Preservation Act (NHPA), or inconsistencies with any Federal, State, or local law, requirement, or administrative determination relating to the environmental aspects of the action (23 CFR 771.117(b); 23 CFR 771.118(b)). This rulemaking does not change the procedural requirements for the Agencies' approval of projects as CEs, either for (c)-list CEs or for (d)-list CEs.

In order to qualify for either of the new CEs, the action must comply with NEPA requirements relating to connected actions and segmentation (*see, e.g.,* 40 CFR 1508.25, and 23 CFR 771.111(f)). To avoid impermissible segmentation, the action must have independent utility, connect logical termini when applicable (*i.e.,* linear facilities), and not restrict consideration of alternatives for other reasonably foreseeable transportation improvements. In addition, even though a CE may apply to a proposed action, thereby satisfying NEPA requirements, all other requirements applicable to the activity under other Federal and State statutes and regulations still apply, such as the Clean Water Act (CWA), Clean Air Act, General Bridge Act of 1946, section 4(f) of the DOT Act, NHPA, and the Endangered Species Act (ESA). Some of these requirements may require the collection and analysis of information, or coordination and consultation efforts that are independent of the Agencies' NEPA CE determination. Also, some of these requirements may involve actions by other Federal agencies (such as approvals or issuance of permits) that could inform the Agency determination regarding unusual circumstances and potentially trigger a different level of NEPA review for those Federal agencies. These requirements must be met before the action proceeds, regardless of the availability of a CE for the

transportation project under 23 CFR part 771.

This final rule contains a description of the notice of proposed rulemaking (NPRM) issued on February 28, 2013 (78 FR 13609), a summary of public comments received on that NPRM and responses to those comments, as well as a description of the final regulatory text at the end of this rule. Those changes to the regulatory text not described in the summary and response to comments are described in the *Section-by-Section Analysis.* Following the *Section-by-Section Analysis,* this rule explains the various rulemaking requirements that apply and how they have been met. Finally, this rule provides the regulatory text.

**Notice of Proposed Rulemaking**

On February 28, 2013, the Agencies published an NPRM, in which the Agencies proposed 2 new CEs to be listed in 23 CFR 771.117(c) and 23 CFR 771.118(c) as mandated by sections 1316 and 1317 of MAP–21. The Agencies proposed CEs based on the statutory language provided under sections 1316 and 1317, as well as clarifying language the Agencies proposed to achieve the overall purposes of sections 1316 and 1317 or avoid confusion in program administration. The NPRM sought comments on how the Agencies proposed to interpret and implement the provisions.

The public comment period closed on April 29, 2013. The Agencies considered all comments received when developing this final rule.

**Summary of Comments and Responses**

The Agencies received comments from a total of 40 entities, which included 12 State DOTs and agencies, 4 transit agencies, 8 State/local transportation entities, ten transportation interest groups, 3 national/regional environmental interest groups, one Federal agency, and 2 individuals. The submitted comments have been organized by section (1316 or 1317) and by theme or topic.

All of the 40 parties commenting on the NRPM generally supported the proposed CEs contained in MAP–21 sections 1316 and 1317. Thirty-five reviewers commented on the proposed CE language at sections 771.117(c)(22) and 771.118(c)(12) for projects within the ''operational right-of-way.'' Thirty-two parties commented on the Agencies' proposed CE language at sections 771.117(c)(23) and 771.118(c)(13) for projects receiving limited Federal assistance. Eleven parties commented on the need to review or document ''unusual circumstances'' for projects seeking to use either of the proposed CEs. Nine of the commenting parties supported the proposed rule as it was written in the NPRM. The majority of commenters suggested additional clarifications on the use of the CEs, including expanding or limiting their scope.

*General*

Five State DOTs, two transportation interest groups, three national/regional environmental interest groups, and one Federal agency submitted comments regarding the requirements for the CEs to address unusual circumstances or to document the absence of such circumstances. Seven commenters expressed the opinion that requiring additional documentation is inconsistent with the statutory direction to include these CEs in 23 CFR 771.117(c). Four commenters expressed the opinion that requiring evaluation and documentation for the consideration of unusual circumstances is appropriate and consistent with the statute. One commenter recommended a clarification that documentation should be retained by the applicant and not require further approval by the Agencies. Another commenter indicated that the proposed rule restricted the availability of the new CEs by establishing a ''no unusual circumstances'' test, and that nowhere in MAP–21 did Congress incorporate the ''no unusual circumstances'' test to the proposed CEs.

The MAP–21 sections 1316 and 1317 require that the new CEs be consistent with 40 CFR 1508.4. Section 1508.4 requires Federal agencies to take into account ''extraordinary circumstances in which a normally excluded action may have a significant environmental effect.'' The Agencies use the term ''unusual circumstances'' when defining extraordinary circumstances. The Agencies addressed the need for considering unusual circumstances in the NPRM preamble and noted that actions falling under the new CEs are not exempt from meeting this requirement. Consideration of unusual circumstances applies to all CEs addressed in sections 771.117(c) and (d), and 771.118(c) and (d); the Agencies are not creating a new standard for assessing actions through this rulemaking. The potential for unusual circumstances for a project does not automatically trigger an EA or EIS. The regulations require the Agencies to conduct appropriate environmental studies to determine if the CE classification is proper (23 CFR 771.117(b) and 771.118(b)). This means that documentation is expected to demonstrate that there are no unusual circumstances that warrant a higher level of NEPA review even when the project does not require detailed documentation and Agency review. The Agencies have not created a new ''no unusual circumstances'' requirement because that requirement is long-standing. Instead, in the NPRM, the Agencies re-emphasized the need to consider unusual circumstances for all CEs as required by 40 CFR 1508.4 and the Agencies' NEPA implementing procedures at 23 CFR part 771.

One commenter expressed appreciation for the reference to unusual circumstances, but indicated that some of the criteria were not necessarily adequate safeguards. The commenter indicated that reviews under section 4(f) of the DOT Act and section 106 of the NHPA were examples when thresholds in an environmental law would not determine whether or not the impact of an action is significant for NEPA purposes. Another commenter indicated that regulatory requirements protecting wetlands, endangered species, and historic properties would continue to apply and would ensure that unusual circumstances applicable to these resources are identified and addressed.

The Agencies consider unusual circumstances in determining whether an action that would normally be classified as a CE deserves another level of NEPA review. Sections 771.117(b) and 771.118(b) provide non-inclusive lists of examples for consideration. ''Significant impact on properties protected by section 4(f) of the DOT Act and Section 106 of the [NHPA]'' is included in the list of examples. In the Agencies' experience these examples have been appropriate for identifying when an action that would otherwise be classified as a CE merits an EA or EIS for the consideration of environmental impacts. It is important to note that unusual circumstances may require the consideration of factors, impacts, or resources that do not fall under an established regulatory framework (for example, substantial controversy on environmental grounds). The Agencies do not believe that compliance with legal requirements should be the only unusual circumstance considered for projects.

One commenter indicated that language in the NPRM requiring actions under the proposed CE to meet applicable requirements under other Federal and State laws should be deleted from the final rule. Two commenters expressed appreciation for the inclusion of the NPRM preamble

reference that other laws may require collection and analysis of information independent of the Agencies' NEPA determination, and the discussion that these other laws may trigger a different level of NEPA review for another Federal agency. The commenters indicated that this was the intent of Congress because these provisions in MAP–21 did not apply to or require rulemaking from any other Federal agency. One commenter questioned whether it was possible for FHWA to implement sections 1316 and 1317 without running afoul of environmental statutes such as ESA and section 404 of the CWA. The commenter expressed that accompanying complementary changes to those statutes should be made in conjunction to the changes in part 771 to realize congressional intent to streamline the project delivery process.

A determination that an action qualifies for a CE under the Agencies' NEPA procedures is not an exemption from the environmental laws that apply to that project. A project may not require the higher level of NEPA analysis associated with an EA or EIS and still require analysis under section 106 of the NHPA, section 404 of the CWA, section 7 of the ESA, or section 4(f) of the DOT Act. Applicants need to apply and obtain applicable environmental permits and approvals even for projects that qualify for CEs. The MAP–21 neither amended nor exempted these laws, and they continue to apply.

Two commenters indicated that the two proposed CEs could cover actions that already qualify for other CEs in part 771. One commenter was having difficulty in identifying examples where a project would qualify for the proposed CEs but not for an existing CE and requested specific examples of projects where these CEs would apply that are not currently addressed by other existing CE categories. One commenter indicated that the NPRM failed to streamline the NEPA process as it had hoped. Another commenter indicated that the NPRM limited the availability of the CEs to such an extent that the relevant provisions of MAP–21 appear meaningless or redundant with existing law. Two commenters noted that the statutory language for the CEs should be read in the context of the overarching policy of accelerating project delivery. In this context, the commenters observed, the rule should provide maximum flexibility to limit redundant and lengthy process driven environmental reviews, and new flexibility to expand the universe of projects that can be approved as CEs. One commenter stated that expansion of the CE list would save time and costs for project sponsors without compromising protection of the environment. One commenter indicated that the new CE for operational right-of-way would benefit the State by allowing some additional projects to be classified as CEs. The commenter also provided numbers, but no specific details of planned projects that would meet the Federal fund threshold that would benefit from the CE. Another commenter noted that increased use of CEs along with the streamlined approval process associated with simpler Federal-aid projects is appropriate. The commenter indicated this strategy will ultimately deliver public benefits from Federal-aid transportation improvements more rapidly and also improve environmental protection by enabling Federal resource agencies to focus their efforts on more complicated projects that warrant significant environmental review. One commenter indicated that MAP–21's goal of increasing the use of CEs will help reduce delay in the current review and approval process for transportation projects by clarifying the type of projects that appropriately qualify for less intensive environmental reviews.

The Agencies agree there may be actions that qualify for the CEs subject to this rule that could qualify for other CEs in part 771. The regulation does not compel the use of the new CEs in these instances. The Agencies and applicants can continue to rely on other available CEs if their use is appropriate. The Agencies agree that the appropriate use of CEs can result in time and cost savings.

Three commenters indicated that small and low-cost bicycle and pedestrian projects (including sidewalks, cross walks, pathways, etc.) within an existing built environment should not require detailed documentation to qualify for a CE unless special circumstances exist. The commenters recommended modifying the rule to encourage the use of a CE where a project qualifies for two or more CEs and there are no unusual circumstances.

Many bicycle and pedestrian projects qualify for CEs that do not require detailed review by the Agencies (*see e.g.,* section 771.117(c)(3) (construction of bicycle and pedestrian lanes, paths, and facilities)). Applicability of a (c)-list CE, however, does not mean that additional information is not needed from project applicants on environmental considerations to demonstrate the applicability of a CE. In some circumstances this documentation is needed to address unusual circumstances or for meeting other environmental considerations and requirements.

The Agencies are not modifying the rule to encourage the use of a CE when a project qualifies for two or more CEs. The use of a CE when it applies is encouraged regardless of whether the action would also qualify for another CE. One CE should be used per FHWA or FTA action.

One commenter recommended adding the two new CEs as examples in the (d)-list CE rather than adding them as (c)-list CEs. Another commenter indicated that it is possible to have projects that meet the new CEs but require a great deal of analysis to determine if there are any significant impacts. The commenter suggested that for projects qualifying for the new CEs, the NEPA documentation would be minor, but the analysis would in many circumstances be the same as currently required for projects in the (d)-list. Another commenter indicated that these new CEs were different from the other CEs in part 771 because they were not based on the scope of a project, but rather on the project's location or level of Federal funding involved. The commenter indicated that the proposed CEs appeared to be screening criteria for projects where a specific scope is cited.

The statute requires the new CEs be located in section 771.117(c) for FHWA actions and, in the Agencies interpretation, in section 771.118(c) for FTA actions (given the addition of this parallel section after the enactment of MAP–21). The Agencies do not have the discretion to place these new CEs in sections 771.117(d) and 771.118(d). The Agencies recognize that these two statutorily mandated CEs are different than other CEs in that they are unrelated to a project's scope and its potential level of environmental impacts. Projects receiving less than the Federal funding threshold established in the statute may have the potential to cause significant impacts depending on the context of what is proposed and its surrounding environment. Similarly, the location of a project within an existing operational right-of-way may have the potential to cause significant impacts depending on the context of what is proposed and its surrounding environment. The Agencies agree with the commenters that without information on the scope of the project and its context (such as timing, surrounding environment, context and intensity of impacts) it would be difficult to determine if the project can be appropriately classified as a CE or if another level of NEPA review is needed even if the project meets the conditions of the CE. The Agencies believe that the consideration of unusual circumstances

will identify when the project may need more documentation or another level of NEPA review.

Three commenters encouraged DOT to disseminate clear guidance on when a CE is appropriate—especially in cases where more than one CE could apply. One commenter suggested the Agencies develop training and guidance materials for State DOT and Federal staff to ensure that those responsible for implementation can administer the CE process with confidence and uniformity. One commenter recommended the development of training, guidance, and frequently asked questions to ensure consistent implementation of the CEs. The commenter recommended a training goal of preparing State DOTs to make CE determinations in place of the Agencies. One commenter urged the Agencies to actively monitor and audit the use of these new CEs for the first few years in order to evaluate whether additional guidance is necessary.

The Agencies interpreted the comments and their reference to DOT to apply to the Agencies engaged in this rulemaking. The Agencies have training institutes, the National Highway Institute and the National Transit Institute, that conduct NEPA courses across the nation for employees of the Agencies, State DOTs, transit agencies, consultants, and other Federal, State, and local entities involved in transportation NEPA processes. The Agencies also have guidance on their NEPA processes, including CEs. The Agencies will provide information on the availability of the new CEs to their environmental and field staff. The FTA will update its *Guidance for Implementation of FTA's Categorical Exclusions (23 CFR 771.118)* to reflect the new CEs and post it on FTA's public Web site (*www.fta.dot.gov*), as well. The FHWA will provide any additional guidance and assistance, as necessary. In addition, section 1323 of MAP–21 requires a report to Congress ''on the types and justification for the additional categorical exclusions granted under the authority provided under sections 1316 and 1317'' not later than October 1, 2014. This report will provide information and help determine if any additional guidance is needed.

One commenter suggested the Agencies consider further modifications to create predictable expectations for the completion of CEs such as guidelines, time limits, or deadlines for the completion of CEs.

The Agencies encourage timely review of environmental documents. However, the Agencies recognize that individual projects and their impacts are unique and subject to other requirements, which makes establishing standard review times problematic. Projects approved through the new CEs subject to this rule normally would not require further NEPA approvals, though the Agencies expect documentation exhibiting that the project fits the CE and that no unusual circumstances are present. This may be achieved with a complete project description. However, if the project has the potential to result in impacts to resources protected under other environmental laws, additional documentation and review time could be needed for that project. For example, the consultation required under Section 106 of the NHPA already has regulatory timeframes in 36 CFR part 800 associated with consultation between Federal agencies and the State Historic Preservation Officer. The Agencies cannot shorten that consultation process through review times mandated by their regulation.

One commenter stated that less restrictive rulemaking and subsequent agency guidance would allow agencies to make CE determinations and documentation to the project record earlier in the process such as in the long range planning and multiyear project programming. The commenter indicated that making this determination earlier in the process without further and broad based staff engagement would allow for a more reliable project delivery process, streamlined project delivery, and ensure program continuity necessary to better deliver transportation improvements.

Consideration of environmental impacts of a project during the transportation planning process is encouraged by the Agencies (*see* 23 CFR part 771 and part 450; 23 U.S.C. 168; and the Agencies' Planning and Environmental Linkages guidance at *http://www.environment.fhwa.dot.gov/integ/*). This consideration early in the process can expedite environmental review, especially if actions are planned in a way that allows them to meet the criteria for the CEs listed in Sections 771.117 or 771.118. The NEPA review may be conducted in parallel with the planning process. However, it is important to note that the Agencies cannot make a determination that a project qualifies for a CE until there is sufficient project information to determine the likely project impacts and the project is contained in the applicable transportation improvement program(s) under 23 U.S.C. 134–135. As a result, a CE determination normally does not occur until the planning process is finished.

One commenter stated the statute required that regulations for both new CEs be promulgated within 150 days of July 6, 2012, the date MAP–21 was signed into law, and that this deadline was exceeded by several months.

Sections 1316 and 1317 require the Secretary to designate the new CEs ''not later than 180 days'' after MAP–21's enactment and to promulgate regulations to carry out this requirement no later than 150 days from its enactment. Section 3 establishes that ''any reference to date of enactment shall be deemed to be a reference to the effective date'' of MAP–21, which is October 1, 2012. Sections 1316 and 1317 do not automatically create new CEs; their designation requires administrative action by the Agencies in the form of rulemaking. On February 28, 2013, the Agencies, acting on behalf of the Secretary, issued proposed regulations to ''designate'' the new CEs. The Agencies issued the proposal 150 days from the effective date of MAP–21.

*Section 771.117(c)(22) and 771.118(c)(12)*

In the NPRM the Agencies proposed identical language for an operational right-of-way CE in sections 771.117(c)(22) and 771.118(c)(12): ''Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. The operational right-of-way includes those portions of the right-of-way that have been disturbed for an existing transportation facility or are regularly maintained for transportation purposes. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, substations, etc.) and other areas regularly maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, or park and ride lots with direct access to an existing transit facility. It does not include portions of the existing right-of-way that are not currently being used or not regularly maintained for transportation purposes.''

The Agencies are adopting operational right-of-way CEs that are slightly different from the proposed language. The final CE language is identical for both FHWA and FTA and would cover ''[p]rojects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the

physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.''

The discussion of comments below describes the rationale for these changes and differences.

*Description of Operational Right-of-Way*

Nine State DOTs, 3 regional transit agencies, 10 national transportation interest groups, 7 State/local transportation groups, 3 national/regional environmental interest groups, 1 Federal agency, and 1 individual commented on the description of ''operational right-of-way'' used in the NPRM. Eighteen commenters noted the NPRM's description of operational right-of-way was inconsistent with that used in MAP–21, and that any final language should be consistent with the statute. Ten commenters specifically noted that describing operational right-of-way as property that is ''needed,'' ''used,'' ''disturbed,'' and ''regularly maintained'' limits the universe of actions that would otherwise qualify for the CE. Three commenters indicated that a CE for projects within a right-of-way is appropriate because environmental reviews have already occurred prior to the acquisition and additional reviews would be duplicative. Three commenters noted that the NPRM's use of terms such as ''disturbed'' in the description of right-of-way could result in destruction of buffer zones or other areas that are not regularly maintained. Three commenters stated that undisturbed and unmaintained land along a right-of-way in current use may have been obtained to keep the public away in order to make operations in the right-of-way safer. The commenters indicated that projects in these areas would qualify for the CE under the statutory language, but they would not qualify under the regulatory language. One commenter indicated that the use of the term ''disturbed'' would result in the requirement of archeological investigations to determine if the area had been disturbed. Another commenter suggested placing safeguards, such as a documentation requirement, to confirm the timing of the disturbance. One commenter objected to the exclusion of areas where the transportation facility has fallen into disuse. One commenter requested a clarification of whether operations and maintenance included trash pick-up, weed control, snow storage, maintenance of cut slopes, and rockfall mitigation. The commenter requested a clarification that the determination that an area was ''previously disturbed'' could be based on observation and did not require actual construction plans for verification. The commenter also requested that separated bike and pedestrian facilities be considered transportation facilities under the rule. Eight commenters supported the NPRM's limitation of operational right-of-way to existing transportation facilities. One commenter provided a comment that section 1316 was intended to apply only to projects where there is an existing right-of-way. The commenter opposed an interpretation that would allow State DOT's to acquire right-of-way for a future project and then use the CE for a project once it has been identified for the corridor.

Due to the number of comments received regarding the NPRM's proposed description of ''operational right-of-way'' and upon further consideration, the Agencies have made various modifications. The Agencies are not redefining ''operational right-of-way.'' The Agencies are interpreting the phrase ''existing operational right-of-way'' by providing that this ''refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose.'' The purpose for including the phrase ''disturbed for an existing transportation facility'' is to clarify that a transportation facility must already exist at the time of the review of the proposed project being considered for the CE. The Agencies are using ''disturbed'' as defined in the New Oxford American Dictionary ''having its normal pattern or function disrupted'' or ''interfere with the normal arrangement or function of'' (New Oxford American Dictionary 497 (Elizabeth J. Jewell & Frank R. Abate ed., 1st ed., Oxford Press 2001)). Evidence that the area was disturbed for a transportation facility should be provided (such as photographs, visual inspection), but this does not mean that archeology surveys or construction plans for the original facility are required to demonstrate that the area has been disturbed. As explained in the NPRM, the term ''transportation facility'' is used in this CE to establish that the existing facility or structure must be related to surface transportation. The phrase is intended to be used in its plain meaning, and is specifically not intended to be limited to the term ''transportation facilities'' as defined under 23 CFR 973.104, which is applicable to the Indian Reservation Roads Program. The term in this CE includes bicycle and pedestrian facilities.

The purpose for including the phrase ''maintained for a transportation purpose'' is to include areas that may not be traditionally considered a transportation facility but are maintained to serve a transportation purpose for an existing transportation facility such as clear zones and areas for safety and security of the transportation facility. A transportation facility that has fallen in disuse may require an assessment to determine if it is still being maintained for a transportation purpose and, therefore, qualifies as an operational right-of-way. The term ''maintained'' is used as defined in the New Oxford American Dictionary ''cause or enable [a condition or state of affairs] to continue'' (New Oxford American Dictionary at 1030). Applicants do not need to develop or engage in regular maintenance actions within these areas to ensure they become part of the existing operational right-of-way in the future. Natural methods of managing roadside vegetation, clear zones, and areas necessary for maintaining the safety and security of a transportation facility are covered as requested by the commenters. The term, as used in the CE, does not cover areas outside those areas necessary for existing transportation facilities, such as uneconomic remnants or excess right-of-way that is secured by a fence to prevent trespassing, or that are acquired and held for a future transportation project. Lastly, the Agencies included ''mitigation areas'' and ''areas maintained for safety and security of a transportation facility'' in the list of examples of features that comprise the existing operational right-of-way. The concept of ''mitigation areas'' is included in the statutory definition of ''operational right-of-way'' in section 1316 of MAP–21 and is being added to the final rule for consistency.

The Agencies found that section 1316's phrase ''existing operational right-of-way'' was subject to various interpretations. One interpretation would allow the use of the CE for the

construction of a project in an undeveloped area as long as real property interests were previously acquired for its future construction. This interpretation would ignore the use of the modifier ''existing'' before ''operational right-of-way'' in the statutory language in section 1316. The Agencies interpret the addition of that modifier to mean that proposed projects on property interests acquired for a future project but simply held in perpetuity with no associated transportation use cannot be covered by this CE. In addition, the Agencies interpret the reference to a ''project'' in the statutory definition of operational right-of-way to be different from the proposed project being evaluated for the CE. The Agencies interpret the statute to refer to a past transportation project when defining the footprint of the operational right-of-way.

The Agencies concluded that restating the statute in the regulation would not facilitate its implementation because it could allow an unreasonable interpretation. The meaning of the phrase ''existing operational right-of-way'' in the statute required the Agencies' interpretation to ensure consistent and legally defensible use of the CE. The Agencies interpret the addition of that modifier by Congress to mean that property interests acquired and held for a future project are not covered by this CE if there is no existing transportation facility or the area is not maintained for a transportation purpose for an existing transportation facility. This interpretation is supported by the statute's use of the adjective ''existing'' to modify ''operational right-of-way;'' the reference in the statutory definition to a project that is different from the proposed project being considered for the CE; and the particular examples used in the statute to describe the operational right-of-way (such as roadway, bridges, interchanges, landscaping, clear zones, etc.).

One commenter expressed concern that the proposed CE limited the ability of the States to shift roadway alignments and straighten dangerous curves.

The text of the CE would not affect a project sponsor's ability to shift roadway alignments, straighten dangerous curves, or engage in other eligible project activities for safety purposes. Rather, the CE text only affects the level of NEPA review that would be required for the eligible project. A number of safety projects, such as those shifting roadway alignments and straightening curves, may be accommodated within an existing operational right-of-way. Other CEs may be available for those projects that extend beyond the existing operational right-of-way limits (such as construction beyond the clear zone area).

One commenter expressed concerns with a potential expansion of the CE to allow its use for projects in buffer zones or undeveloped areas, indicating that many historic parkways and other roads include wooded areas that serve as crucial character-defining features of historic roadways or an important mitigation role in shielding historic districts and other neighborhoods from adjacent highways.

The Agencies note that the statutory definition of operational right-of-way includes ''mitigation'' and ''clear zones'' areas. Mitigation sites, such as wooded areas mitigating impacts of highways on historic districts, noise walls, and buffer zones used for transportation safety purposes are part of the operational right-of-way. However, the Agencies and the applicants must consider unusual circumstances to determine if the CE is the appropriate NEPA classification. In addition, the applicability of a NEPA CE for a transportation project does not exempt compliance with other environmental requirements. In the case of a buffer area that is a character defining feature of a historic property, the Agencies and the applicants must comply with the requirements of section 106 of NHPA and section 4(f) of the DOT Act. Consideration of unusual circumstances and compliance with other environmental laws may trigger the need to identify substitute mitigation or compensatory measures, as appropriate. The Agencies note that the inclusion of ''mitigation'' as a component of the operational right-of-way is in the statute and regulation does not override, waive, or alter the mitigation commitments that were established for the original transportation facility. The use of mitigation areas for a new project may trigger other actions to meet the original mitigation commitments.

*Examples of Features or Components of an Operational Right-of-Way*

Two commenters requested that the CE language explicitly apply to transportation project areas that are on land acquired to mitigate a project. One commenter expressed concerns with including land acquired for mitigation as part of the operational right-of-way.

Mitigation areas are explicitly recognized in the statutory definition of operational right-of-way. The Agencies are adding the term ''mitigation areas'' to the list of example features associated with the physical footprint of a transportation facility to be consistent with the statutory definition of ''operational right-of-way'' in section 1316 of MAP–21. The Agencies note that the inclusion of ''mitigation'' as a component of the operational right-of-way in the statute and regulation does not override, waive, or alter the mitigation commitments that were established for the original transportation facility. The use of mitigation areas for a new project may trigger other actions to meet the original mitigation commitments.

One transit agency requested that the rule clarify whether operational right-of-way needed to be contiguous with an existing road or guideway.

Public transportation facilities often have non-contiguous features that are part of a transportation system and are, therefore, part of the operational right-of-way. One example mentioned in the proposed rule is substations, which include transit power substations. This example has been moved to the list of examples of other areas maintained for transportation purposes in the final CE text. Other examples in the public transportation context include transit maintenance yards and transit venting structures. The Agencies have added these examples to their CE text to clarify that these types of structures are included in the footprint of the operational right-of-way.

One commenter requested the addition of ''parking structures,'' (*e.g.,* revise the example of ''park and ride lots'' to read ''park and ride lots and structures'') to the list of examples of features that comprise the operational right-of-way.

The Agencies consider ''park and ride lots'' to include both surface lots and parking structures. The Agencies changed the term to ''parking facilities'' in order to provide clarity and maintain consistency with other CEs found in part 771 and how those terms are used by the Agencies.

One commenter expressed concerns with the inclusion of clear zones as these could entail a large footprint. The commenter indicated that clear zones can cover more than 35 feet on both sides of roadway. Another commenter stated that operational right-of-way should not include the full width of clear zones on either side of a road because standards for clear zones have become much wider recently for safety purposes. The commenter expressed that the standard should be limited to the operation, construction, or mitigation of the original roadway at the time it was purchased.

The Agencies found that the statute was clear in identifying clear zones of an existing transportation facility as part

of the operational right-of-way. This means that construction of a transportation facility within already existing clear zones would qualify for the CE unless unusual circumstances exist that warrant an EA or EIS. However, a project within the operational right-of-way that requires the creation of new clear zones or extension of clear zone areas beyond what already exists would not qualify for this CE.

One commenter recommended adding noise walls and fencing to the list of examples of elements or components that are part of the operational right-of-way. The commenter also requested the addition of facilities within the right-of-way, but that are performed by other government entities.

The Agencies did not intend to create an all-inclusive list of components or features that comprise the operational right-of-way. Some of the additions recommended by the commenters are captured by features listed in the final regulatory text. For example, noise walls are a form of mitigation, which is included in the text. Some fencing structures may be necessary to maintain safety and security of an existing transportation facility and would, therefore, be part of the operational right-of-way. Other fencing structures may have been established to preserve a property, but are not necessary to maintain safety and security of an existing transportation facility. These features would not be considered part of an existing operational right-of-way. The identity of the entity that owns, maintains, or operates the transportation feature (for example, bridge, road, mitigation, clear zone, parking, etc.) is not a factor in determining whether the feature is part of the operational right-of-way. The test is whether the feature is in use or is maintained for a transportation purpose.

*Real Property Interests*

Five commenters noted that the statute refers to ''all real property interests'' acquired for the construction, operation, or mitigation of a project, and this includes property acquired for corridor preservation and future transportation facility capacity expansion. One commenter expressed an opinion that the term should include prescriptive easements, leases, utility easements, and other non-fee simple property interests. Another commenter opposed an interpretation that would allow development of transportation projects on real property interests that are less than fee simple interests, such as utility easements and leases. One commenter proposed regulatory language that the CE cover ''all real property interests acquired *or secured* for the construction, operation, or mitigation of a project *or transportation corridor''* (emphasis added). Seven commenters objected to the requests to expand the CE to cover actions occurring within areas acquired, but not developed, for corridor preservation and facility expansion. One commenter indicated that an expansion of the CE to cover projects that would take place in property that has been acquired but not developed could be combined with the ''significant expansion'' of advanced acquisition allowed under section 1302 of MAP–21 to create a strong incentive for aggressive land acquisition in an effort to insulate potential future transportation projects from a higher level of NEPA review (e.g. an EA or EIS). The commenter expressed concerns with an interpretation of the CE that would allow the development of previously acquired areas owned for decades but that had not received final approval from FHWA under NEPA because of litigation, new information, lack of funding, or other problems. One commenter expressed that right-of-way purchased under section 1302 of MAP–21 should not be included in the operational right-of-way definition because such land has independent utility, rather than utility for construction, operations, or mitigation purposes.

The Agencies do not interpret the statutory CE provision in a manner that would allow construction of a project in an undeveloped area simply because the real property interests were previously acquired. The use of the modifier ''existing'' to describe the operational right-of-way means that a transportation facility must already exist at the location where the proposed project will be built. Areas acquired and held as a transportation corridor for a future project would not constitute an existing operational right-of-way. The real property interest in question must be disturbed for an existing transportation facility or maintained for a transportation purpose for an existing transportation facility. Utility use and occupancy agreements, and other real property interests that are not maintained for existing transportation purposes would not be part of the existing operational right-of-way.

One commenter noted that the proposed rule does not clearly address whether section 1316 CEs apply to project-related work that requires temporary construction easements rather than permanent acquisition.

The Agencies have concluded that the geographic reference in the CE is for the final project. The final project must be entirely within the operational right-of-way. The method to construct a project within the operational right-of-way is accounted for in the CE since it is presumed a CE accounts for all connected actions (*see CEQ Final Guidance on Establishing, Applying, and Revising Categorical Exclusions under NEPA,* 75 FR 75628, 75632, Dec. 6, 2010). This includes temporary work taking place outside an operational right-of-way that is necessary for the construction of a project within the operational right-of-way. Therefore, this CE also covers temporary easements and temporary work needed for the project even if this work is outside an operational right-of-way. It is important to note that temporary easements and work are subject to review for any unusual circumstances (such as work taking place in endangered species habitat) that would trigger the need for a higher level of NEPA review for the project. Furthermore, some temporary work such as the construction of a detour road or bridge may require a higher level of scrutiny to ensure adequate consideration of unusual circumstances. Finally, the Agencies do not interpret the CE to apply to the construction of a permanent project within an area acquired as temporary easements for the construction of past projects. Temporary easements end once the original project is completed and, therefore, cannot be considered ''existing'' transportation facilities when a new project is being considered.

One commenter indicated that the description of the operational right-of-way in the proposal conflicted with the definition of ''right-of-way'' in 23 CFR 710.105 and the requirements for managing real property within the boundaries of a federally assisted facility. The commenter's opinion was that using a definition that does not include all real property within the right-of-way boundary of a project would undermine the State's ability to acquire any real estate beyond the proposed ''operational right-of-way'' boundaries and will impede the State's ability to manage the entire right-of-way. The commenter indicated that the proposed rule would undermine the State's defense and necessity for acquisition outside the operational right-of-way boundaries.

Section 710.105 defines the term ''right-of-way'' as ''real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility funded under title 23 of the United States Code.'' ''Real property'' is defined in the same section as ''land and any

improvements thereto, including but not limited to, fee interests, easements, air or access rights, and the rights to control use, leasehold, and leased fee interests.'' These terms are consistent with the description of ''existing operational right-of-way'' provided in the final rule. The Agencies note that the new CE does not overturn or modify applicable State laws and requirements for the acquisition of land. Those laws may require agencies to articulate and substantiate the necessity for their acquisition.

One commenter requested a clarification on whether operational right-of-way includes easements that are necessary for operations and maintenance of existing transportation facilities. The commenter provided an example of a situation where a Federal land management agency provides an easement through the Federal land for the State's construction, operation, and maintenance of a transportation facility.

The Agencies interpret existing operational right-of-way provision to include easements provided by Federal land management agencies for the construction, operation, and maintenance of transportation projects that use Federal lands. The CE would apply to FHWA or FTA actions contained within an easement area already granted by a Federal land management agency. However, the Agencies note that the CE only applies to FTA and FHWA actions. The decision to grant an easement or other approvals in Federal lands may constitute major Federal actions for the Federal land management agencies, which could require them to conduct their own NEPA reviews for their actions.

*Sections 771.117(c)(23) and 771.118(c)(13)*

In the NPRM, the Agencies proposed identical language for a limited Federal assistance CE in sections 771.117(c)(23) and 771.118(c)(13). The proposed CE language was for ''[f]ederally funded projects that do not require Administration actions other than funding, and: (i) That receive less than $5,000,000 of Federal funds; or (ii) with a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.''

The Agencies are adopting final CE language that is different from the proposed language. The final CE language is identical for both FHWA and FTA and would cover ''Federally-funded projects: (i) That receive less than $5,000,000 of Federal funds; or (ii) with a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.'' The discussion of comments below describes the rationale for these changes and differences.

*Federally-Funded Projects and Administration Actions Other Than Funding*

Twenty-five entities commented on the NPRM language limiting the application of the CE to situations in which the only Agency action involved is funding. Eighteen commenters expressed the position that such a limitation to the scope of the CE is inconsistent with the statutory language that provides that the CE is available to ''any'' project. One commenter indicated that the NPRM's preamble statement that the CE would apply to projects that only involve Agency funding decisions and actions was unclear. One commenter stated that funding approval and approval of construction could be considered two separate actions under the CEQ definition of ''major Federal action'' in 40 CFR 1508.18, and this would prevent the use of the CE for any construction project. The commenter also indicated that other approvals would be considered separately from funding, such as approvals of right-of-way or design approvals. One commenter expressed his belief that the congressional intent was to utilize this CE on Interstate projects even if an Interstate Access Justification report was needed. Another commenter stated that other Administration actions such as Interstate access approvals or nationwide permits from the U.S. Army Corps of Engineers do not have the potential on their own or collectively to create significant environmental impacts. Six commenters supported the exclusion of Administration actions other than funding such as approvals for Interstate access. One commenter discussed two examples of major highway projects that did not receive Federal-aid but still required detailed NEPA reviews because of FHWA's involvement in the approval of a request for an Interstate System access change under 23 U.S.C. 111(a). Another commenter recommended including Interstate access in the regulatory text if it was going to be excluded from the CE's applicability. The commenter also recommended including in the preamble and the regulatory text the example of right-of-way disposals as another type of action that does not require Federal aid but that should not automatically qualify for a CE in this category.

The Agencies have revised the text of the CE in response to the commenters, which recommended expanding the CE to all projects that fall within the monetary thresholds established by Congress (that is, no more than $5 million or no more than 15 percent in Federal funding for a project with total estimated cost of no more than $30 million). As noted in the NPRM, the action has to have some level of Federal assistance in order to qualify for the CE. This is based on the Agencies' understanding that the title of section 1317, the use of the term ''funds'' in section 1317(1)(A)–(B), and the Conference Report articulated a congressional intent to limit the CE to federally funded projects. Projects not funded with Federal funds but requiring other forms of approvals from the Agencies do not qualify for this CE. The Agencies note that other CEs continue to be available for projects that do not meet this condition. For example, a project not funded with Federal funds that require an Interstate System access change approval from FHWA may qualify for a CE under FHWA's (d)-list CEs (for example section 771.117(d)(7) (approvals for changes in access control)).

The proposal set forth in the NPRM would have prevented the use of the CE for projects that receive Federal-aid within the established thresholds but that required other Agency approvals (such as approvals for changes in access control). However, the commenters highlighted ambiguities in the proposed rule that would have led to confusion in its application. For example, one commenter indicated that approval of construction could be interpreted to be a separate approval from the decision to fund the project and this would render the CE meaningless. In addition, interpreting the statutory provision in this manner would be inconsistent with the principle that the scope of a CE must include all connected actions (*see CEQ Final Guidance on Establishing, Applying, and Revising Categorical Exclusions under NEPA,* 75 FR 75628, 75632, Dec. 6, 2010). The language in section 1317 does not exclude a subgroup of projects that require other Agency approvals. A project receiving Federal funds within the statutory thresholds and that also requires other Agency approvals qualifies for the CE under the statutory provision in section 1317. As a result, the Agencies are deleting the phrase ''that do not require Administration actions other than funding'' in the final rule.

The Agencies understand that Federal funding alone is not a reliable indicator of the significance of the environmental

impacts associated with a project. However, the Agencies find that the statute clearly conveys the congressional direction that FHWA or FTA projects receiving Federal funding below the thresholds should be presumed to not trigger EA and EIS requirements. This presumption applies unless the project involves unusual circumstances that make its application improper. The uniqueness of this CE (that is, a CE determination based on dollar thresholds instead of a particular scope or description of the action) makes the consideration of unusual circumstances particularly important to ensure that projects that receive Federal funds below the established thresholds are not processed as CEs when the unusual circumstances warrant another level of NEPA review.

*Funding Criterion*

Nine entities commented specifically on the second statutory funding criterion for projects with a total estimated to cost of not more than $30,000,000 and Federal funds of less than 15 percent of the total estimated project cost. Four commenters recommended the deletion of this criterion to avoid confusion since projects meeting this threshold would also meet the threshold in the first criterion for projects receiving less than $5,000,000 in Federal funds. One commenter suggested that Congress intended to apply the CE to projects that cost more than $30,000,000 and receive Federal funds of less than 15 percent ($4,500,000) of the project's estimated cost. Four commenters submitted general comments on section 1317 indicating that the statutory language for this CE was clear and did not need revisions.

The Agencies will retain the two criteria. Although $4,500,000 is 15 percent of the total estimated project cost for a project with total estimated project cost of $30,000,000, and this is below the $5,000,000 threshold in the first criterion, the Agencies decided to retain the provision because it is explicitly stated in the law.

*Re-Evaluation*

Four commenters commented on the Agencies' statement in the NPRM that re-evaluations could be triggered under 23 CFR 771.129 if, after the limited Federal assistance CE was used, there was a change to the project that raised the level of Federal funding beyond the funding thresholds, and there was still an FHWA and/or FTA action to be taken. Two of those commenters indicated that the final rule should clarify that when the State relies upon the second criterion, the only changes that could trigger re-evaluation would be an increase in the percentage of Federal funds above the 15 percent threshold or a change in the project's scope to include activities not included by the original CE. Another of the commenters indicated that requiring re-evaluation for changes in the funding thresholds appeared to be contrary to the intent of MAP–21 that specifies ''estimated'' project costs. The fourth commenter stated that the Agencies' statement on re-evaluation was in direct conflict with section 1317 of MAP–21 because it states that the CE applies to the estimated project cost and not final project costs.

Re-evaluation would be triggered if there is an increase in the amount of Federal funds for the project beyond the established thresholds, and there is still an FHWA and/or FTA action that needs to be taken when these changes occur. The need for re-evaluation is not unique to this CE. This CE, however, highlights the importance of obtaining accurate cost estimates and the need for careful deliberation before applying this CE to a project that is close to the established thresholds. The applicant and the Agency(s) would consult prior to any request for further approvals or grants (including approval of project plans, specifications, or estimates) to ascertain whether the CE designation remains valid. Even when a change occurs, the project may continue to qualify for a CE under other CEs designated in part 771, if it meets the requirements of the CE. An interpretation that the only basis for determining the applicability of the CE should be the applicant's estimate without opportunity to re-evaluate would not promote good project cost estimates and would be inconsistent with the Agencies' re-evaluation process that applies to all NEPA reviews.

*Inflation and Small Cost Increases*

One commenter indicated that the funding thresholds should be indexed for inflation. The commenter stated that the funding thresholds will become outdated with inflation, and Congress likely did not intend for the value of the thresholds to be eroded over time. Another commenter recommended building some flexibility into the process to accommodate small cost increases or changes in the Federal participation rate. The commenter stated that planning level costs estimates and anticipated Federal participation rates available at the project development stage where NEPA review occurs are likely to change as the project advances to construction.

The Agencies find that the statutory language regarding the funding thresholds is clear. Therefore, the Agencies do not provide for inflation considerations or for small cost increases beyond the thresholds provided, and do not make the suggested changes.

*Independent Utility, Logical Termini, and Restriction of Consideration Alternatives*

Three commenters supported the requirement that the projects demonstrate independent utility, connect logical termini, and not restrict consideration of alternatives, but recommended a clarification that projects can qualify for the CE even if they are built in segments. They indicated that pedestrian, bicycle, and shared use pathway projects are often built in phases even though the overall project meets the funding threshold. One commenter stated that the limited Federal assistance CE, by its very nature, creates an incentive to divide transportation projects into smaller components if doing so would enable the project to come within the scope of the CE. The commenter recommended documentation demonstrating that the project has independent utility, connects logical termini, and does not restrict consideration of alternatives for other reasonably foreseeable transportation improvements.

The Agencies agree with the commenters. A CE must capture the entire proposed action, which includes all connected actions (*see CEQ ''Final Guidance on Establishing, Applying, and Revising Categorical Exclusions under NEPA,''* 75 FR 75628, 75632, Dec. 6, 2010). The requirement that the projects demonstrate independent utility, connect logical termini, and not restrict consideration of alternatives reflects the Agencies' test for determining the full scope of a project for NEPA review purposes and avoiding impermissible segmentation. This does not prohibit the construction of a transportation facility in phases so long as the full project scope receives NEPA review before the first phase begins construction. Typically, the documentation for the project will be sufficient to demonstrate that the proposal has independent utility, connects logical termini (for linear projects), and does not restrict consideration of alternatives for other reasonably foreseeable transportation improvements. In some instances, additional information may be needed to establish that these criteria will be met.

*Use of CE by Multiple Federal Agencies*

One commenter recommended the use of the CE for multiple Agency funding decisions and actions. The commenter mentioned the Partnership for Sustainable Communities among the U.S. Department of Housing and Urban Development, U.S. Environmental Protection Agency, and DOT as an initiative that allows for multiagency collaboration that should extend to this CE's use. Two commenters indicated that the proposed CEs appear to apply to all types of Federal funds used for transportation facility projects and should not be limited to only FHWA's rules.

Although the CE takes into account to all sources of Federal funding for a transportation project, the statute is very specific in limiting the CE to the FHWA and FTA joint NEPA procedures. A CE determination for FHWA or FTA does not satisfy the NEPA procedural requirements for other Federal agencies that also have actions for the same project (such as permits or other approvals). The CE is only available for FHWA and FTA actions.

**Section-by-Section Analysis**

The Agencies provide guidance throughout the *Summary and Response to Comments* section above on their interpretation of the CEs as modified in response to public comment. A minor additional change is made to remove section 771.118(d)(5) due to the availability of the new section 771.118(c)(12). The changes are described in this section.

*Section 771.117*

The FHWA is adding paragraph (c)(22) to this section for ''[p]rojects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.''

The FHWA is also adding paragraph (c)(23) to this section for ''Federally funded projects (i) that receive less than $5,000,000 of Federal funds; or (ii) with a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.''

*Section 771.118*

FTA is adding paragraph (c)(12) to this section with the same text as the new paragraph (22) in section 771.117(c). FTA is also adding paragraph (c)(13) to this section with the same text as the new paragraph (23) in section 771.117(c).

FTA reviewed its existing list of CEs at section 771.118, and determined that paragraph (d)(5) (''[c]onstruction of bicycle facilities within existing transportation right-of-way'') is subsumed by paragraph (c)(12). Therefore, FTA is removing paragraph 771.118(d)(5) to reduce CE application confusion, and is reserving it for a future section 771.118(d) example.

**Statutory/Legal Authority for This Rulemaking**

The Agencies derive explicit authority for this rulemaking action from 49 U.S.C. 322, which provides authority to ''[a]n officer of the Department of Transportation [to] prescribe regulations to carry out the duties and powers of the officer.'' That authority is delegated to the Agencies in 49 CFR 1.81(a)(3), which provides that the authority to prescribe regulations contained in 49 U.S.C. 322 is delegated to each Administrator ''with respect to statutory provisions for which authority is delegated by other sections in [49 CFR Part 1].'' Included in 49 CFR Part 1, specifically 49 CFR 1.81(a)(5), is the delegation of authority with respect to NEPA, the statute implemented by this final rule. Moreover, the CEQ regulations that implement NEPA provide at 40 CFR 1507.3 that agencies shall continue to review their policies and NEPA implementing procedures and revise them as necessary to insure full compliance with the purposes and provisions of NEPA.

**Rulemaking Analyses and Notices**

The Agencies considered all comments received before the close of business on the comment closing date indicated above, and the comments are available for examination in the docket at Regulations.gov. The Agencies also considered comments received after the comment closing date and filed in the docket prior to this final rule.

**Executive Orders 12866 and 13563 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures**

Executive Orders 12866 and 13563 direct 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). The Agencies determined that this action is not a significant regulatory action under section 3(f) of Executive Order 12866 nor is it significant within the meaning of DOT regulatory policies and procedures (44 FR 11032). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It is anticipated that the economic impact of this rulemaking are minimal. The changes to this rule are requirements mandated by MAP–21 to increase efficiencies in environmental review by making changes in the Agencies' environmental review procedures.

The activities in this final rule are inherently limited in their potential to cause significant environmental impacts because the use of the CEs is subject to the unusual circumstances provision in 23 CFR 771.117(b) and 23 CFR 771.118(b), respectively. These provisions require appropriate environmental studies, and may result in the reclassification of the NEPA evaluation of the project to an EA or EIS, if the Agencies determine that the proposal involves potentially significant or significant environmental impacts. These changes will not adversely affect, in any material way, any sector of the economy. In addition, these changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees, or loan programs. Consequently, a full regulatory evaluation is not required.

**Regulatory Flexibility Act**

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), the Agencies must consider whether this final rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not for-profit organizations that are

independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations under 50,000. The Agencies do not believe this final rule will have a significant economic impact on entities of any size, and the Agencies received no comment in response to our request for any such information in the NPRM. These revisions could expedite environmental review and thus would be less than any current impact on small business entities. Thus, the Agencies determine that this final rule will not have a significant economic impact on a substantial number of small entities.

**Unfunded Mandates Reform Act of 1995**

This final rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This final rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $148.8 million or more in any one year (2 U.S.C. 1532).

**Executive Order 13132 (Federalism Assessment)**

Executive Order 13132 requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. The Agencies have analyzed this final rule in accordance with the principles and criteria contained in Executive Order 13132 and determined that this action will not have a substantial direct effect on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications. The Agencies have also determined that this action will not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions. The NPRM invited State and local governments with an interest in this rulemaking to comment on the effect that adoption of specific proposals may have on State or local governments. No State or local governments provided comments on this issue.

**Executive Order 13175 (Tribal Consultation)**

Executive Order 13175 requires agencies to assure meaningful and timely input from Indian tribal government representatives in the development of rules that ''significantly or uniquely affect'' Indian communities and that impose ''substantial and direct compliance costs'' on such communities. The Agencies have analyzed this action under Executive Order 13175, dated November 6, 2000, and believe that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required. The Agencies received no comment in response to our request in the NPRM for comments from Indian tribal governments on the effect that adoption of specific proposals might have on Indian communities.

**Executive Order 13211 (Energy Effects)**

The Agencies have analyzed this action under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' dated May 18, 2001. The Agencies determined that this action is not a significant energy action under that order because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

**Executive Order 12372 (Intergovernmental Review)**

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to these programs and were carried out in the development of this rule.

**Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), no Federal agency shall conduct or sponsor a collection of information unless in advance the agency has obtained approval by and a control number from the Office of Management and Budget (OMB), and no person is required to respond to a collection of information unless it displays a valid OMB control number.. The Agencies determined that the final rule does not contain collection of information requirements for the purposes of the PRA.

**Executive Order 12988 (Civil Justice Reform)**

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Executive Order 12898 (Environmental Justice)**

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a), 91 FR 27534, May 10, 2012, require DOT agencies to achieve environmental justice (EJ) as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations in the United States. The DOT Order requires DOT agencies to address compliance with the Executive Order and the DOT Order in all rulemaking activities. In addition, both Agencies have issued additional documents relating to administration of the Executive Order and the DOT Order. On June 14, 2012, the FHWA issued an update to its EJ order, FHWA Order 6640.23A, ''FHWA Actions to Address Environmental Justice in Minority Populations and Low Income Populations'' (available online at *www.fhwa.dot.gov/legsregs/directives/orders/664023a.htm*). The FTA also issued an update to its EJ policy, ''FTA Policy Guidance for Federal Transit Recipients,'' 77 FR 42077, July 17, 2012 (available online at *www.fta.dot.gov/legislation_law/12349_14740.html*).

The Agencies evaluated the CE under the Executive Order, the DOT Order, the FHWA Order, and the FTA Circular. The Agencies determined that designation of the new CEs for actions within the operational right-of-way and for actions with limited Federal assistance through this rulemaking will not cause disproportionately high and adverse effects on minority or low income populations. The rule simply adds a provision to the Agencies' NEPA procedures under which they may decide in the future that a project or program does not require the preparation of an EA or EIS. The rule itself has no potential for effects until it is applied to a proposed action requiring approval by the FHWA or FTA.

At the time the Agencies apply a CE established by this rulemaking, the

Agencies have an independent obligation to conduct an evaluation of the proposed action under the applicable EJ orders and guidance. The adoption of this rule does not affect the scope or outcome of that EJ evaluation. Nor does the new rule affect the ability of affected populations to raise any concerns about potential EJ effects at the time the Agencies consider applying a new CE. Indeed, outreach to ensure the effective involvement of minority and low income populations in the environmental review process is a core aspect of the EJ orders and guidance. For these reasons, the Agencies also determined no further EJ analysis is needed and no mitigation is required in connection with the designation of the CEs for actions within the operational right-of-way and for actions with limited Federal assistance.

**Executive Order 13045 (Protection of Children)**

The Agencies analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The Agencies certify that this action is not economically significant rule and will not cause an environmental risk to health or safety that may disproportionately affect children.

**Executive Order 12630 (Taking of Private Property)**

The Agencies analyzed this final rule under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' and determined the rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630.

**National Environmental Policy Act**

This action will not have any effect on the quality of the environment under NEPA. Agencies are required to adopt implementing procedures for NEPA that establish specific criteria for, and identification of, three classes of actions: those that normally require preparation of an EIS; those that normally require preparation of an EA; and those that are categorically excluded from further NEPA review (40 CFR 1507.3(b)). The CEQ regulations do not direct agencies to prepare a NEPA analysis or document before establishing Agency procedures (such as this regulation) that supplement the CEQ regulations for implementing NEPA. The CEs are one part of those agency procedures, and therefore establishing CEs does not require preparation of a NEPA analysis or document. Agency NEPA procedures are generally procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action. The requirements for establishing agency NEPA procedures are set forth at 40 CFR 1505.1 and 1507.3. The determination that establishing CEs does not require NEPA analysis and documentation was upheld in *Heartwood, Inc.* v. *U.S. Forest Service,* 73 F. Supp. 2d 962, 972–73 (S.D. Ill. 1999), *aff'd,* 230 F.3d 947, 954–55 (7th Cir. 2000).

**Regulation Identification Number**

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

**List of Subjects**

*23 CFR Part 771*

Environmental protection, Grant programs—transportation, Highways and roads, Historic preservation, Public lands, Recreation areas, Reporting and recordkeeping requirements.

*49 CFR Part 622*

Environmental impact statements, Grant programs—transportation, Public transit, Recreation areas, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Agencies are amending 23 CFR part 771 and 49 CFR part 622 as follows:

## Title 23—Highways

## PART 771—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 1. The authority citation for part 771 is revised to read as follows:

**Authority:** 42 U.S.C. 4321 *et seq.;* 23 U.S.C. 106, 109, 128, 138, 139, 315, 325, 326, and 327; 49 U.S.C. 303 and 5323(q); 40 CFR Parts 1500–1508; 49 CFR 1.81, 1.85, and 1.91; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; Pub. L. 112–141, 126 Stat. 405, sections 1315, 1316 and 1317.

**§ 771.117 [Amended]**

■ 2. Amend § 771.117 by adding paragraphs (c)(22) and (c)(23) to read as follows:

**§ 771.117 FHWA categorical exclusions.**

* * * * *

(c) * * *

(22) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(23) Federally-funded projects:

(i) That receive less than $5,000,000 of Federal funds; or

(ii) With a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

* * * * *

**§ 771.118 [Amended]**

■ 3. Amend § 771.118 by adding paragraphs (c)(12) and (c)(13) and removing and reserving paragraph (d)(5) to read as follows:

**§ 771.118 FTA categorical exclusions.**

* * * * *

(c) * * *

(12) Projects, as defined in 23 U.S.C. 101, that would take place entirely within the existing operational right-of-way. Existing operational right-of-way refers to right-of-way that has been disturbed for an existing transportation facility or is maintained for a transportation purpose. This area includes the features associated with the physical footprint of the transportation facility (including the roadway, bridges, interchanges, culverts, drainage, fixed guideways, mitigation areas, etc.) and other areas maintained for transportation purposes such as clear zone, traffic control signage, landscaping, any rest areas with direct access to a controlled access highway, areas maintained for safety and security of a transportation facility, parking facilities with direct access to an

existing transportation facility, transit power substations, transit venting structures, and transit maintenance facilities. Portions of the right-of-way that have not been disturbed or that are not maintained for transportation purposes are not in the existing operational right-of-way.

(13) Federally-funded projects:

(i) That receive less than $5,000,000 of Federal funds; or

(ii) With a total estimated cost of not more than $30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

* * * * *

(d) * * *

(5) [Reserved]

* * * * *

## Title 49—Transportation

## PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

■ 4. The authority citation for part 622 is revised to read as follows:

**Authority:** 42 U.S.C. 4321 et seq.; 49 U.S.C. 303 and 5323(q); 23 U.S.C. 139 and 326; Pub. L. 109–59, 119 Stat. 1144, sections 6002 and 6010; 40 CFR parts 1500–1508; 49 CFR 1.81; and Pub. L. 112–141, 126 Stat. 405, sections 1315, 1316 and 1317.

**Gregory G. Nadeau,**

*Deputy Administrator, Federal Highway Administration.*

**Peter Rogoff,**

*Administrator, Federal Transit Administration.*

[FR Doc. 2014–00370 Filed 1–10–14; 8:45 am]

**BILLING CODE 4910–22–P**

## DEPARTMENT OF HOMELAND SECURITY

### Transportation Security Administration

### 49 CFR Part 1554

**[Docket No. TSA–2004–17131**

**RIN 1652–AA38**

## Aircraft Repair Station Security

**AGENCY:** Transportation Security Administration (TSA), Department of Homeland Security (DHS).

**ACTION:** Final rule.

**SUMMARY:** The Transportation Security Administration (TSA) is issuing regulations to improve the security of domestic and foreign aircraft repair stations as required by the Vision 100—Century of Aviation Reauthorization Act. The regulations codify the scope of TSA's existing inspection authority and require repair stations certificated by the Federal Aviation Administration (FAA) under 14 CFR part 145 to allow TSA and Department of Homeland Security (DHS) officials to enter, conduct inspections, and view and copy records as needed to carry out TSA's security-related statutory and regulatory responsibilities. The regulations also require these repair stations to comply with security directives when issued by TSA. The regulations also require certain repair stations to implement a limited number of security measures. The regulations establish procedures for TSA to notify repair stations of any deficiencies with their security measures and to determine whether a particular repair station presents an immediate risk to security. The regulations include a process whereby a repair station may seek review of a determination by TSA that the station has not adequately addressed security deficiencies or that the repair station poses an immediate risk to security.

**DATES:** Effective February 27, 2014.

**FOR FURTHER INFORMATION CONTACT:** Shawn Gallagher, Office of Security Operations, TSA–29, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6029; telephone (571) 227–3378; facsimile (571) 603–4344; email *ARS@tsa.dhs.gov*.

**SUPPLEMENTARY INFORMATION:**

### Availability of Rulemaking Document

You can get an electronic copy using the Internet by—

(1) Searching the electronic Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the Federal Register by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section. Make sure to identify the docket number of this rulemaking.

### Small Entity Inquiries

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires TSA to comply with small entity requests for information and advice about compliance with statutes and regulations within TSA's jurisdiction. Any small entity that has a question regarding this document may contact the person listed in **FOR FURTHER INFORMATION CONTACT**. Persons can obtain further information regarding SBREFA on the U.S. Small Business Administration's (SBA) Web page at *http://www.sba.gov/advo/laws/law_lib.html*.

### Abbreviations and Terms Used in This Document

AOA Air Operations Area
CFR Code of Federal Regulations
DHS Department of Homeland Security
EA Emergency Amendment
E.O. Executive Order
EPCA Energy Policy and Conservation Act
EU European Union
FAA Federal Aviation Administration
FR **Federal Register**
FRFA Final Regulatory Flexibility Analysis
GA General Aviation
ICAO International Civil Aviation Organization
IRFA Initial Regulatory Flexibility Analysis
MTOW Maximum Certificated Take-off Weight
NAICS North American Industry Classification System
NEPA National Environmental Policy Act of 1969
NPRM Notice of Proposed Rulemaking
NTSB National Transportation Safety Board
OMB Office of Management and Budget
PRA Paperwork Reduction Act of 1995
RFA Regulatory Flexibility Act of 1980
SBA United States Small Business Administration
SBREFA Small Business Regulatory Enforcement Fairness Act of 1996
SD Security Directive
SIDA Security Identification Display Area
SSI Sensitive Security Information
TSA Transportation Security Administration
U.S. United States of America
U.S.C. United States Code

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## I. Background

### *A. Summary of the Rule*

TSA is issuing regulations to improve security at repair stations located within and outside the United States as required by Vision 100-Century of Aviation Reauthorization Act, Public Law 108–176 (117 Stat. 2489, December 12, 2003), codified at 49 U.S.C. 44924 (Vision 100).[1] The statutory requirements of Vision 100 are discussed in the preamble of the Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on November 18, 2009. See 74 FR 59874, 59875. There are approximately a total of 4,067 repair stations located in the United States and 707 located outside the United States certificated by FAA under part 145 as of August 2013.[2] The final rule contains the following requirements:

• *Application.* The regulations apply to repair stations certificated by the FAA under 14 CFR part 145, except repair stations located on a U.S. or foreign government military base. All repair stations are subject to inspection as provided in the rule and to Security Directives should there be a security need. However, the rule text requires only certain repair stations, discussed below, to carry out security measures on a regular basis.

• *TSA Inspection Authority.* Repair stations must allow TSA and other authorized DHS officials to enter, conduct inspections, and view and copy records as needed to carry out TSA's security-related statutory and regulatory responsibilities. For repair stations not required to carry out security measures on a regular basis (i.e., those repair stations not located on or adjacent to an airport, as further defined below), TSA does not intend to inspect such facilities, except (1) for compliance with security directives issued by TSA and with airport security programs required by TSA (for those repair stations that are included in an airport security program), and (2) to respond to security information provided to TSA by U.S. or foreign government entities.

• *Implementation of Security Measures.* The security measures in this rule cover repair stations that are on or adjacent to certain airports. TSA will consider a repair station to be ''on airport'' if it is on an air operations area (AOA) or security identification display area (SIDA) of an airport covered by an airport security program under 49 CFR part 1542 in the United States, or on the security restricted area any commensurate airport outside the United States regulated by a government entity. TSA will consider a repair station to be adjacent to an airport if there is an access point between the repair station and the airport of sufficient size to allow the movement of large aircraft between the repair station and the area described as ''on airport.'' [3]

• *Security Measures.* Certain repair stations, as described above, are required to (1) designate a point of contact(s) to carry out specified responsibilities; (2) prevent the unauthorized operation of large aircraft capable of flight that are left unattended; and (3) verify background information of those individuals who are designated as the TSA point(s) of contact and those who have access to any keys or other means used to prevent the unauthorized operation of large aircraft capable of flight that are left unattended. See section 1554.101.

• *Security Directives.* Repair stations are required to comply with Security Directives (SDs) issued by TSA. See section 1554.103.

• *Notification of Deficiencies; Suspension of Certificate and Review Process.* The regulations describe the process whereby TSA will notify the repair station and the FAA of a security deficiency identified by TSA and provide an opportunity for the repair station to obtain review of a determination by TSA to suspend its operating certification.

• *Immediate Risk to Security; Revocation of Certificate and Review Process.* The regulations specify that when TSA determines a repair station poses an immediate risk to security, TSA will notify the repair station and the FAA that the certificate must be revoked. The regulations also provide the process for the repair station to obtain review of such a determination.

### *B. Purpose of the Rule*

While the FAA has implemented extensive safety requirements for repair stations located within and outside the United States, supplementing those safety provisions with the security requirements contained in the final rule will further reduce the likelihood that terrorists would be able to use large aircraft as a weapon. As terrorist organizations continue to target civil aviation, TSA believes it is important for aircraft repair stations that are located on or adjacent to an airport to have specific security measures in place to prevent terrorists from commandeering large aircraft that are capable of flight and are not attended. Enhancement of security at repair stations that have access to runways will mitigate the potential threat that a large aircraft could be used as a weapon.

In developing this rule, TSA consulted with the FAA and built upon the certification and safety requirements FAA has instituted requiring repair stations to establish and maintain a quality control system. See 14 CFR 145.211. While these quality control measures provide a significant layer of protection and oversight of articles and aircraft under repair, this final rule supplements those measures by requiring repair stations that are located on or adjacent to an airport, as defined in the final rule, to implement security measures to prevent the unauthorized operation of large aircraft capable of flight left unattended.

### *C. Costs and Benefits*

In accordance with Executive Orders (E.O.) 12866 and 13563, TSA includes in this preamble a summary of the costs and benefits associated with the Aircraft Repair Station Security final rule. The table below summarizes the costs and benefits of the final rule to U.S. and foreign entities. A detailed estimate of these costs and benefits can be found in the regulatory impact analysis accompanying this final rule; the

[1] While Vision 100 refers to foreign and domestic repair stations, TSA is adopting FAA terminology to refer to repair stations located ''within'' or ''outside'' the United States.

[2] Data taken from the FAA Safety Performance Analysis System (SPAS) database, August 2013.

[3] Large aircraft are defined as aircraft with a maximum certificated take-off weight of more than 12,500 pounds.

regulatory impact analysis is available in the docket.

| Category | Estimates | | | Units | | | Notes |
|---|---|---|---|---|---|---|---|
| | Primary estimate | Low estimate | High estimate | Year dollar | Discount rate (percent) | Period covered | |
| **Benefits** | | | | | | | |
| Annualized Monetized ($millions/year) | None<br>None | None<br>None | None<br>None | NA<br>NA | 7<br>3 | NA<br>NA. | Not Quantified. |
| Annualized Quantified | None<br>None | None<br>None | None<br>None | NA<br>NA | 7<br>3 | NA<br>NA. | Not Quantified. |
| Qualitative | This final rule satisfies the Congressional mandate in Vision 100 for TSA to promulgate regulations to better ensure the security of aircraft repair stations. The security measures required by this final rule will better secure the aircraft on repair stations located on or adjacent to an airport and working on aircraft with a MTOW of more than 12,500 lbs. and mitigate the risk of a terrorist attack originating at these aircraft repair stations | | | | | | |
| **Costs** | | | | | | | |
| Annualized Monetized ($/year) | $2,314,614<br>$2,318,596 | N/A<br>N/A | N/A<br>N/A | 2012<br>2012 | 7<br>3 | 10 Years<br>10 Years. | None. |
| Annualized Quantified | None<br>None | None<br>None | None<br>None | 2012<br>2012 | 7<br>3 | 10 Years<br>10 Years. | None. |
| Qualitative | | | | | | | |
| **Transfers** | | | | | | | |
| Federal Annualized Monetized ($year) | None<br>None | None<br>None | None<br>None | NA<br>NA | 7<br>3 | NA<br>NA. | None. |
| From/To | From: | | | To: | | | |
| Other Annualized Monetized ($year) | None<br>None | None<br>None | None<br>None | NA<br>NA | 7<br>3 | NA<br>NA. | None. |
| From/To | From: | | | To: | | | |
| **Effects** | | | | | | | |
| State, Local, and/or Tribal Government | None | None | None | N/A | NA | NA | None. |
| Small Business | Prepared FRFA | | | NA | NA | NA | None. |
| Wages | None. | | | | | | |
| Growth | Not Measured. | | | | | | |

*D. Changes From the NPRM*

TSA adopts as final the proposed rule with changes based primarily on the public comments received. This section summarizes the regulatory text changes that TSA has made to the NPRM in this final rule. A detailed description of the responses to the public comments is included in Section II.

1. Part 1520

TSA eliminated the amendments to part 1520 of its rules because it has eliminated the proposed requirement to adopt and implement a security program.

2. Scope and Purpose

TSA modified the language in § 1554.1 to eliminate the reference to ''U.S. government'' and inserted ''a U.S. or foreign government military installation'' in its place to respond to questions raised in some comments. This change will eliminate from the scope of the final rule FAA part 145-certificated repair stations located on a military base, whether within or outside the United States. The change clarifies TSA's intention not to exclude from the scope of the final rule those repair stations that are subject to government regulation.

3. Terms

Commenting parties noted that TSA used different terms than the FAA to describe repair stations and repair work and found that the different terms were confusing. TSA eliminated the terms section to avoid confusion. TSA also eliminated the terms ''foreign repair station'' and ''domestic repair station'' from the final rule and uses the terms ''repair station located within the United States'' and ''repair station located outside the United States'' to be consistent with FAA part 145 regulations.

4. Security Program Adoption and Implementation

In response to commenters who requested exemptions from the proposed requirement to adopt and carry out a security program, TSA has eliminated the requirement to adopt and implement a security program. As will be explained below, TSA will only require certain repair stations located on or adjacent to an airport to adopt and carry out security measures to prevent the unauthorized operation of large aircraft capable of flight that are left unattended. TSA has conducted a security risk assessment and determined that other repair stations represent a minimal risk to aviation security. TSA has eliminated all security measures regarding preventing access to repair stations. This change will reduce the regulatory requirements and the costs of implementation. While TSA has retained the requirement to verify employee background information, it has reduced the application of that requirement to those individuals who are designated as the TSA point of contact and those who have access to the keys or other means used to prevent the unauthorized operation of large aircraft capable of flight that are left unattended. TSA has clarified that it will accept employment history checks or background checks conducted on individuals who have obtained a FAA airman certificate or a SIDA badge. All proposed regulations regarding the content, format and availability of a security program have been eliminated in the final rule.

5. Profile Information

TSA has eliminated the requirement proposed in § 1554.101(b) for repair stations to submit profile information to TSA. TSA will use information available from the FAA.

6. Security Directives

TSA has added language to permit repair stations to comment upon a security directive issued by TSA. This language is consistent with the regulatory language used for airport operators and aircraft operators under 49 CFR 1542.303(e) and 1544.305(e).

7. Compliance and Enforcement

In response to comments, TSA has clarified the process in part 1554, subpart C, which a repair station may use to seek review of a TSA determination that a certificate must be suspended or revoked.

## II. Public Comments on the NPRM and TSA Responses

*A. Summary*

TSA received 177 public submissions. Sixty-seven submissions were from repair station owner/operators. Other commenters included private individuals, industry associations, labor unions, foreign governments, airport owner/operators, domestic and foreign aircraft operators, State agencies, and the Small Business Administration (SBA). The discussion below groups the comments by the primary issues raised in the public submissions.

*B. Need for Security Regulations*

*Comments:* Thirty-three commenters said the proposed rule is unnecessary because repair stations already have adequate security or are already sufficiently regulated. Ten of these commenters cited procedures and controls already in place to safeguard security, such as quality controls, employee background checks, access controls, and general safety procedures already approved by the FAA. Seven commenters said the proposed regulations added a duplicate layer of security already provided by other TSA requirements described in current TSA security programs or SDs. A few commenters said that TSA should not regulate repair stations if they are part of an airline that already has an air carrier security program.

*TSA response:* Vision 100 requires TSA to issue regulations ''to ensure the security of foreign and domestic repair stations.'' 49 U.S.C. 44924(f). TSA believes that the security regulations described in the final rule will reduce the likelihood that a terrorist could commandeer a large aircraft capable of flight and use it as a weapon.

The final rule supplements the safety requirements imposed by the FAA, but does not duplicate FAA regulations. TSA disagrees with those comments that claim the final rule will duplicate other TSA security requirements. TSA does not currently regulate aircraft repair stations and the requirements referenced by the commenters do not apply to aircraft repair stations. TSA has eliminated the proposed requirement to adopt and implement a security program, thus there will not be duplication with airport security programs.

Air carrier-owned and -operated maintenance repair and overhaul facilities conducting maintenance under the authority of a certificate issued under 14 CFR parts 121 or 135 are not subject to the requirements of this rule, since the statute and this rule specifically requires regulation of repair stations certificated under part 145 of the FAA regulations.

*Comments:* Several commenters asked TSA to consider a repair station to be in full compliance with the rule if it is already incorporated within an airport's security program and uses the airport's access control measures.

*TSA Response:* TSA is aware that some repair stations may be incorporated within an existing airport security program and has eliminated the proposed requirement that repair stations adopt and implement a security program to avoid unnecessary duplication.

*Comments:* Eight commenters stated that repair stations in general do not pose a risk to security, especially compared to other facilities or operations in the aviation system. Ten commenters claimed that TSA did not conduct any type of risk analysis that quantified the security risks at repair stations or the benefits of the proposed rule. An association said TSA had correctly used a risk-based approach to determine the security measures that repair stations would be required to carry out under the proposed rule and concluded that this approach is the most effective way to advance repair station security.

*TSA Response:* TSA agrees that the security risks posed by repair stations vary and that the most effective way to advance repair station security is to use a risk-based approach to address security matters. In developing this rule, TSA conducted a security risk analysis, including visits to repair stations located within the United States and outside the United States, interviews with industry and FAA experts, and a review of intelligence concerning a repair station's susceptibility to a terrorist attack.

The NPRM described the site visits TSA made to repair stations between June 2005 and May 2008. See 74 FR 59877. Since that time, TSA has visited 47 repair stations located outside the United States and 928 repair station facilities within the United States to observe and discuss repair station security practices. The site visits provided valuable insight into the different types of facilities certificated by the FAA, the different types of repair work performed at those facilities, and the different security measures that are deployed.

In addition, TSA considered whether certain factors could increase the security risks of a repair station. The risk factors TSA considered were: (1) The size and type of aircraft to which employees had access; (2) the type of

repair work permitted by the FAA certificate; (3) whether the repair station was located on an airport and the type of airport; and (4) the number of employees at the repair station.

*Comments:* An industry association stated that aircraft operators that use repair stations should not be responsible for ensuring that repair stations comply with the regulation.

*TSA Response:* TSA agrees that aircraft operators that use repair stations will not be responsible for ensuring that the FAA part 145-certificated repair stations comply with the final rule.

*C. Relationship to FAA Regulations*

*Comments:* Some commenters asked the FAA and TSA to coordinate their efforts to avoid placing any unnecessary burdens on repair station owners or operators. For example, one commenter pointed out that TSA could obtain repair station profile information from the FAA. Several commenters expressed concern regarding TSA's authority to request the FAA to suspend or revoke the operating certificate of a repair station. A few of these commenters said that because the FAA issues the repair station certificate and is the Federal agency responsible for the oversight and regulation of repair stations, the FAA should be the one Federal entity that is able to suspend or revoke the certificate. Other commenters questioned whether TSA, the FAA, or the National Transportation Safety Board (NTSB) has jurisdiction over the appeals process for certificate suspensions and revocations. Eight commenters said the rule would compromise aircraft safety. Three of these commenters claimed the FAA would lose oversight of repair stations and would no longer conduct mandatory inspections and surveillance. One commenter said the cost of the rule would cause repair facilities to divert operating funds away from aircraft safety. Two commenters noted the possibility that repair station operators would turn in their repair station rating and would instead operate using mechanics holding Airframe & Powerplant certification, resulting in a decrease in safety.

*TSA response:* TSA has coordinated its efforts with the FAA throughout the rulemaking process and the final rule does not duplicate FAA's authority to regulate repair station safety matters or interfere in any way with the FAA certification process. In response to the comments requesting that TSA reduce the burden on repair stations by using FAA profile information, TSA eliminated the requirement for repair stations to provide profile information from the final rule. TSA will obtain the profile information from the FAA.

The final rule is consistent with the statutory provisions regarding the processes for suspension and revocation of a repair station certificate. Under 49 U.S.C. 44924(c), TSA must notify the FAA Administrator when a repair station poses an immediate security risk or is found to have security deficiencies. The statute requires the FAA Administrator to act upon the TSA determination to suspend or revoke a repair station's certificate. Since the suspension or revocation is based on a determination that involves security, neither the FAA nor the NTSB has jurisdiction over the appeals process. The final rule includes a process whereby repair stations may request review of a TSA determination that the repair station certificate must be suspended or revoked. The procedure is consistent with the procedure now in place for TSA to withdraw approval of the security program of an airport operator, aircraft operator, foreign air carrier, indirect air carrier, or certified cargo screening facility, as provided in 49 CFR part 1540, subpart D.

TSA disagrees with the comments that claim the rule would compromise aircraft safety, and that FAA would lose oversight of repair stations. FAA authority over repair station safety is not affected by this rule and repair stations must continue to comply with FAA safety regulations. This rule will supplement existing FAA safety requirements with security measures to ensure that unattended, large aircraft capable of flight cannot be commandeered. The costs of the rule are summarized in Section III.C below and described in detail in the regulatory impact analysis accompanying this final rule. As explained therein, TSA has minimized the cost burden of compliance, particularly to small businesses, by using a risk-based approach and eliminating the requirement for repair stations to implement a security program. In addition, if a repair station operator turned in the repair station rating and instead used mechanics holding Airframe & Powerplant certifications, the repair station operator would not be permitted to perform maintenance on passenger aircraft unless hired by an aircraft operator, in which case the maintenance work would be subject to the safety requirements of parts 121 or 135 of the FAA rules.

*D. ''One Size Fits All'' Approach to Security*

*Comments:* Twenty-seven commenters indicated the proposed rule did not adequately accommodate or account for the diversity of repair stations to which it would apply. A commenter noted that TSA recognized that a ''one size fits all approach'' would not appropriately address the diversity in repair station characteristics. Other commenters asked TSA for more information on how the security program would accommodate the different levels of risk posed by different types of repair stations.

*TSA response:* TSA recognizes that just as aircraft repair stations vary widely in size, type of repairs, and numbers of employees, existing security measures also vary widely. As stated in the NPRM, TSA agrees that a ''one size fits all'' approach will not adequately address the diversity of certificated repair stations. As will be discussed below in Section G, repair stations that are not on or adjacent to an airport as defined in the final rule, are not required to implement security measures.

*E. Relationship to Foreign Laws and Standards*

*Comments:* Several commenters, including representatives of foreign governments, addressed the relationship of the proposed rule to other countries' security laws and standards. Commenters said TSA should recognize the equivalency of the security requirements of other countries and the European Union (EU). They also questioned the legal basis for application of the final rule without consultation and agreement as laid out in international and bilateral aviation agreements such as the EU-U.S. Air Transport Agreement. Other commenters noted the potential conflict of the proposed rule's requirements with national or EU laws or regulations in areas such as unannounced inspections and background checks of repair station employees.

*TSA response:* TSA acknowledges the concerns of foreign governments regarding TSA authority to apply security requirements to part 145-certificated repair stations located outside the United States. TSA is aware of and has complied with its obligations under the EU–U.S. Air Transport Agreement, as well as other bilateral and multilateral instruments. TSA has discussed and will continue to discuss current and proposed security requirements with its international partners in order to enhance the compatibility of security regulations and standards, including the possibility of developing protocols for reciprocity and mutual recognition of repair station security regulations. TSA will address

any specific conflicts between the final rule and any national or EU laws or regulations that may arise.

TSA has established procedures for conducting inspections outside the United States through its Foreign Airport and Foreign Air Carrier Assessment Programs and intends to use those same procedures when conducting inspections of FAA-certificated repair stations located outside the United States. These established procedures require coordination with the U.S. Department of State and the appropriate foreign government authorities.

With regard to background checks, TSA will require repair stations that are on or adjacent to an airport, as defined in this rule, to verify background information of those individuals who are designated as the TSA point(s) of contact and those who have access to any keys or other means used to prevent the operation of large aircraft. The repair station may either verify the individual's employment history, confirm that the individual holds a FAA airman certificate, or (for a repair station located in the United States) confirm that the individual has obtained a security threat assessment, such as by holding a SIDA badge. TSA will not require any other specific type of background check since the laws regarding the ability to conduct certain background checks vary widely. However, repair stations may conduct other background checks consistent with applicable laws.

*Comments:* Two commenters were concerned the proposed rule did not cover FAA-certificated repair stations in Canada. One of these commenters said Canadian facilities could pose the same security risks as FAA part 145 certificated facilities and contended that they should be subject to the regulation.

*TSA Response:* TSA is aware that the final rule will not cover repair stations located in Canada and agrees that these repair stations could pose the same security risk as other repair stations. Canadian repair stations are covered under part 43 of the FAA regulations and operate under a bilateral agreement between the FAA and the Transport Canada Civil Aviation Authority. Since they are not certificated under Part 145 of the FAA regulations, they are not within the scope of this rule.

*Comments:* One commenter said some foreign repair stations are already under regulatory oversight by established government authorities and should be exempt from the rule.

*TSA Response:* A repair station that is regulated by a governmental authority is not exempt from the final rule. While a repair station may be regulated by a government agency for safety or other purposes, as is the case with the FAA, TSA cannot be assured that such regulation would encompass the security requirements in the final rule.

*F. Application of the Final Rule to Domestic Repair Stations*

*Comments:* Eight commenters said Congress omitted the word ''domestic'' from the statute and concluded that TSA does not have authority to impose regulations on domestic repair stations. One repair station owner/operator acknowledged that 49 U.S.C. 44924(f) requires TSA to issue regulations to ensure the security of both domestic and foreign repair stations. However, the commenter noted the remainder of the statute refers only to foreign repair stations and concluded that Vision 100 does not give TSA authority to suspend the certificates of domestic repair stations. Several commenters stated that the rule should apply only to foreign repair stations, that domestic repair stations pose a lower security threat than foreign repair stations, and that TSA is overstepping its authority to regulate both domestic and foreign repair stations.

*TSA response:* TSA disagrees with the comments that claim the regulation should apply only to repair stations located outside the United States, that repair stations located within the United States necessarily pose a lower security threat than those located outside the United States, and that TSA is overstepping its authority to regulate aircraft repair stations. TSA is required to issue regulations to ''ensure the security of foreign and domestic aircraft repair stations.'' See 49 U.S.C. 44924(f). Therefore, the final rule applies to repair stations that are certificated by the FAA under part 145 of its regulations. By including all FAA part 145-certificated repair stations in the scope of the rule, TSA will be able to verify that repair stations certificated by the U.S. government are in compliance with the final rule. TSA will not suspend a repair station certificate. The statute provides that the FAA must suspend a certificate upon notification by TSA until such time as TSA determines the repair station maintains and carries out effective security measures. See 49 U.S.C. 44924(c).

While the final rule is consistent with the statutory language, TSA has ample statutory authority to address all domestic transportation security matters. For example, 49 U.S.C. 114(f) gives TSA the authority to: Assess threats to transportation; develop policies, strategies, and plans for dealing with threats to transportation security; enforce security-related regulations and requirements; inspect, maintain, and test security facilities, equipment, and systems; and work in conjunction with the Administrator of the FAA with respect to any actions or activities that may affect aviation safety or air carrier operations. Section 611 of Vision 100 discusses the need to ''strengthen oversight of domestic and foreign repair stations'' and to ''ensure that foreign repair stations that are certified by the Administrator under part 145 of title 14, Code of Federal Regulations, are subject to an equivalent level of safety, oversight, and quality control as those located in the United States.'' [4] Exempting repair stations within the United States from the enforcement provisions of the final rule would not permit TSA to effectively oversee the security of repair stations located within the United States or ensure that repair stations located outside the United States are subject to an equivalent level of safety, oversight, or quality control.

Regulating only repair stations outside the United States would not help TSA meet the statutory objective to ensure the security of foreign and domestic aircraft repair stations. In fact, the majority of FAA part 145-certificated repair stations are located in the United States and U.S. aircraft continue to be a prime target of terrorist threats. Exempting U.S. repair stations from the final rule would create a significant gap in TSA's efforts to secure U.S. aircraft and the traveling public. Repair stations located in the United States present an immediate opportunity for terrorists to attempt to harm U.S. aviation interests. For that reason, and consistent with statutory language, the final rule applies to FAA part 145-certificated repair stations.

*G. Exemptions for Certain Types of Repair Stations*

Many commenters requested TSA to exempt particular types of repair stations from the rule. Nineteen commenters stated that off-airport repair stations do not pose a security threat and contended the final rule should apply only to repair stations located on airport grounds. Another commenter agreed off-airport repair stations are less desirable targets than on-airport repair stations because they do not have access to operational aircraft. However, one commenter observed there are off-airport repair stations that repair complete aircraft.

[4] H.R. Conf. Rep. No. 108–334, at 83 (2003).

A number of commenters requested additional types of repair stations be exempted from the regulation, including: Stations with a small number of employees, stations servicing hot-air balloons, and stations servicing aircraft with a MTOW below 12,500 pounds. In contrast, a labor union urged TSA not to exempt any repair stations from the rule.

Eighteen commenters stated repair stations servicing aircraft with a MTOW below 12,500 pounds should be exempt from the rule. Several other commenters said any weight threshold used for this rule should be consistent with the threshold adopted in the General Aviation Security final rule. A few others suggested weight thresholds ranging as high as 100,000 pounds.

Eleven commenters requested TSA to exempt repair stations that work only on aircraft components and do not have access to complete aircraft. Commenters stated these repair stations do not pose a security threat because existing FAA rules require testing of the airworthiness of the repaired components prior to installation.

*TSA response:* TSA agrees with commenters that repair stations located on or adjacent to an airport could pose a higher security risk than other repair stations. As the commenters point out and as discussed in the NPRM, TSA found that repair station employees at off-airport locations had little, if any, access to operational aircraft or runways and are not the last individuals with access to aircraft prior to the reintroduction of the aircraft into service. TSA concluded that it may be more difficult for potential terrorists to attempt to attack aviation interests from an off-airport repair station location.

TSA also agrees with commenters that it would be difficult for a terrorist to damage an aircraft at a repair station that is rated to repair only aircraft component parts. FAA safety regulations require inspection of the repair work and the component part prior to installation in an aircraft and before the aircraft is determined to be airworthy. TSA agrees with the commenters who believe that it is less likely that a terrorist would attempt to target an aircraft by attempting to sabotage or tamper with a component part at an off-airport location.

In addition, TSA agrees with those commenters that repair stations that do not work on large aircraft pose less of a security risk. TSA has long recognized that aircraft with a MTOW of more than 12,500 pounds may be a greater security risk because the aircraft are of sufficient size and weight to inflict significant damage and loss of lives. See Security Programs for Aircraft 12,500 Pounds or More, 67 FR 8295 (Feb. 22, 2002). Smaller aircraft may be a less attractive target for terrorists.

TSA believes that it must maintain its authority to conduct security inspections to ensure that repair stations do not pose a risk to transportation security and to make clear that repair stations must comply with security directives issued by TSA to respond to a specific threat. However, TSA has determined that only higher risk repair stations will be required to adopt security measures. Repair stations considered to be higher risk include those located on or adjacent to an airport. TSA will consider a repair station to be ''on airport'' if it is located on an AOA or SIDA of an airport covered by an airport security program under 49 CFR part 1542 in the United States, or on the security restricted area of any commensurate airport outside the United States regulated by a government entity. TSA will consider a repair station to be adjacent to an airport if there is an access point between the repair station and the airport of sufficient size to allow the movement of large aircraft between the repair station and the area described as ''on airport.'' These repair stations present the highest risk to security due to their proximity to an airport and a runway and the presence of operational aircraft of a size and weight that could inflict significant damage and loss of lives. These repair stations must implement security measures described in the final rule. TSA has retained the current definition of large aircraft used in its regulations, and will change that definition throughout the regulations should another definition be adopted in the General Aviation Security rulemaking proceeding.

Other repair stations, in general, represent a minimal risk to aviation security because they are not located on or adjacent to an airport and do not have access to aircraft of sufficient size and weight to inflict significant damage or loss of lives. All FAA part 145 certificated repair stations are subject to other requirements in the rule, such as submission to TSA inspection and compliance with security directives.

*H. Protection of Sensitive Security Information (SSI)*

*Comments:* Two repair station owners/operators and an industry association supported the proposed SSI regulations. Another repair station owner/operator said the proposed SSI requirements may be redundant, because some corporations already have controls for business purposes to protect information from public disclosure. Another commenter warned the SSI requirements could adversely affect corporate operations and the availability of an operator's procedural documentation to its employees. An airport owner/operator expressed concern that the proposed rule would impose SSI responsibilities on repair stations even if they pose a low security risk. A repair station owner/operator and an industry association suggested the SSI provisions should apply to repair station owners but not to operators. Three commenters, including the European Commission, expressed concern about the applicability of the SSI provisions to foreign nationals who own and operate aircraft repair stations. They also said the proposed SSI provisions might be incompatible with the data protection directives of other nations or the EU.

*TSA response:* TSA has eliminated the proposed requirement to adopt and implement a security program and has, therefore, eliminated the proposed changes to part 1520. TSA's SSI regulations already require security directives (SDs) to be treated as SSI. 49 CFR 1520.5. Part 1520 applies to entities that receive a TSA SD, including U.S. and foreign air carriers for their operations both within and outside the United States. While businesses may have procedures in place to protect certain types of information, they may not include specific SSI protections.

Repair stations will be responsible for developing procedures to safeguard against unauthorized disclosure of a SD. When an individual is not in physical possession of SSI, that individual must store the SSI in a secure container, such as a locked desk, office, or file cabinet. TSA disagrees with the comments that the SSI regulations could make it difficult to share security information with repair station employees. The SSI regulations permit disclosure to persons with a need to know. 49 CFR 1520.9.

TSA appreciates the concerns of the European Commission regarding the applicability of SSI requirements to foreign repair stations; however, TSA does not believe that this will cause difficulties with regard to EU legislation and data protection policies. TSA already applies SSI requirements to foreign air carriers operating under a TSA-accepted Model Security Program or who receive a TSA-issued emergency amendment. The EU has not objected to or raised concerns regarding conflicts with EU data protection laws and regulations in those instances. TSA will continue to discuss with the EU any specific conflicting regulatory requirements that may arise.

*I. Scope of the Final Rule*

*Comments:* A repair station owner/operator supported the scope of the rule as proposed. Another repair station owner/operator suggested the words ''or excluded from this part by TSA'' be added to account for situations in which a repair station is already incorporated within an airport's security program or in which the repair station does not constitute a security threat. An industry association suggested the addition of ''or host government'' after ''U.S. Government'' in recognition of the fact that many other governments already have standards that meet or exceed those in the proposed rule.

*TSA response:* TSA has modified the language in the final rule. The final rule does not apply to FAA part 145-certificated repair stations located on a U.S. or foreign government military installation. However, certificated repair stations that are regulated or under the oversight of a governmental entity are not exempt from the final rule. As explained previously, only higher risk repair stations will be required to implement security measures.

*J. Terms Used in the Final Rule*

*Comments:* Four commenters addressed the proposed definition of ''repair station.'' One industry association suggested narrowing the definition to include only repair stations that convey aircraft directly into commercial flight operations under parts 121 or 135 of the FAA's regulations. Another industry association suggested narrowing the definition to include only those repair stations authorized to perform maintenance or alteration of civil aviation aircraft located on a commercial airport. A third industry association objected to the proposed definition because it does not recognize mixed maintenance operations, in which a repair station is co-located at a larger facility that is not otherwise covered by TSA security requirements. A repair station owner/operator asked whether the scope and boundaries of a repair station for purposes of the TSA rule would differ from the scope and boundaries of the repair station for FAA purposes.

*TSA response:* In response to the comments, TSA has eliminated the terms to avoid confusion with FAA terminology.

TSA is aware of the existence of mixed-use facilities, for example those that combine maintenance and manufacturing stations. It will be the repair station operator's responsibility to delineate the parts of the station used for activities subject to this final rule and those that are not. If a repair station determines it is not possible to make such a delineation then the entire station would need to meet the requirements of this final rule.

*K. TSA Inspection Authority*

*Comments:* Several commenters suggested that TSA's authority to enter a repair station should be limited to normal business hours or after business hours with an escort upon reasonable notice, unless there is a known specific threat. These comments point out that, with prior notification, a repair station could make certain that the correct personnel are available to answer questions and provide documentation. Two labor unions supported unannounced inspections, saying repair stations must constantly ensure that they are complying with security requirements, and that advance notice would nullify the benefit of a security inspection. Four commenters supported the proposed language authorizing TSA to conduct unannounced inspections. However, they expressed concern that TSA indicated it would follow existing protocols for inspection of repair stations located outside the United States and provide advance notice to the facility being inspected and the host government. The commenters asserted that giving advance notice would nullify the benefit of the security inspection. Eight commenters, including a foreign government and the European Commission, said TSA could not legally inspect repair stations located outside the United States without prior notification and the approval of the authorities of the country in which the repair station is located.

*TSA response:* TSA will follow current agency practices regarding inspections of repair station facilities outside the United States. TSA will always coordinate any inspections with the host government prior to starting an inspection. With regard to repair stations within the United States, TSA acknowledges the concerns expressed regarding such government inspections. While TSA anticipates that in some cases it will notify these repair stations of scheduled inspections, this regulation allows TSA to conduct an inspection without advance notice at any time and in a reasonable manner. In those instances where notice is given, TSA will give the repair station the opportunity to gather evidence of compliance and to arrange to have the appropriate personnel available to assist TSA. However, TSA anticipates that unannounced inspections will be conducted in the United States, particularly if warranted by a security incident at a repair station. Some inspections can be effective only if they are unannounced in order to determine whether the regulated party is in compliance when it is unaware that TSA may be inspecting. Terrorists will seek to take advantage of vulnerabilities whenever they occur. TSA must have the ability to respond to information, operations, and specific circumstances whenever they develop and to assess the security of regulated entities at any time, including weekends or holidays.

*Comments:* Several commenters said the rule should clearly define the scope of TSA audits and should specify that the repair station property, facility, and records to be inspected are only those relevant to repair station security. In addition, a repair station owner/operator and an industry association stated that business records, corporate correspondence, and aircraft maintenance records should be off-limits without a search warrant. They said the proposed rule language was too broad and should be narrowed in the final rule.

*TSA response:* TSA disagrees that the inspection authority is overly broad and has not modified the language in the final rule. The statute authorizes TSA to ''complete a security review and audit.'' See 49 U.S.C. 44924(a). In addition, TSA has authority to ''inspect, maintain, and test security facilities, equipment, and systems.'' See 49 U.S.C. 114(f)(9). The regulatory text states specifically that the purpose of the inspection is to ''carry out TSA's security-related or regulatory authorities.'' Thus, TSA will seek access to records relevant only to security. The inspection authority section in new § 1554.5 includes audits, assessments, or inspections and is consistent with existing TSA rules, such as in § 1542.5 (airport operators) and § 1580.5 (railroad operators).

Also in connection with scope, TSA notes that consistent with its statutory authority (which currently allows inspections for security reasons irrespective of this final rule), inspections will be for compliance with this final rule's requirements and for security reasons only. For repair stations not subject to security measures under this rule (that is, those repair stations not located on or adjacent to an airport, as defined in this rule), TSA does not intend to inspect such facilities except as necessary to comply with the requirement in 49 U.S.C. 44924 to conduct a security audit of all part 145 certificated repair stations located outside the United States, to evaluate security risks as conditions warrant, and, in the event that TSA issues a

security directive to such a repair station, for compliance with the security directive.

*Comments:* Some commenters said repair station security policy may require anyone inside the repair station to have an identification badge, and suggested that TSA and DHS officials comply with established security programs at the site. A few commenters asked how repair station personnel would know if TSA or DHS credentials are valid. One of them asked if repair station personnel could record the names and badge numbers of TSA and DHS inspectors.

*TSA response:* The final rule allows repair stations to request inspectors to present their credentials for examination. Repair stations may not photocopy or otherwise reproduce the credential to prevent unauthorized individuals from using fake credentials to access a repair station. Repair stations may issue access or identification media to inspectors for their use while conducting inspections of the facilities. However, they may not prevent an inspector from conducting an inspection because the inspector was not issued identification media by the repair station. TSA will assist repair stations to develop training to identify TSA and DHS credentials.

*Comments:* A repair station owner/operator observed that TSA and DHS officials would need an escort for their own safety. Several other commenters were concerned that untrained TSA personnel could damage aircraft parts during their inspections or cause a disruption of work.

*TSA response:* TSA appreciates that it must properly train its inspectors so that they avoid dangers to themselves, to employees, and other individuals at the repair station, and to property. TSA intends to use only properly trained and credentialed personnel to conduct inspections.

*L. Security Program Adoption and Implementation*

*Comments:* A repair station owner/operator supported the proposed requirement to submit a profile because it would prevent use of a ''one size fits all'' approach to repair station security. One commenter asked TSA to accept the company profile used for FAA repair station approvals. Another repair station owner/operator said that TSA should eliminate this requirement or provide more information on what would constitute an adequate profile. Several commenters said that the proposed rule provided no guidance on how repair stations would report changes in profile information or how they would know which changes were significant enough to require reporting.

*TSA response:* TSA concurs with the majority of comments regarding the submission of a profile and has not included the requirement in the final rule. TSA will use existing repair station profile information from the FAA.

*Comments:* Several commenters questioned how TSA could achieve its stated objective of appropriately addressing the diversity in repair station characteristics while requiring repair stations to use a standard security program, unless otherwise authorized by TSA. They expressed concern about having to adopt a ''canned'' or ''cookie-cutter'' security program. In contrast, two labor unions said that there needs to be a baseline security standard applied to all repair stations and that allowing for any variation presents an opportunity for disparities in security from station to station.

*TSA response:* TSA has eliminated the requirement to adopt and carry out a security program in the final rule.

*Comments:* Some commenters expressed the belief that a 30-day deadline for a repair station to submit a profile was insufficient, particularly for small entities, those located overseas, and large corporations with many subsidiaries or joint ventures. Three of them suggested that 90 days would be more realistic.

*TSA response:* TSA has eliminated the requirement for repair stations to submit a profile so there is no longer a 30-day deadline requirement.

*Comments:* Two repair station owners/operators objected to the fact that the proposed rule does not define specific minimum performance standards, and entities may be subject to inconsistent compliance expectations. Another commenter asked that the detail provided in the preamble regarding the security program be included in the regulatory language.

*TSA response:* TSA has eliminated the language in the NPRM regarding the security program requirements. The final rule describes security measures that repair stations on an airport or adjacent to an airport, as defined in the final rule, must adopt. In order to reduce the potential regulatory burden and implementation costs of the proposed rule, TSA has removed all security measures that restrict access to a repair station in the final rule. Instead, repair stations will be required to prevent unauthorized operation of large, unattended aircraft that are capable of flight. Large aircraft are defined as aircraft with a maximum certificated take-off weight of more than 12,500 pounds and attended aircraft means aircraft to which access is limited to authorized individuals and property.

The final rule explains that preventing unauthorized operation may be accomplished in several ways and a repair station may even develop its own measure so long as it obtains approval from TSA. The final rule states that a repair station may block the path of the aircraft so that it cannot be moved and control the key to a vehicle used for that purpose, park the aircraft in a locked hangar and control the key to the hangar, or move stairs away from the aircraft and shut and lock, if feasible, all cabin and cargo doors and control the key. Controlling the key, if used, is described as making sure that keys are only available to an authorized individual who has undergone an employment history check or a security threat assessment.

*Comments:* Ten commenters addressed the provision of the proposed rule requiring the security programs to include measures to identify all individuals authorized to enter the repair station. Three of the commenters said the actual language of the provision was not detailed enough to establish TSA's intent. A repair station owner/operator expressed support for TSA's statement in the NPRM that TSA will deem repair stations with established personnel identification media systems as compliant with the requirement. The commenter asked TSA to incorporate that language into the final rule. Three of the commenters also questioned TSA's intent with regard to compliance by small repair stations. They said small repair stations should be able to rely on simple identification measures such as personal recognition.

*TSA Response:* In response to the comments, TSA has eliminated this requirement in the final rule.

*Comments:* A repair station owner/operator said it is already in compliance with many elements of the proposed standard security program, including use of an employee identification system. Another repair station owner/operator said TSA should not require repair stations with established and existing escort policies and programs to replicate ''redundant'' government escort procedures, because it would cause confusion among employees and would impose excessive labor costs. With regard to the proposed training requirements, three commenters said existing International Civil Aviation Organization (ICAO) and EU requirements should be sufficient to meet the requirements, and a repair station owner/operator said security training already is part of its operations.

*TSA response:* TSA has eliminated these security requirements in the final rule. TSA acknowledges that many repair stations may already have existing measures that meet or exceed the requirements described in the final rule.

*Comments:* Twenty-one commenters expressed divergent views regarding the requirement for employee background checks. Three commenters supported the proposed rule and said it should be imposed on repair station employees to the same degree it is imposed on FAA-certificated mechanics. Five commenters said the requirement to check previous employment might not be possible under EU Directive 95/46/EC and national legislation. A repair station owner/operator said TSA failed to recognize the limits imposed by Federal and State labor laws, as well as union contracts. One industry association said other laws and FAA regulations already require confirmation of citizenship and other information related to employment history. Another industry association also stated this requirement would be redundant for airport-based facilities.

Seven commenters said the requirement was too vague and lacked details, such as screening criteria and adjudication procedures. One industry association said the phrase ''any other means as appropriate to validate employee information'' is unclear and said the final rule should have specific requirements such as the number of years or number of employers to include. Another industry association said it was unclear whether TSA intended employers to conduct a criminal history or a security threat assessment, but that neither should be required. Another commenter said the rule should include language that prevents operators from having to repeat background checks they have already conducted.

*TSA response:* TSA has retained the requirement to verify employee background information, but has limited the number of repair stations that must implement security measures and has reduced the number of individuals whose background information must be verified. TSA recognizes that many countries have different laws and regulations regarding this matter, and not all repair stations have a need or the ability to conduct certain types of background checks. The final rule requires that only the individual or individuals responsible for compliance with the final rule and recordkeeping, designated as TSA point(s) of contact, and authorized access to keys used to secure large aircraft must undergo a background check. The final rule does not mandate the number of individuals who must undergo a background check, but the number must be sufficient to ensure that a point of contact is available on a 24-hour-a-day basis and all large aircraft capable of flight are secured when not attended.

The final rule includes four examples of background checks that are acceptable and allows a repair station to use another means if approved by TSA.

(1) Verification of employment history for the most recent five year period or the time since the employee's 18th birthday, whichever is shorter. Verification may be accomplished via telephone, email, or in writing. If the verification is performed by telephone, the repair station must record the date and the name of person who verified the employment. If there is a gap in employment of six months or more that is not satisfactorily explained, employment history is not verified for purposes of this rule. Employment history verification records must be maintained for at least 180 days after the employment ends.

(2) Confirmation that the employee holds an airman certificate issued by the FAA is sufficient since TSA vets all such certificate holders.

(3) For a repair station located within the United States confirmation that an employee has successfully completed a security threat assessment pursuant to part 1540 of TSA's regulations, such as by holding a SIDA badge.

(4) For a repair station located outside the United States, confirmation that an employee has obtained a security threat assessment commensurate to a security threat assessment described in part 1540 of TSA's regulations.

TSA is aware that many repair stations already conduct security threat assessments or other background checks on their employees. If the background check is commensurate with the requirement of the final rule, TSA will not require duplicative or redundant measures.

*Comment:* A few commenters urged TSA to require drug and alcohol testing of personnel at foreign repair stations, just as the FAA requires such testing under its authority over domestic repair stations. The European Commission commented that such testing in EU member nations is a matter for the law enforcement services in those nations.

*TSA response:* As stated in the NPRM, drug and alcohol testing is a safety issue that is under the purview of the FAA and is not included as a requirement in the final rule.

*Comments:* A repair station owner/operator said the NPRM provided no training criteria or scope of incident management for the security coordinator. An industry association recommended TSA specify all training requirements in one place and requested that the expectations for the training of security coordinators be defined. One repair station owner/operator indicated that 24-hour contact would not be feasible for a small component repair station located outside of an airport. A second owner/operator said the requirement should be imposed at the airport level, not at the facility level. A third owner-operator suggested TSA allow repair stations to designate an alternate security coordinator.

*TSA response:* TSA has eliminated the requirement to train a security coordinator in the final rule. The repair station must designate one or more individuals, as necessary, to serve as TSA point(s) of contact and to be responsible for compliance with the final rule and recordkeeping. Training is not required to perform these responsibilities. TSA does not agree that an airport Security Coordinator would be sufficient to serve as the primary and immediate contact for repair station security-related activities and communications with TSA, unless TSA determines the repair station is incorporated within the airport security program and the airport is responsible for the security of the repair station itself.

*Comments:* A commenter stated that requiring a repair station to make its security program available for review by TSA is insufficient. The commenter said TSA should review and approve each security program. A repair station owner/operator asked to whom the security program must be accessible. One industry association asked if airport operators would be able to access and review a repair station's security program to verify that the airport operator is contacted for all security related issues or incidents.

The European Commission and a repair station owner/operator opposed the proposed English language requirement, noting that it would be burdensome for foreign repair stations. The European Commission pointed out that English is the official language of only three of the 27 EU member states and said the requirements for oral and written communications to be in English would be impossible to implement.

*TSA response:* The proposed requirement to adopt and implement a security program has been eliminated in the final rule.

With regard to the proposed English language requirements, while TSA has

eliminated the security program requirement, it retains the requirement in the inspection provision to request documents in English. TSA notes that this requirement is consistent with FAA regulations, such as 14 CFR 145.219, which requires a certificated repair station to retain records of compliance in English.

*M. Security Directives (SDs)*

*Comments:* Several commenters objected to the requirement to comply with SDs and asserted TSA has used SDs to issue requirements without notice and the opportunity for public comment, thus circumventing the rulemaking process. Several industry associations expressed concern that TSA will require repair stations to comply with SDs that are not applicable to their circumstances.

A commenter suggested TSA allow electronic acknowledgement of receipt of an SD so that a record of compliance is maintained. Other commenters thought verbal acknowledgement would be impractical and burdensome to TSA and to repair stations, particularly small facilities. Two repair station owners/operators said TSA should specify the method of compliance in the SD. A repair station owner/operator requested TSA identify the process for obtaining approval for alternative measures of complying with an SD.

An industry association asserted that foreign repair stations are not under TSA jurisdiction, and a repair station owner/operator said the requirement to comply with SDs might be incompatible with foreign security requirements.

One commenter requested TSA avoid using common aviation-related abbreviations for TSA-related items. As an example, the commenter said Security Directives should be called ''TSA Directives.''

*TSA response:* The term ''Security Directive'' is a standard term used throughout TSA's regulations to describe the regulatory document issued by TSA when TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation. See 49 CFR 1542.303, 1544.305, 1548.19, and 1549.109. TSA declines to rename these documents. TSA intends to maintain its current practice and issue SDs to repair stations when necessary to respond to a threat assessment or a specific threat against aviation. TSA has added language to the final rule to clarify that repair stations may comment on SDs issued by TSA in § 1554.103(d). TSA may amend an SD based on those comments. TSA will include in an SD the procedures to acknowledge receipt, to implement the requirements, and to request alternative measures if a particular measure is incompatible with a security requirement imposed by a foreign government or cannot reasonably be implemented.

*N. Suspension and Revocation of Certificates*

*Comments:* A few commenters asserted the statutory provisions regarding the suspension and revocation of certificates apply only to repair stations located outside the United States and thus the final rule should not apply to repair stations within the United States. Commenters claimed the proposed rule includes procedures for appealing the revocation of certification, but not for appealing the suspension of certification. Some recommended following the FAA process in 14 CFR part 13. Several commenters said the rule should include the criteria TSA would use when initiating a suspension or reinstating a certification. Another industry association added TSA is as likely to err in its judgment, as the industry is likely to err in compliance. Several commenters also expressed concern about the consequences of suspension and the resulting economic burden, especially on small businesses. Several commenters objected to the appeal process because it did not provide for appeal of TSA's decision to an impartial third party. One repair station owner/operator stated the proposal violates the current rules of discovery and does not reflect current judicial process, and other commenters urged that final certification authority be left to the FAA or NTSB. Other commenters warned that even though the suspension and review may be temporary, either action would jeopardize a repair station's ability to remain viable and the rule should include specific timelines that TSA must meet.

Commenters expressed concern because the proposed rule provided no guidelines for TSA's determination of revocation and there are no effective checks on TSA's power to revoke. They also objected that under the proposed rule, a certificate remains revoked during the review process. One industry association requested TSA follow the procedures already in place for the revocation of an FAA airman certificate, including appeal to an administrative law judge and then to the NTSB. Another industry association observed that in some TSA actions against individual airmen, certificates were revoked while the documentation supporting TSA's actions were withheld. A repair station owner/operator requested harmonization with FAA's enforcement process, which includes voluntary self-disclosure, administrative corrections, processes to handle repeat offenders, and published guidelines for legal enforcement, including suspending or revoking domestic repair station certificates. An industry association expressed the belief that review of a revocation must be reconciled with existing FAA and TSA regulations. An anonymous commenter pointed out that the statute requires consulting with the Administrator to establish procedures to appeal a revocation of a certificate.

Nineteen commenters said that the proposed rule did not provide enough detail or left too much to interpretation by those who would enforce it. A few commenters expressed concern about a lack of key definitions such as ''immediate risk to security'' and procedural protections such as other tools to achieve compliance objectives, and time limits for review, which could lead to inconsistencies and certificate revocation without due process.

*TSA response:* TSA has clarified the regulatory language that provides for judicial review of a final agency order. TSA has also modified the language in the final rule to specify that repair stations have the opportunity to petition for reconsideration of a TSA determination that a repair station certificate must be suspended or revoked. The certificate enforcement actions in the final rule are consistent with TSA's procedures governing the withdrawal of approval of a security program. 49 CFR 1540.301. TSA agrees with commenters that the FAA has the authority to issue, suspend, or revoke certificates and the statute requires the FAA to suspend or revoke a certificate if notified by TSA to do so. 49 U.S.C. 44924(c). Since any certificate action initiated by TSA will involve compliance with TSA's security regulations, the basis for the certificate action must remain with TSA and not the FAA or the NTSB. Further, TSA has general authority to enforce security-related regulations and requirements. 49 U.S.C. 114(f)(7). TSA has consulted with the FAA in the development of the final rule.

TSA appreciates the concerns expressed regarding the impact of a suspension or revocation of a certificate on a repair station business. TSA intends to follow current enforcement practices and anticipates that most instances of non-compliance will not result in certificate action. When appropriate, TSA will use a progressive enforcement process whereby instances

of non-compliance can be resolved with non-certificate action, including counseling, administrative actions, and civil penalties. See 49 CFR part 1503.

*O. Nondisclosure of Certain Information*

*Comment:* Two repair station owners/operators expressed concern that the proposed regulations would preclude them from obtaining information needed to appeal TSA determinations.

*TSA response:* TSA has retained the language from the NPRM in § 1554.205 in the final rule. In accordance with E.O. 12968, TSA does not disclose classified information. In accordance with 49 CFR 1520, TSA also does not disclose SSI to individuals without a ''need to know.'' However, consistent with current enforcement practice, TSA will provide the repair station with the information it collected and upon which the enforcement action is based.

*P. Other Comments on the Rulemaking*

*Comment:* One commenter suggested repair station operators be required to amend their FAA repair station manuals to make all personnel aware of TSA security concerns.

*TSA response:* The FAA repair station manual is outside the scope of this rulemaking and TSA authority. TSA, however, has shared this comment with FAA.

*Comment:* Several industry associations said that TSA should allow them and repair station owner/operators to review the standard security program prior to implementation of the rule.

*TSA response:* TSA held briefing sessions with industry representatives in the United States and overseas. During the sessions, TSA provided a draft security program template for review and received comments. TSA notes that the requirement to adopt and implement a security program has been eliminated in the final rule.

*Comment:* A commenter asserted that a substantial number of maintenance workers at repair stations are not certified and that some may not be legally working in the United States.

*TSA response:* TSA notes that all employees hired after November 1, 1986, must complete Form I–9, Employment Eligibility Verification, issued by U.S. Citizenship and Immigration Services of the Department of Homeland Security to document that they are authorized to work in the United States.

*Comment:* Ten commenters requested a more collaborative rulemaking process. Another commenter recommended consulting with four specific industry associations and other industry organizations during revision of the proposed rule. One industry association also suggested the creation of a Repair Station Sector Coordinating Council as a formal means of obtaining industry input for the rulemaking process. An association requested TSA to issue a Supplemental NPRM to make certain that the concerns raised in the public comments are addressed. Two commenters stated the lack of ability to review details of the Standard Security Program as part of the proposed regulations, specifically the associated information deemed by TSA to be SSI, render this rulemaking non-compliant with the requirements of the Administrative Procedure Act and applicable case law defining adequate rulemaking notice and opportunity to comment.

*TSA response:* The NPRM containing the proposed regulations was published in the **Federal Register** for public comment. 74 FR 59874 (Nov. 18, 2009). TSA has reviewed all of the comments it received during the public comment periods in 2004 and 2009, as well as those received during the public listening session conducted in 2004, and has adjusted the final rule to address the comments as necessary. TSA has met all requirements of the Administrative Procedure Act. As noted above, TSA met with the repair station industry to receive comment on the security program template format. TSA held briefing sessions with industry representatives in the United States and overseas. During the sessions, TSA provided a draft security program template for review and received comments, although it ultimately determined not to include the security program requirement in the final rule. TSA will continue to consult with its stakeholders and sees no need for a coordinating council at this time.

*Q. Implementation Issues*

*Comments:* Five commenters said TSA lacks the budget and staffing levels needed to implement the security programs and provide oversight of repair stations as detailed in the rule. Two commenters said TSA is understaffed and suggested this rulemaking would serve only to divert necessary resources from the agency's other security programs. Two other commenters requested TSA secure the necessary resources to make certain the proposed program is implemented efficiently and immediately.

Several commenters said TSA would likely need to hire new inspectors to implement the rule, and two commenters requested any new TSA inspectors be required to complete mandatory training to ensure all inspectors understand the safety measures and precautions that must be taken when performing security audits at repair stations.

*TSA response:* The costs to the government to enforce the final rule are included in the regulatory impact analysis. TSA is aware of the complexity of work performed at repair stations. TSA has developed the appropriate inspection guidance documents and relevant training for its inspectors.

*Comments:* Two commenters questioned the statutory requirement that TSA complete a security review and audit of all foreign repair stations certificated by the FAA no later than six months after the final rule is issued. Both said that the six-month period is too short. One requested that the period be extended to 12 months, while the other requested that the compliance period be extended to 18 months, the time specified in Vision 100. One commenter warned that if TSA does not extend the timeframe, the ability of new repair stations to be certified could be impeded, which would negatively affect the aircraft repair industry.

*TSA response:* In the Implementing Recommendations of the 9/11 Commission Act of 2007 (Pub. L. 110–53, 121 Stat. 266, Aug. 3, 2007), the original 18-month deadline for completing security audits of repair stations located outside the United States was reduced to six months. TSA is committed to meeting the statutory deadline. TSA has hired inspectors and developed a database that will serve as an inspection scheduling and tracking tool. TSA has also developed an implementation plan for inspecting repair stations located outside the United States.

*Comment:* An industry association suggested TSA collaborate with foreign authorities to help implement the proposed program in their respective countries. According to the association, this approach would allow TSA to use its resources more efficiently.

*TSA response:* TSA will continue to meet and work with its international partners to discuss implementation of the final rule.

*Comments:* Ten commenters said the proposed rule did not include a compliance date or adequate details on TSA's implementation plans, such as whether some repair stations would have to come into compliance before others. An aircraft manufacturer recommended adding a long-term compliance date for including measures to control access to a repair station because a business plan would need to be modified in order to accommodate

increased capital expenses. The commenter also suggested providing a more flexible ''phase-in period'' for repair stations that recognizes current industry business models in order to enable repair stations to adequately and appropriately address any identified security lapses. The commenter further recommended adopting a compliance schedule similar to that of 14 CFR parts 1, 21, 43, and 45, which focus on addressing potential industry constraints with meeting new compliance requirements. One commenter recommended an 18-month period, to allow adequate time to prepare for necessary costs and ensure that repair stations have an adequate understanding of what is required of them. One industry association suggested using a compliance date of 180 days from the publication of the final rule.

*TSA response:* The final rule will be effective 45 days after the date of publication in the **Federal Register**. TSA will conduct appropriate outreach and communication to industry representatives and the aircraft repair station community to discuss specific implementation timeframes and issues. TSA notes that it has eliminated the requirement to adopt and carry out a security program in the final rule. In addition, TSA anticipates that many of these repair stations already have security measures in place that may meet or exceed the measures contained in the final rule.

*Comment:* One commenter requested more information on the fees charged for TSA repair station audits, noting that the initial audit will require an additional charge for repair stations if the FAA is conducting the audits.

*TSA response:* TSA is not charging a fee to conduct security audits or inspections.

*Comment:* One industry association suggested TSA establish a 24-hour point of contact to answer compliance-related questions.

*TSA response:* TSA has established a dedicated email address, *ARS@tsa.dhs.gov*, where repair stations can send questions. In addition, repair stations will be provided with the name and contact information for inspectors who will be available to respond to questions.

*R. Comments From the Small Business Administration*

*Comment:* The Small Business Administration Office of Advocacy (SBA) recommended that TSA limit the scope of the rule. SBA offered the following three alternatives to meet the objectives of Vision 100 while minimizing significant economic impacts on small repair stations: (1) Exempt all repair stations that are not located at a commercial airport or that do not have access to aircraft; (2) adopt a risk-based, tiered approach based on size of aircraft and access to aircraft; and (3) align the final rule with the threshold level TSA ultimately adopts in the proposed General Aviation Security rule.

*TSA response:* TSA has reduced the scope of the final rule and has eliminated the proposed requirement to adopt and implement a security program. TSA has analyzed the possible security risk associated with repair stations and agrees that those not located on or adjacent to an airport, as defined in the final rule pose a lower risk to transportation security. This risk-based approach will minimize the economic impact on small repair stations consistent with SBA's recommendation. The aircraft size threshold in this final rule is consistent with TSA's current regulatory threshold. TSA agrees that its regulations should be consistent and will evaluate all of its regulations to determine whether changes are needed to enhance consistent regulatory treatment once the General Aviation Security rule is final.

*Comment:* SBA recommended that TSA provide clear guidance to small business regarding the implementation of the security program.

*TSA response:* TSA has eliminated the requirement to implement a security program. TSA will work with all stakeholders to provide guidance on the final rule.

*Comment:* SBA was concerned that the costs of the regulation were understated, explaining that TSA either failed to estimate or underestimated costs of inspections, correcting security deficiencies, complying with security directives, implementing access control measures, implementing the security program, appealing suspension and revocation determinations, and implementing identification media systems. SBA recommended that TSA reassess its cost estimates.

*TSA response:* TSA has added estimates or updated its previous estimates in the regulatory impact analysis to reflect the requirements in the final rule. TSA notes that the requirement to implement a security program has been eliminated and the application of security measure requirements has been reduced significantly. The costs of complying with future SDs cannot be estimated. SDs are issued on a limited basis to respond to a specific threat. The measures required to respond to the threat and the frequency of such threats cannot be reasonably predicted. TSA does permit regulated entities to comment on a SD and propose alternate measures if the measures cannot be reasonably implemented.

*Comment:* SBA recommended that TSA address the concerns of small businesses regarding SSI and develop procedures to assist small businesses to control SSI.

*TSA response:* The requirements for the protection of SSI are described in part 1520 of TSA's regulations. TSA will provide assistance and will answer specific questions regarding the protection of SSI. The SSI regulations explain that SDs are SSI. Those repair stations that receive a SD will be required to safeguard it to prevent access by individuals who are not authorized to possess SSI. Repair station employees must have access to the SD to ensure that security measures are implemented. To protect SSI, TSA only requires that SSI be stored in a locked cabinet or desk drawer, or electronically as a password-protected file. Therefore, TSA believes that the costs of protecting SSI will be minimal and will only be incurred if the repair station receives a SD.

*Comment:* SBA recommended that TSA address concerns expressed by small businesses regarding the appeals process if TSA determines that a repair station certificate must be suspended or revoked. It also recommended that intermediate processes such as warnings, or requests for information be used since small businesses may go out of business if closed pending appeal of a suspension.

*TSA response:* Since TSA has eliminated the proposed requirement to adopt and carry out a security program; we do not expect that there will be many instances that would require suspension or revocation of a certificate. This expectation is based on the repair station visits TSA conducted that demonstrated the vast majority of repair stations already have reasonable and sufficient security measures in place. While some aspects of the appeals process are specified in the statute, TSA has clarified the regulatory language that provides for judicial review of a final agency order. TSA has also modified the language in the final rule to specify that repair stations have the opportunity to petition for reconsideration of a TSA determination that a certificate must be suspended or revoked. The final rule is consistent with TSA's current regulations regarding withdrawal of a security program. 49 CFR 1540.301. TSA agrees that intermediate processes will be

used. This is consistent with TSA's current inspection protocols used to inspect airports and air carrier or aircraft operator operations. TSA anticipates that in most instances repair stations will be able to implement immediate measures to correct security deficiencies without the need for any formal enforcement mechanism. When necessary, TSA will use a progressive process whereby instances of non-compliance can be resolved with non-certificate action, including counseling, administrative action, and civil penalties. See 49 CFR part 1503.

*Comment:* SBA recommended that TSA consider how its proposed rule would affect non-typical and ''hybrid'' repair station facilities. For example, some repair stations are tenants in large facilities in which the landlord is not a regulated entity, some only occupy a workbench within a large building, and some work on the ''air side'' of an airport where pilots and other visitors frequently walk up to an open hangar to ask questions.

*TSA response:* TSA understands that there is a wide variety of certificated repair stations that differ in size, type of repairs, and number of employees. TSA has eliminated the proposed requirement to implement a security program and has reduced the number of repair stations that will be required to implement the security measures described in the final rule.

TSA is aware of the existence of ''hybrid'' or mixed-use facilities, for example, those that combine maintenance and manufacturing stations. It will be the part 145 certificated repair station's responsibility to delineate the parts of the station that are subject to the final rule and those that are not. If a repair station determines it is not possible to make such a delineation, the entire repair station must be in compliance with the final rule.

*S. Comments on the Regulatory Impact Assessment*

*Comment:* One association addressed the cost of complying with the proposed amendments to part 1520, which would designate repair station security programs as SSI and would include repair station owners and operators as entities subject to SSI requirements. The association said that it was not possible to estimate and comment on the cost of controlling SSI, because TSA had failed to indicate what it would consider an adequate and secure information management system.

*TSA response:* TSA has eliminated the requirement to carry out a security program and the proposed amendment to part 1520 to treat the security program as SSI. However, part 1520 requires that SDs be treated as SSI. If a repair station receives a SD, a system for securely managing and controlling SSI could be storing that information or material in a secure container (e.g., locked desk or filing cabinet) that prevents the unauthorized disclosure of this information or material. SSI materials may also be stored electronically as password-protected files. Considering these options are compliant with part 1520, TSA does not believe that there will be any additional cost burden on repair stations to control access to SDs.

*Comment:* Several commenters questioned the attack scenarios found in the economic analysis and stated that the probability of these attack scenarios actually occurring is remote. One stated that the basic premise of the scenarios is off because the break even analysis assumes that the majority of repair stations have access to airports and aircraft.

*TSA Response:* TSA has analyzed the security risks of the repair station population and has revised the implementation plan to only require repair stations located on or adjacent to an airport, as defined in the final rule, to adopt and implement security measures.

*Comments:* Seventeen commenters stated that TSA had significantly underestimated the cost of compliance. Two commenters stated that the costs estimated are too low and that TSA should redo the cost analysis and the Initial Regulatory Flexibility Analysis (IRFA). Commenters provided lists of items that they claim TSA failed to address adequately, including the costs of creating and implementing a security program, facility access control measures, personnel identification media systems, security coordinators, and security awareness training.

One repair station owner/operator said that the estimate that an off-airport repair station would require only four hours to complete and implement a security program seemed extraordinarily low, as did other estimates of average compliance costs in the NPRM. Another operator stated that rule familiarization had taken 10 hours. It estimated that writing a program would cost $12,000 and the actual implementation cost could exceed $80,000.

An industry association and a repair station owner/operator said that the analysis failed to consider the cost of fencing, guards, cameras, badges, and access control systems, which they said that small repair stations and general aviation airports may not already have. The industry association said that the cost to establish access control would not be feasible for a small repair station at a general aviation airport. One commenter said that it had priced three ''off-the-shelf'' non-biometric photo ID badge systems at an average cost of $2,346; similarly, the commenter said it priced a 750-foot perimeter fence with access gates at $14,905. The commenter noted that the sum of these two estimates far exceeds TSA's estimate of total compliance costs of $4,216 for a business with 45 employees. Various commenters estimated the cost of background checks and a badge system as $4,600 to $6,000, and a security system as $17,250.

An industry association stated that the rule would require repair stations to add at least one full time position, which would create a financial burden for small repair stations and make it harder for them to remain competitive. Another association stated that TSA was asking repair stations to prove their approach was sufficient; while stations with professional security staff could do this, it was unreasonable to expect small GA repair stations to do this. A third commenter estimated salary for security staff as $70,350.

One industry association also stated that TSA had underestimated training costs and should double them. Another commenter estimated training costs at up to $2,000 per employee.

One industry association stated that the analysis failed to consider that small entities do not physically separate work areas, which the NPRM would require. The contingency plan requirement for identifying unauthorized persons is not defined. It noted that small stations do not routinely escort visitors and do not have staff who can be assigned to do this without losing productive work. The escort requirement will disproportionately affect small stations.

An operator stated that TSA had based its analysis on small repair stations, which calls into question whether the agency has met the requirements of E.O. 12866, the Regulatory Flexibility Act (RFA), and the Trade Agreement Act.

*TSA response:* In order to address the concerns of the commenters and better estimate the costs of compliance associated with the security measures described in the final rule, TSA has revised its cost estimates. TSA has eliminated the requirement to adopt and implement a security program. Specifically, TSA has eliminated all security measures regarding preventing access to repair stations and will only require certain repair stations to prevent the unauthorized operation of large

aircraft that are unattended. This change will reduce the regulatory requirement and the costs of implementation. While TSA has retained the requirement to verify employee background information, it has reduced the application of that requirement only to those individuals who are designated as the TSA point of contact and those who have access to the keys or other means used to prevent the unauthorized operation of large aircraft. TSA has clarified that it will accept the background check obtained by individuals who have obtained a FAA airman certificate or a SIDA badge. All proposed regulations regarding the content, format and availability of a security program have been eliminated in the final rule. The cost estimates for both the NPRM and the final rule are listed in Chapter 4 of the regulatory impact analysis accompanying this final rule. That chapter also describes the reasons for the differences in the cost estimates.

In conjunction with the NPRM, TSA published a regulatory impact analysis that addressed the requirements of EO 12866, the RFA, the Unfunded Mandates Reform Act, and the Trade Agreement Act. The cost estimates in that regulatory impact analysis were not based on small repair stations. However, the IRFA considered the cost impact of the proposed regulations on repair stations classified under SBA standards as ''small'' businesses. In the final rule, TSA has updated these analyses, considering all costs incurred by TSA and any repair stations notified to adopt security measures under the final rule.

*Comments:* Forty-eight commenters argued that complying with the proposed requirements in part 1554 would be too costly, and some said that the compliance costs would force repair stations out of business. Six commenters stated that taxpayers and the flying public would also feel the financial burden. Twelve commenters said that the proposed rule would likely result in small GA repair stations either closing their businesses or surrendering their repair station certificates in favor of becoming maintenance repair shops that would not be required to comply with the proposed rule. Fifty commenters said that small aircraft repair stations in particular would suffer significant economic and staffing losses because of the proposed rule. Many of these commenters said that because small repair stations each employ a small number of people, the compliance cost per employee would be significant.

*TSA response:* With respect to the comments about station closings, TSA recognizes that some aircraft repair stations will incur costs associated with the implementation of security measures, but TSA has reduced the requirements of this final rule and therefore, the costs of implementation. TSA has eliminated the requirement of all security measures regarding preventing access to repair stations and will only require repair stations to prevent the unauthorized operation of large aircraft. All proposed regulations regarding the content, format and availability of a security program have been eliminated in the final rule. Additionally, the requirement to adopt security measures was revised to include only repair stations located on or adjacent to an airport, as defined in the final rule.

TSA has prepared a Final Regulatory Flexibility Analysis (FRFA) as part of the economic analysis of the final rule. This analysis can be found in the regulatory impact analysis, and presents the estimated compliance costs small businesses would incur as a percentage of annual revenues.

TSA has kept the costs of implementation of this rule on small businesses to a minimum by eliminating the security program requirement for all repair stations. Further, the security measures in this final rule allow flexibility in implementation.

## III. Rulemaking Analyses and Notices

### *A. International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is TSA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices where possible. TSA has determined that these regulations are consistent with ICAO Standards and Recommended Practices for security of airports and facilities contained in Annex 17 of the Convention, the ICAO Security Manual and the ICAO Security Audit Reference Manual.

### *B. Economic Impact Analyses*

#### 1. Regulatory Impact Analysis Summary

Changes to Federal regulations must undergo several economic analyses. First, E.O. 12866, Regulatory Planning and Review (58 FR 51735, October 4, 1993), as supplemented by E.O. 13563, Improving Regulation and Regulatory Review (76 FR 3821, January 21, 2011), directs each Federal agency to propose or adopt a regulation only if the agency makes a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires agencies to consider the economic impact of regulatory changes on small entities when an agency is required to issue a NPRM. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards, where appropriate, as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation).

In conducting the following four analyses, TSA has determined:

1. This final rule is a ''significant regulatory action,'' although not an economically significant regulatory action, under section 3(f)(1) of E.O. 12866. Accordingly, the Office of Management and Budget has reviewed this regulation.

2. This final rule imposes no significant barriers to international trade.

3. This final rule does not impose an unfunded mandate on State, local, or tribal governments, or on the private sector in excess of $100 million (adjusted for inflation) in any one year.

These analyses, as well as the Final Regulatory Flexibility Analysis, are summarized below and are detailed in the regulatory impact analysis accompanying the final rule.

#### 2. Executive Orders 12866 and 13563 Assessments

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

##### Costs

TSA issued an NPRM on November 18, 2009 (74 FR 68774). This final rule makes the following major changes to

the NPRM. The first major change is the elimination of the requirement for a repair station to submit a security profile to TSA. TSA will obtain data from the FAA and conduct field visits to acquire other data and information. TSA has also eliminated the requirement to adopt and implement a security program and all security measures preventing access to repair stations. While TSA has retained the requirement to verify employee background information, it has reduced the application of that requirement to those individuals who are designated as the TSA point of contact and those who have access to the keys or other means used to prevent the unauthorized operation of large aircraft capable of flight that are left unattended. TSA has clarified that it will accept employment history checks or background checks conducted on individuals who have obtained a FAA airman certificate or a SIDA badge.

TSA assessed the risk profile of the repair station population and determined that not all repair stations present sufficient risk to warrant security program requirements. Therefore, TSA is only requiring those repair stations located on or adjacent to certain airports, as defined in this final rule, to adopt security measures. As noted above, TSA will consider a repair station to be ''on airport'' if it is on an AOA or SIDA of an airport covered by an airport security program under 49 CFR part 1542 in the United States, or on the security restricted area of any commensurate airport outside the United States regulated by a government entity. TSA will consider a repair station to be adjacent to an airport if there is an access point between the repair station and the airport of sufficient size to allow the movement of large aircraft between the repair station and the area described as ''on airport.'' Under the NPRM, approximately 4,800 repair stations certificated under part 145 would have been affected by the rulemaking's affirmative requirements, while under this final rule, that number has been reduced to an estimated 678 repair stations.

In response to public comments and changes in final rule implementation, TSA has adjusted the estimated costs for the final rule. The regulatory impact analysis accompanying this final rule summarizes the revised cost estimates of the regulation.

Total

In summary, over the 10-year period of the analysis, TSA estimates the aggregate costs of the Aircraft Repair Station Security Final Rule to total approximately $23.22 million, undiscounted. This total is distributed among repair stations located within the United States, which would incur total costs of $8.7 million; repair stations located outside the United States, which would incur costs of $14.18 million; and TSA, which would incur costs of $0.34 million. Chapter 2 of the regulatory impact analysis, available in the public docket, provides detailed estimates of these costs. The following table presents the annual costs of the rule over the 10-year period of analysis, broken out into costs incurred by TSA, repair stations located within the United States, and repair stations located outside the United States, respectively.

TABLE 1—TOTAL COST OF THE AIRCRAFT REPAIR STATION SECURITY FINAL RULE

[$ millions]

| Year | TSA Costs | Repair stations within the United States | Repair stations outside the United States | Total (undiscounted) | Discounted, 3 percent | Discounted, 7 percent |
|---|---|---|---|---|---|---|
| 1 | $0.06 | $0.9 | $1.37 | $2.34 | $2.27 | $2.19 |
| 2 | 0.03 | 0.9 | 1.31 | 2.24 | 2.11 | 1.96 |
| 3 | 0.02 | 0.9 | 1.34 | 2.25 | 2.06 | 1.83 |
| 4 | 0.04 | 0.9 | 1.37 | 2.29 | 2.03 | 1.75 |
| 5 | 0.04 | 0.9 | 1.40 | 2.31 | 1.99 | 1.65 |
| 6 | 0.02 | 0.9 | 1.42 | 2.30 | 1.93 | 1.53 |
| 7 | 0.04 | 0.9 | 1.46 | 2.36 | 1.92 | 1.47 |
| 8 | 0.03 | 0.9 | 1.48 | 2.36 | 1.86 | 1.37 |
| 9 | 0.02 | 0.8 | 1.51 | 2.37 | 1.81 | 1.29 |
| 10 | 0.04 | 0.8 | 1.54 | 2.41 | 1.79 | 1.22 |
| Total | 0.34 | 8.70 | 14.18 | 23.22 | 19.78 | 16.26 |

Changes in Cost Estimates From Notice of Proposed Rulemaking

The cost estimates for this final rule differ from those reported in the NPRM due to the elimination of security program, facility access control and other requirements as described above. TSA also uses more recently available data from its outreach efforts and from FAA databases to update population projections and program costs. The following tables present the cost estimates of the final rule compared to those presented in the NPRM.

TABLE 2—CHANGES IN COSTS FROM THE NPRM TO THE FINAL RULE

| Estimate | 10-Year total rule costs ($ millions) | | |
|---|---|---|---|
| | NPRM | Final rule | Difference |
| Total (undiscounted) | $344.4 | $23.22 | ($321.18) |
| 3% Discount | $293.3 | $19.78 | ($273.52) |
| 7% Discount | $241.0 | $16.26 | ($224.74) |

TABLE 3—CHANGES IN COSTS INCURRED BY REPAIR STATIONS LOCATED WITHIN THE UNITED STATES

| Cost segment | 10-Year total costs ($ millions) | | | Major cost driving changes |
|---|---|---|---|---|
| | NPRM | Final rule | Difference | |
| Security Programs | $1.6 | $0 | ($1.6) | All proposed regulations regarding the content, format and availability of a security program have been eliminated in the final rule. |
| Point of Contact | 113.2 | 5.8 | (107.4) | TSA is requiring only a point of contact on a 24-hour a day basis. |
| ID Media System | 0.5 | 0 | (0.5) | TSA eliminated ID Media System requirements. |
| Aircraft Access Control | 0.0 | 2.7 | 2.7 | This is a new cost in the final rule for on-airport and adjacent repair stations. |
| Training | 53.2 | 0 | (53.2) | TSA has eliminated all training requirements. |
| Inspections | 0.0 | 0.16 | 0.16 | This is a new cost in the final rule for on-airport and adjacent repair stations. |
| Revocation Appeals | 0.0 | 0.004 | 0.004 | TSA now includes a cost estimate for the fraction of repair stations estimated to require an appeal due to suspension or revocation. This fraction is based on historical data from FAA. |
| Total (undiscounted) | 168.5 | 8.7 | (159.8) | |
| 3% Discounted Total | 143.9 | 7.4 | (136.5) | |
| 7% Discounted Total | 118.6 | 6.1 | (112.5) | |

TABLE 4—CHANGES IN COSTS INCURRED BY REPAIR STATIONS LOCATED OUTSIDE THE UNITED STATES

| Cost segment | 10-Year total costs ($ millions) | | | Major cost driving changes |
|---|---|---|---|---|
| | NPRM | Final rule | Difference | |
| Security Programs | $0.7 | $0 | ($0.7) | All proposed regulations regarding the content, format and availability of a security program have been eliminated in the final rule. |
| Point of Contact | 18.5 | 3.8 | (14.7) | TSA is requiring only a point of contact on a 24-hour a day basis. |
| Personnel ID System | 0.1 | 0 | (0.1) | TSA eliminated Personnel ID System requirements. |
| Aircraft Access Control | 0.0 | 10.2 | 10.2 | This is a new cost in the final rule for on-airport repair stations. |
| Training | 78.4 | 0 | (78.4) | TSA has eliminated all training requirements. |
| Inspection | 0.0 | 0.10 | 0.10 | This is a new cost in the final rule for on-airport repair stations. |
| Revocation Appeals | 0.0 | 0.05 | 0.05 | TSA now includes a cost estimate for the fraction of repair stations estimated to require an appeal due to suspension or revocation. This fraction is based on historical data from FAA. |
| Employment History Checks | 0.0 | .08 | .08 | This is a new cost in the final rule for on-airport repair stations. |
| Total (undiscounted) | 97.7 | 14.2 | (83.5) | |
| 3% Discounted Total | 83.4 | 12.0 | (71.4) | |
| 7% Discounted Total | 68.7 | 9.9 | (58.8) | |

TABLE 5—CHANGES TO TSA COSTS

| Estimate | 10-Year total costs ($ millions) | | | Major cost driving changes |
|---|---|---|---|---|
| | NPRM | Final rule | Difference | |
| Total (undiscounted) ..... | $78.2 | $0.3 | ($77.9) | TSA has reduced the requirements of this final rule resulting in a reduction of inspection time and resources. |
| 3% Discounted Total ... | 66.1 | 0.3 | (65.8) | |
| 7% Discounted Total ... | 53.7 | 0.2 | (53.5) | |

Benefits

TSA is issuing regulations to provide for the security of maintenance, preventive maintenance, or alterations on aircraft or articles of aircraft performed at repair stations located both within and outside the United States, of the aircraft and articles located at these repair stations, and of the repair station facilities as required by Vision 100. As terrorist organizations continue to target civil aviation, Congress has indicated the importance of aircraft repair station security. TSA opted to require only those repair stations located on or adjacent to certain airports, as defined in this final rule, to adopt security measures. These facilities represent potential risks due to both their location on or adjacent to an airport and airport runways and their ability to perform maintenance on and have access to aircraft with a MTOW of more than 12,500 lbs. Therefore, the opportunity exists for a terrorist to commandeer an operational aircraft and use it as a weapon against a populated target.

TSA uses a break-even analysis to frame the relationship between the potential benefits of the rulemaking and the costs of implementing the rule. When it is not possible to quantify or monetize the important incremental benefits of a regulation, OMB recommends conducting a threshold, or ''break-even'' analysis. According to OMB Circular No. A–4, ''Regulatory Analysis,'' such an analysis answers the question, ''How small could the value of the non-quantified benefits be (or how large would the value of the non-quantified costs need to be) before the rule would yield zero net benefits?'' [5] Consequently, to better inform the comparison of the costs of implementing the rule with the benefits to homeland security of the Aircraft Repair Station Security final rule, TSA performed a break-even analysis. In the break-even analysis, TSA compared the annualized cost of the rule's requirements to the expected benefits of preventing a potential terrorist attack.

The type of terrorist attack addressed by this final rule is an aircraft as weapon scenario against a populated target such as an office building. This attack would result from the infiltration of an on-airport repair station and subsequent commandeering of an aircraft. To assess the potential impact of an attack originating at a repair station, TSA considers a representative attack scenario and estimates the monetary value of the losses associated with this scenario. This attack scenario is taken from the second iteration of TSA's Transportation Sector Security Risk Assessment (TSSRA 2.0). TSSRA 2.0 is a SSI report that was produced in response to DHS Appropriations legislation (Pub. L. 110–396/Division D and Pub. L. 111–83), which requires DHS through TSA to conduct a comprehensive risk assessment.

In order to compare the losses in the scenario with the cost of the final rule, TSA assigns a statistical monetary value to potential passenger, crew casualties and bystander, and also takes into account property damage associated with the aircraft and infrastructure involved in the attack scenario. TSA uses a Customs and Border Protection (CBP) Value of a Statistical Life (VSL) estimate of $6.3 million [6] to represent the amount an individual is willing to pay to achieve a small reduction in mortality risk. In order to estimate the value of injuries, TSA used the Department of Transportation (DOT) published guidance [7] for values of moderate injuries at 4.7 percent of VSL and severe injuries at 26.6 percent of VSL. Consequently, for a severe injury, TSA estimates a value of $1,675,800 ($6,300,000 VSL × 0.266) and for a moderate injury, TSA estimates a value of $296,100 ($6,300,000 VSL × 0.047).

The following paragraphs describe a scenario for which TSA believes this final rule will help reduce the likelihood of occurrence and their corresponding estimated monetary consequences. This analysis does not consider the indirect, macroeconomic consequences these terrorist attacks could cause. Consequently, the economic impacts of this terrorist attack estimated for this break-even analysis is a lower-bound estimate.

This attack scenario describes the impact of a situation where a commercial aircraft is stolen from a repair station (with no passengers on board) and used as a missile to attack an office building. The scenario results in loss of life, severe and moderate injuries, destruction of the aircraft, and damage to the building. Again, TSSRA 2.0 uses the average building size and capacity of a number of office buildings to estimate an average building size of 49 stories with an average of 176 people per story. TSSRA 2.0 estimates 2,992 fatalities for this scenario. TSSRA 2.0 assumes the attacker(s) will hit the office building approximately a third of the way down the building and due to the size of the aircraft, it is assumed that anyone above the impact site will die due to the inability to escape the building (17 stories × 176 people). Using the CBP VSL of $6.3 million, the monetary estimate associated with the loss of life is $18,849.6 million (2,992 × $6.3 million).

TSSRA 2.0 also estimates 880 severe injuries, which is equal to the number of occupants of 5-stories of the representative office building. TSSRA 2.0 assumes that several floors directly below the impact site would be affected by the force of the impact and the resultant fires. In addition, people exiting the building from these floors would be more likely to have injuries requiring hospital treatment. Again using the DOT guidance on the valuation of injuries, the monetary estimate associated with severe injuries is $1,474.7 million (880 severe injuries

[5] *Http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/a-4.pdf.*

[6] U.S. Customs and Border Protection, Report, ''Valuing Mortality Risk Reductions in Homeland Security Regulatory Analyses.'' Final Report, CBP, June 2008.

[7] U.S. Department of Transportation memorandum, ''Revised Departmental Guidance: Treatment of the Value of Preventing Fatalities and Injuries in Preparing Economic Analyses—2011 Revision,'' July 29, 2011. *Http://ostpxweb.dot.gov/policy/reports/vsl_guidance_072911.pdf.*

× $1,675,800). TSSRA 2.0 estimates 2,376 moderate injuries, which is equal to one-half of the remaining population of the representative office building (0.5 × (8,624 − 2,992 − 880). TSSRA 2.0 assumes that at least half of the remaining occupants not killed or severely injured would be moderately injured due to smoke, falling debris, or the action of evacuating the building. The monetary estimate associated with the moderate injuries is $703.5 million (2,376 moderate injuries × $296,100).

TSSRA 2.0 assumes this type of attack requires replacement of the entire building. TSSRA 2.0 estimates the cost of replacement using an average construction cost of $846.8 million for recently built large buildings in the United States.

To estimate the value of the lost aircraft, TSA uses $22.6 million, which is the 2009 weighted average market value of all two-engine narrow-body and two-engine wide-body air carrier aircraft.[8]

The total monetary valuation of the losses of life, aircraft and buildings, and injuries represented in this scenario is $21,897.2 million ($18,849.6 million for fatalities + $1,474.7 million for severe injuries + $703.5 million for moderate injuries + $22.6 million for loss of aircraft + $846.8 million for replacement of the building).

In this analysis, the comparison is made between the estimated monetary consequence of this scenario and the annualized cost of the Aircraft Repair Station Security final rule, discounted at seven percent ($2.3 million).[9] The ''required risk reduction in attack frequency'' to break even is estimated by dividing the total consequences of a specific attack scenario by the annualized cost of the regulation, discounted at seven percent. In order to break even, the rule will need to reduce the existing or baseline frequency of terrorist attack by one attack every 9,460 years for attacks of a similar magnitude. These results are presented in table form in both the Executive Summary and Chapter 5 of the regulatory impact analysis.

Alternatives

As alternatives to the preferred regulatory regime presented in the final rule, TSA examined four other options. For most regulatory alternatives, TSA considered categorizing repair stations into three risk tiers based on a station's location with respect to an airport and the size of aircraft on which a repair station performs work. Tier 1, in general, would include all repair stations located on or adjacent to a part 1542 regulated airport (or commensurate foreign airport) and those repair stations located on or adjacent to a GA airport (or commensurate foreign airport) that conduct maintenance, preventive maintenance, or alterations on aircraft or articles for aircraft with a MTOW of more than 12,500 pounds. In Alternative 1 TSA would notify only Tier 1 repair stations to adopt and implement a security program.

Tier 2, in general, would include repair stations located off-airport that conducts maintenance, preventive maintenance, or alterations on articles for aircraft with a MTOW of more than 12,500 pounds. Tier 3, in general, would include all remaining repair stations. Under Alternative 2, TSA would notify both Tier 1 and Tier 2 repair stations to adopt and implement a security program, since these repair stations work on aircraft or articles for aircraft with a MTOW of more than 12,500 lbs. Tier 2 repair stations would incur most of the requirements in the security program with which Tier 1 repair stations must comply; however, Tier 2 would not be required to comply with certain of the security program requirements.

The third and fourth alternatives require Security Threat Assessments (STAs) for different subsets of repair station employees. Alternative 2A includes an STA requirement for employees of on-airport repair stations located within the United States in addition to the other security requirements and associated costs of the final rule. Alternative 2B includes STAs for employees of both Tier 1 and Tier 2 repair stations located within the United States as defined in Alternative 2, in addition to the security requirements and associated costs of Alternative 2. TSA would not require STAs for employees of repair stations located outside the United States. This decision was based upon a consideration of privacy laws in foreign countries and TSA's determination that ICAO standards already address employee background checks.

TSA rejects Alternative 1 and opted to remove any security program requirements for all repair stations and only require repair stations on or adjacent to an airport that have access to runways and operational aircraft to implement security measures.

TSA rejects the regulatory regimes in Alternatives 2 and Alternative 2B because repair stations in Tier 2 in these alternatives do not have access to operational aircraft and runways. TSA is unable to identify credible attack scenarios that could originate at off-airport repair stations.

Alternative 2A, while offering a regulatory framework that covers on-airport repair stations with access to runways and operational aircraft, was rejected by TSA in favor of the final rule because TSA does not believe that the STA requirement provides enough risk reduction to justify the additional costs. Since TSA is unable to perform STAs on employees at repair stations located outside the United States, all the risk reduction yielded by this requirement would be in domestic aviation. Therefore, Alternative 2A provides lower marginal risk reduction per dollar of cost than the final rule. Further, the additional costs of the STA requirement would put an undue burden on repair stations located in the United States and disadvantage them against foreign competitors. For these reasons, TSA decided to withhold the STA requirement from the final rule. While TSA has retained the requirement to verify employee background information in this final rule, it has reduced the application of that requirement to those individuals who are designated as the TSA point of contact and those who have access to the keys or other means used to prevent the unauthorized operation of large aircraft capable of flight that are left unattended. TSA has clarified that it will accept employment history checks or background checks conducted on individuals who have obtained a FAA airman certificate or a SIDA badge. The following table presents the 10-year costs of the alternatives compared to the costs of the final rule. The alternatives costs are discussed in detail in Chapter 3 of the regulatory impact analysis accompanying the final rule.

[8] Federal Aviation Administration, 2007, ''Economic Values for FAA Investment and Regulatory Decisions, a Guide.'' Prepared by GRA, Inc. December 31, 2004 (updated). Table 5–2. TSA calculates a weighted average value for aircraft in rows 1 and 2. TSA converted this weighted average aircraft value from a 2003 estimate to the 2009 equivalent weighted average value of $22.6 million using the FAA recommended method described in the document in Section 9.6 (page 9–9), which relies on the BLS producer price index series for civil aircraft available in the producer price index values (2003–2009 annual values), a factor of 1.31, for commodities at *http://stats.bls.gov/ppi/home.htm*.

[9] See the OMB No. A–4, ''Regulatory Analysis,'' Accounting Statement in the Executive Summary in the regulatory impact analysis. This amount is the annual payment that, if invested each year at a 7 percent interest rate, would accrue to the cost of the rule after a 10-year period.

TABLE 6—COMPARISON OF ALTERNATIVES TO THE PROPOSED FINAL RULE COSTS

[$ millions]

| 10-Year total costs by alternative | Undiscounted | Discounted, 3 percent | Discounted, 7 percent |
|---|---|---|---|
| Final Rule (preferred) | $23.2 | $19.8 | $16.3 |
| Alternative 1 (Tier 1 only) | 240.6 | 207.1 | 172.6 |
| Alternative 2 (Tier 1 and Tier 2) | 350.6 | 301.6 | 251.3 |
| Alternative 2A (STAs—on-airport only) | 261.5 | 225.3 | 188.1 |
| Alternative 2B (STAs—Tier 1 and Tier 2) | 381.0 | 328.2 | 273.9 |

3. Regulatory Flexibility Act Assessment

The Regulatory Flexibility Act (RFA) of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions.

Sections 603(a) and 604(a) of the Regulatory Flexibility Act require that, when an agency issues an interim final rule or promulgates a final rule ''after being required to publish a general notice of proposed rulemaking,'' the agency must consider the economic impact of the rule on small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

A Final Regulatory Flexibility Analysis discussing the impact of this final rule on small entities is available in the docket.

Based on available data, we estimate that about 44 percent of entities directly regulated by the final rule requirements are small under the Regulatory Flexibility Act and the SBA size standards (compared to the 96 percent of entities affected by the NPRM provisions). This is due to the changes in the applicability and security requirements (detailed explanation of applicability changes on section I. Background, of this final rule). In this final rule TSA allows flexibility in which security measures repair stations may select in order to prevent commandeering of an aircraft. In addition, this flexibility allows repair stations to choose cost-effective security measures thus mitigating concerns regarding cost burdens for small repair stations. As long as the security requirements are met, the repair station may implement the measures that best suit its business model and physical layout.

TSA estimates that approximately 85 percent of small repair stations will incur compliance costs that represent less than represent 1 percent of annual revenues and approximately 97 percent of small repair stations will incur compliance costs that represent less than 2 percent of annual revenues.

4. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in any related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as security, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This final rule does not implicate Executive Order 13609 because neither the economic impact of the final rule nor that imposed on repair stations located outside the United States is ''significant'' as defined in EO 12866. Further, TSA is imposing the same security requirements on repair stations located outside the United States as it is imposing on those located within the United States and is subjecting those repair stations located outside the United States to the same standard inspection practices as are already in place for other foreign entities regulated by TSA.

TSA considered the economic role of repair stations located outside the United States, as well as U.S. obligations under numerous treaties. Although some public comments suggested that TSA should focus only on repair stations located outside the United States, treaty obligations and the statutory language made it clear that the regulations could not target only those repair stations. The final rule simply requires entities located outside the United States to comply with the same regulatory requirements applied to repair stations located within the United States and does not create non-tariff barriers to international trade. Because the requirements for repair stations located outside the United States will be the same as those imposed on repair stations located within the United States, TSA does not anticipate trade retaliation or unnecessary obstacles to foreign trade. Any differences that may occur can be attributed to the legitimate domestic objective of security, which under the Trade Agreement Act of 1979 is not considered an unnecessary obstacle.

5. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the UMRA establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, TSA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted for inflation) or more in any one year. TSA has determined that this rule does not impose a Federal mandate that may exceed $100 million in expenditures of State, local, or tribal governments in the aggregate, nor does the final rule impose a $100 million mandate on the private sector. Therefore, the final rule does not contain such a mandate and the requirements of Title II do not apply.

*C. Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.) requires that TSA consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or

requires through regulations. This rule contains the following new information collection requirements. Accordingly, TSA submitted a copy of these sections to OMB for its review. OMB approved the collection of this information and assigned OMB Control Number 1652–0060.

The regulations apply to repair stations certificated by the FAA under 14 CFR part 145, except repair stations located on a U.S. or foreign government military base. All such repair stations must allow TSA and other authorized DHS officials to enter, conduct inspections, and view and copy records as needed to carry out TSA's security-related statutory and regulatory responsibilities. All such repair stations must comply with Security Directives if issued by TSA which could include requirements to maintain records or provide information to TSA.

The security measures in this rule cover repair stations that are on or adjacent to certain airports. TSA will consider a repair station to be ''on airport'' if it is on an air operations area or security identification display area of an airport covered by an airport security program under 49 CFR part 1542 in the United States, or on the security restricted area of any commensurate airport outside the United States regulated by a government entity. TSA will consider a repair station to be adjacent to an airport if there is an access point between the repair station and the airport of sufficient size to allow the movement of large aircraft between the repair station and the area described as ''on airport.'' [10] The repair stations, as described above, are required to designate a point of contact(s) to carry out specified responsibilities; and verify background information of those individuals who are designated as the TSA point(s) of contact and those who have access to any keys or other means used to prevent the unauthorized operation of large aircraft capable of flight that are left unattended.

The regulations also describe the process whereby TSA will notify the repair station and the FAA of a security deficiency identified by TSA and provide an opportunity for the repair station to obtain review of a determination by TSA to suspend its operating certification. The regulations specify that when TSA determines a repair station poses an immediate risk to security, TSA will notify the repair station and the FAA that the certificate must be revoked. The regulations also provide the process for the repair station to obtain review of such a determination.

In order to comply with the regulations, repair stations outside of the United States, will be responsible for maintaining updated employment history records to demonstrate compliance with this final rule. These records must be made available to TSA upon request. Repair stations located within the United States will be able to use security threat assessments that have been obtained for other reasons to comply with this rule.

TSA is required to conduct a security review and audit of the repair stations located outside the United States See 49 U.S.C. 44924(a). TSA will conduct a paper audit of all 707 repair stations that are located outside the United States. The paper audit will consist of a letter describing the rule and the repair station will be required to respond to four questions to verify whether the repair station is required to implement security measures. Based upon subject matter expert (SME) best estimates, the paper audit is expected to take one hour for a repair station employee, assumed to be the point of contact, to complete. Seventy-eight repair stations located outside the United States meet the definition of on or adjacent to an airport and will undergo an annual desk audit in which the repair station will be asked to describe how it is complying with the rule. Each desk audit is estimated to require one hour for the repair station to read the letter sent by TSA and respond.

The likely respondents to this information collection are the owners and/or operators of repair stations certificated by the FAA under 14 CFR part 145, which is estimated to number approximately 1,158 unique respondents over the next three years (451 repair stations located within the United States and 707 repair stations located outside the United States).

The average yearly burden for recordkeeping is estimated to be 2 hours for repair stations located outside the United States. The average yearly burden for suspension and revocation appeals is estimated to be 10 hours for repair stations located within the United States and 100 hours for repair stations located outside the United States. The average yearly burden for paper audits is estimated to be 236 hours for repair stations located outside the United States. The average yearly burden for desk audits is estimated to be 80 hours for repair stations located outside the United States. Therefore, the total average annual time burden estimate is approximately 428 hours. The following table shows the information collections and corresponding hour burdens for entities falling under the requirements of the final rule.

TABLE 7—COLLECTION AND HOUR BURDENS FOR ENTITIES WITHIN AND OUTSIDE THE UNITED STATES

| Collection | Time per response | Number of responses | | | 3-Year time burden | Average annual time burden |
|---|---|---|---|---|---|---|
| | | Year 1 | Year 2 | Year 3 | | |
| Recordkeeping | Continuous as needed | | | | | |
| On-Airport RS outside the United States | 0.025 hours .. | 227 | 5 | 5 | 6.0 | 2.0 |
| Suspension/Revocation Appeals | As needed | | | | | |
| On-Airport RS within the United States ... | 10 hours ..... | 1 | 1 | 1 | 30 | 10 |
| On-Airport RS outside the United States | 12 hours ..... | 8 | 8 | 9 | 300 | 100 |
| Paper Audits | One-Time | | | | | |
| On-Airport RS outside the United States | 1 hour ..... | 707 | 0 | 0 | 707 | 236 |

[10] Large aircraft are defined as aircraft with a maximum certificated take-off weight of more than 12,500 pounds.

TABLE 7—COLLECTION AND HOUR BURDENS FOR ENTITIES WITHIN AND OUTSIDE THE UNITED STATES—Continued

| Collection | Time per response | Number of responses | | | 3-Year time burden | Average annual time burden |
|---|---|---|---|---|---|---|
| | | Year 1 | Year 2 | Year 3 | | |
| Desk Audits | Annual | | | | | |
| On-Airport RS outside the United States | 1 hour ..... | 78 | 80 | 82 | 240 | 80 |
| Total Burden (responses) ..... | ..... | ..... | ..... | ..... | 1,212 | 404 |
| Total Burden (hours) ..... | ..... | ..... | ..... | ..... | 1,283 | 428 |

While comments were received on the issues discussed above in Section II, there were no comments received on the information collection burden estimates contained in the NPRM.

As protection provided by the PRA, as amended, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*D. Executive Order 13132 on Federalism*

TSA has analyzed this final rule under the principles and criteria of E.O. 13132 on Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have federalism implications.

*E. Environmental Analysis*

TSA has reviewed this action under DHS Management Directive 5100.1, Environmental Planning Program (effective April 19, 2006), which guides TSA compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347). TSA has determined that this proposal is covered by the following categorical exclusions (CATEX) listed in the DHS directive: Number A3(a) (administrative and regulatory activities involving the promulgation of rules and the development of policies); paragraph A4 (information gathering and data analysis); paragraph A7(d) (conducting audits, surveys, and data collection of a minimally intrusive nature, to include vulnerability, risk, and structural integrity assessments of infrastructures); paragraph B3 (proposed activities and operations to be conducted in existing structures that are compatible with ongoing functions); paragraph B11 (routine monitoring and surveillance activities that support homeland security, such as patrols, investigations, and intelligence gathering), and H1 (approval or disapproval of security plans required under legislative mandates where such plans do not have a significant effect on the environment). In addition, TSA has determined that this proposal meets the three conditions required for a CATEX to apply, as described in paragraph 3.2, (Conditions and Extraordinary Circumstances).

*F. Energy Impact Analysis*

The energy impact of the action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94–163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

**List of Subjects in 49 CFR Part 1554**

Aircraft, Aviation safety, Repair stations, Reporting and recordkeeping requirements, Security measures.

**The Amendments**

In consideration of the foregoing, the Transportation Security Administration amends Chapter XII of Title 49, Code of Federal Regulations, by adding a new part 1554 to subchapter C to read as follows:

## PART 1554—AIRCRAFT REPAIR STATION SECURITY

**Subpart A—General**

Sec.
1554.1 Scope.
1554.3 TSA inspection authority.

**Subpart B—Security Measures**

1554.101 Security Measures.
1554.103 Security Directives.

**Subpart C—Compliance and Enforcement**

1554.201 Notification of security deficiencies; suspension of certificate and review process.
1554.203 Immediate risk to security; revocation of certificate and review process.
1554.205 Nondisclosure of certain information.

**Authority:** 49 U.S.C. 114, 40113, 44903, 44924.

### Subpart A—General

**§ 1554.1 Scope.**

(a) This part applies to repair stations that are certificated by the Federal Aviation Administration (FAA) pursuant to 14 CFR part 145, except for a part 145 certificated repair station located on a U.S. or foreign government military installation.

(b) In addition to the terms in 49 CFR 1500.3 and 1540.5, for purposes of this part, ''large aircraft'' means any aircraft with a maximum certificated takeoff weight of more than 12,500 pounds and ''attended'' aircraft means an aircraft to which access is limited to authorized individuals and property.

**§ 1554.3 TSA inspection authority.**

(a) *General.* Each repair station must allow TSA and other authorized DHS officials, at any time and in a reasonable manner, without advance notice, to enter, conduct any audits, assessments, or inspections of any property, facilities, equipment, and operations; and to view, inspect, and copy records as necessary to carry out TSA's security-related statutory or regulatory authorities, including its authority to—

(1) Assess threats to transportation security;

(2) Enforce security-related regulations, directives, and requirements;

(3) Inspect, assess, and audit security facilities, equipment, and systems

(4) Ensure the adequacy of security measures;

(5) Verify the implementation of security measures;

(6) Review security plans; and

(7) Carry out such other duties, and exercise such other powers, relating to transportation security as the TSA Administrator considers appropriate, to the extent authorized by law.

(b) *Evidence of compliance.* At the request of TSA, each repair station must provide evidence of compliance with this part, including copies of records required by this part.

(1) All records required under this part must be provided in English upon TSA's request.

(2) All responses and submissions provided to TSA or its designee, pursuant to this part, must be in English, unless otherwise requested by TSA.

(c) *Access to repair station.* (1) TSA and DHS officials working with TSA may enter, and be present within any area without access media or identification media issued or approved by the repair station in order to inspect, assess, or perform any other such duties as TSA may direct.

(2) Repair stations may request TSA inspectors and DHS officials working with TSA to present their credentials for examination, but the credentials may not be photocopied or otherwise reproduced.

## Subpart B—Security Measures

### § 1554.101 Security Measures.

(a) *Applicability of this section.* This section applies to part 145 certificated repair stations located—

(1) *On airport.* On an air operations area or security identification display area of an airport covered by an airport security program under 49 CFR part 1542 in the United States, or on the security restricted area of any commensurate airport outside the United States regulated by a government entity; or

(2) *Adjacent to an airport.* Adjacent to an area of the airport described in paragraph (a)(1) of this section if there is an access point between the repair station and the airport of sufficient size to allow the movement of large aircraft between the repair station and the area described in paragraph (a)(1) of this section.

(b) *Security Measures.* Each repair station described in paragraph (a) of this section must carry out the following measures:

(1) Provide TSA with the name and means of contact on a 24-hour basis of a person or persons designated by the repair station with responsibility for—

(i) Compliance with the regulations in this part;

(ii) Serving as the primary point(s) of contact for security-related activities and communications with TSA;

(iii) Maintaining a record of all employees responsible for controlling keys or other means used to control access to aircraft described in paragraph (b)(2) of this section; and

(iv) Maintaining all records necessary to comply with paragraph (b)(3) of this section.

(2) When not attended, prevent the unauthorized operation of all large aircraft capable of flight, by using one or more of the means listed in paragraphs (b)(2)(i) through (iv) of this section. In these examples, a key, if used, must only be available to an individual authorized by the repair station who has successfully undergone a check as described in paragraph (b)(3) of this section.

(i) Block the path of the aircraft such that it cannot be moved, and control the vehicle key if a vehicle is used to block the path.

(ii) Park the aircraft in a locked hangar and control the key to the hangar.

(iii) Move stairs away from the aircraft and shut and, if feasible, lock all cabin and/or cargo doors, and control the key.

(iv) Other means approved in writing by TSA.

(3) Verify background information of those individuals who are designated as the TSA point(s) of contact and those who have access to any keys or other means used to prevent the operation of large aircraft described in paragraph (b)(2) of this section by one or more of the following means:

(i) Verify an employee's employment history. The repair station obtains the employee's employment history for the most recent five year period or the time period since the employee's 18th birthday, whichever period is shorter. The repair station verifies the employee's employment history for the most recent 5-year period via telephone, email, or in writing. If the information is verified telephonically, the repair station must record the date of the communication and with whom the information was verified. If there is a gap in employment of six months or longer, without a satisfactory explanation of the gap, employment history is not verified. The repair station must retain employment history verification records for at least 180 days after the individual's employment ends. The repair station must maintain these records electronically or in hardcopy, and provide them to TSA upon request.

(ii) Confirm an employee holds an airman certificate issued by the Federal Aviation Administration.

(iii) Confirm an employee of a repair station located within the United States has obtained a security threat assessment or comparable security threat assessment pursuant to part 1540, subpart C of this chapter, such as by holding a SIDA identification media issued by an airport operator that holds a complete program under 49 CFR part 1542.

(iv) Confirm an employee of a repair station located outside the United States has successfully completed a security threat assessment commensurate to a security threat assessment described in part 1540, subpart C of this chapter.

(v) Other means approved in writing by TSA.

### § 1554.103 Security Directives.

(a) *General.* When TSA determines that additional security measures are necessary to respond to a threat assessment or to a specific threat against civil aviation, TSA issues a Security Directive setting forth mandatory measures.

(b) *Compliance.* Each repair station must comply with each Security Directive TSA issues to the repair station within the time prescribed. Each repair station that receives a Security Directive must—

(1) Acknowledge receipt of the Security Directive as directed by TSA;

(2) Specify the method by which security measures have been or will be implemented to meet the effective date; and

(3) Notify TSA to obtain approval of alternative measures if the repair station is unable to implement the measures in the Security Directive.

(c) *Availability.* Each repair station that receives a Security Directive and each person who receives information from a Security Directive must—

(1) Restrict the availability of the Security Directive and the information contained in the document to persons who have an operational need to know; and

(2) Refuse to release the Security Directive or the information contained in the document to persons other than those who have an operational need to know without the prior written consent of TSA.

(d) *Comments.* Each repair station that receives a Security Directive may comment on the Security Directive by submitting data, views, or arguments in writing to TSA. TSA may amend the Security Directive based on comments received. Submission of a comment does not delay the effective date of the Security Directive.

## Subpart C—Compliance and Enforcement

### § 1554.201 Notification of security deficiencies; suspension of certificate and review process.

(a) *General.* A repair station may be subject to suspension of its FAA certificate, if security deficiencies are identified and are not corrected.

(b) *Notice of security deficiencies.* TSA provides written notification to a repair station and to the FAA of any security deficiency identified by TSA.

(c) *Response.* A repair station must provide TSA with a written explanation

in English of all efforts, methods, and procedures used to correct the security deficiencies identified by TSA within 45 calendar days of receipt of the written notification described in paragraph (b) of this section.

(d) *Suspension of certificate.* If the repair station does not correct security deficiencies within 90 calendar days of the repair station's receipt of the written notice of security deficiencies, or if TSA determines that the security deficiencies have not been addressed sufficiently to comply with this section, the TSA designated official will provide written notification to the repair station and to the FAA that the repair station's certificate must be suspended. The notification will include an explanation of the basis for the suspension. The suspension remains in effect until TSA determines that the security deficiencies have been corrected.

(e) *Petition for reconsideration.* The repair station may petition TSA to reconsider its determination under paragraph (d) of this section by serving a petition for reconsideration no later than 20 calendar days after the repair station receives the notification. The repair station must serve the petition on the TSA designated official. Submission of a petition for reconsideration will not automatically stay the suspension. The repair station may request TSA to notify the FAA to stay the suspension pending review of and decision on the petition. The petition must be in writing, in English, signed by the repair station operator or owner, and include—

(1) A statement that reconsideration is requested; and

(2) A response to the suspension, including any information TSA should consider in reviewing the suspension.

(f) *Review by the TSA designated official.* The TSA designated official will consider all relevant material and information and will act on the petition no later than 15 calendar days after TSA receives the petition. The TSA designated official will either notify the repair station and the FAA that the suspension be withdrawn or affirm the suspension. The decision of the TSA designated official constitutes a final agency order subject to judicial review in accordance with 49 U.S.C. 46110.

(g) *Service of documents.* Service may be accomplished by personal delivery, certified mail, or express courier. Documents served on a repair station will be served at its official place of business. Documents served on TSA must be served at the address contained in the written notice of suspension.

(1) A certificate of service may be attached to a document tendered for filing. A certificate of service must consist of a statement, dated and signed by the person filing the document, that the document was personally delivered, served by certified mail on a specific date, or served by express courier on a specific date.

(2) The date of service is—

(i) The date of personal delivery;

(ii) If served by certified mail, the mailing date shown on the certificate of service, the date shown on the postmark if there is no certificate of service, or other mailing date shown by other evidence if there is no certificate of service or postmark; or

(iii) If served by express courier, the service date shown on the certificate of service, or by other evidence if there is no certificate of service.

(h) *Extension of time.* TSA may grant an extension of time to the limits set forth in this section for good cause shown. A repair station must request an extension of time in writing, and TSA must receive it at least two days before the due date in order to be considered. TSA may grant itself an extension of time for good cause.

### § 1554.203 Immediate risk to security; revocation of certificate and review process.

(a) *Notice.* The TSA designated official will determine whether any repair station poses an immediate risk to security. If such a determination is made, TSA will provide written notification of its determination to the repair station and to the FAA that the certificate must be revoked. The notification will include an explanation of the basis for the revocation. TSA does not include classified information or other information described in § 1554.205.

(b) *Petition for reconsideration.* The repair station may petition TSA to reconsider its determination by serving a petition for reconsideration no later than 20 calendar days after the repair station receives the notification. The repair station must serve the petition on the TSA designated official. Submission of a petition for reconsideration will not automatically stay the revocation. The repair station may request TSA to notify FAA to stay the revocation pending review of and decision on the petition. The petition must be in writing, in English, signed by the repair station operator or owner, and include—

(1) A statement that a review is requested; and

(2) A response to the determination of immediate risk to security, including any information TSA should consider in reviewing the basis for the determination.

(c) *Review by the Administrator.* The TSA designated official transmits the petition together with all relevant information to the Administrator for reconsideration. The Administrator will act on the petition within 15 calendar days of receipt by either directing the TSA designated official to notify FAA and the repair station that the determination is rescinded and the certificate may be reinstated or by affirming the determination. The decision by the Administrator constitutes a final agency order subject to judicial review in accordance with 49 U.S.C. 46110.

(d) *Service of documents.* Service may be accomplished by personal delivery, certified mail, or express courier. Documents served on a repair station will be served at its official place of business. Documents served on TSA must be served at the address contained in the written notice of revocation.

(1) A certificate of service may be attached to a document tendered for filing. A certificate of service must consist of a statement, dated and signed by the person filing the document, that the document was personally delivered, served by certified mail on a specific date, or served by express courier on a specific date.

(2) The date of service is—

(i) The date of personal delivery;

(ii) If served by certified mail, the mailing date shown on the certificate of service, the date shown on the postmark if there is no certificate of service, or other mailing date shown by other evidence if there is no certificate of service or postmark; or

(iii) If served by express courier, the service date shown on the certificate of service, or by other evidence if there is no certificate of service.

(e) *Extension of time.* TSA may grant an extension of time to the limits set forth in this section for good cause shown. A repair station must request an extension of time in writing, and TSA must receive it at least two days before the due date in order to be considered. TSA may grant itself an extension of time for good cause.

### § 1554.205 Nondisclosure of certain information.

In connection with the procedures under this subpart, TSA does not disclose classified information, as defined in Executive Order 12968, section 1.1(d), or any successor order, and TSA reserves the right not to disclose any other information or material not warranting disclosure or protected from disclosure under law or regulation.

Dated: January 7, 2014.

**John S. Pistole,**

*Administrator.*

[FR Doc. 2014–00415 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–05–P**

# Proposed Rules

Federal Register
Vol. 79, No. 8
Monday, January 13, 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.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[EPA–R08–OAR–2013–0801; FRL–9905–24-Region 8]**

## Approval and Promulgation of Air Quality Implementation Plans; Colorado; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions and additions to the Colorado State Implementation Plan (SIP) submitted by the Colorado Department of Public Health and the Environment (CDPHE) to EPA on May 25, 2011. The proposed SIP revision to Colorado Regulation Number 3 and the Common Provisions Regulation addresses the permitting of sources of greenhouse gases (GHGs). Specifically, we propose to approve revisions to Portions of Parts A, B and D of Regulation Number 3 to incorporate the provisions of the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas Tailoring Rule. The proposed SIP revisions establish emission thresholds for determining which new stationary sources and modifications to existing stationary sources become subject to Colorado's PSD permitting requirements for their GHG emissions. EPA is proposing to approve the May 25, 2011 SIP revision to the Colorado PSD permitting program as being consistent with federal requirements for PSD permitting. EPA also proposes to approve several grammar and punctuation changes to Regulation Number 3 made by the State and included in the May 25, 2011 submittal. EPA is proposing this action under the Clean Air Act (the Act or CAA).

**DATES:** Comments must be received on or before February 12, 2014.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2013–0801, by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: ostendorf.jody@epa.gov.*
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop St., Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–R08–OAR–2013–0801. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *http://www.regulations.gov* or email, if you believe that it is CBI or otherwise protected from disclosure. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD–ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jody Ostendorf, Air Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129, (303) 312–7814, *ostendorf.jody@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Information is organized as follows:

### Table of Contents

I. Background for Our Proposed Action
II. History of EPA's GHG-Related Actions
III. EPA's Analysis of the State's Submittal
IV. Proposed Action
V. Statutory and Executive Orders Review

### I. Background for Our Proposed Action

CAA section 110(a)(2)(C) requires states to develop and submit to EPA for approval into the state SIP preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants. There are three separate programs: PSD, Nonattainment New Source Review (NNSR), and Minor NSR. The PSD program is established in part

C of title I of the CAA and applies in areas that meet the National Ambient Air Quality Standards (NAAQS)—''attainment areas''—as well as areas where there is insufficient information to determine if the area meets the NAAQS—''unclassifiable areas.'' The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—''nonattainment areas.'' The Minor NSR program (1) addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source thresholds and thus do not qualify as ''major,'' and (2) applies regardless of the designation of the area in which a source is located. EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR 51.160–51.166.

On May 25, 2011, Colorado submitted revisions for approval by EPA into the Colorado SIP, including some regulations specific to the Colorado NSR PSD permitting program. For Part A, General Provisions Applicable to Reporting and Permitting, the State added new definitions of GHGs and carbon dioxide equivalent ($CO_2e$), incorporating by reference EPA's global warming potential (GWP) codified via the GHG Mandatory Reporting Rule (Sections I.B.10 and I.B. 23); revise the major source definition so that it applies to regulated NSR pollutants (which includes GHGs) as well as to air pollutants (which does not include GHG), so that GHG is addressed and the definition may be used to establish the mass-based GHG threshold (Section I.B.25.b); and revise annual emission fees to exclude GHGs (Section VI.D). The submittal also adds to Part A a new definition of Subject to Regulation consistent with the ''PSD and Title V Greenhouse Gas Tailoring Final Rule'' (75 FR 31514, June 3, 2010) hereafter referred to as the ''Tailoring Rule'' (Section I.B.44). The new definition of Subject to Regulation includes a rescission clause which states, ''If there is a change in federal law or the District of Columbia Circuit Court of Appeals or the United States Supreme Court directs or issues an order, which limits or renders ineffective the regulation of GHG emissions at stationary sources under the NSR PSD or Title V provisions of the Federal Act, the regulation of GHG emissions under the corresponding programs in this Regulation Number 3 shall be limited or rendered ineffective to the same extent'' (Section I.B.44.f). EPA interprets this clause to mean, 1) Colorado will wait for EPA's timely interpretation of a Court action; and, 2) Colorado will provide public notice of any rescission, based on a letter of clarification submitted to EPA on December 12, 2013.

In Part B, Construction Permits, the SIP revises the general permitting requirements to authorize the issuance of synthetic minor permits for GHGs if stationary sources choose to seek federally enforceable limits for GHGs, if they would otherwise be subject to PSD or Title V permitting programs (Section II.A.4 and II.A.7). In Part D, Major Stationary Source New Source Review (NSR) and Prevention of Significant Deterioration (PSD), the SIP revises the Definitions of ''best available control technology'' (BACT), ''major modification'' and ''major stationary source'' to use the term ''regulated NSR pollutant'' for consistency with the Tailoring Rule (Sections II.A.8, II.A.22, II.A.24.a, II.A.24.a.(ii) and II.A.24.b); and revise ''NSR Pollutant'' to be consistent with EPA's Tailoring Rule (Section II.A.38.e and II.A.38.f).

The SIP also added definitions to Section I.G. of the Common Provisions Regulation to include ''greenhouse gas'' and ''$CO_2e$,'' to be consistent with the federal definitions. Grammatical and punctuation changes to Regulation Number 3 were made by the State throughout Regulation Number 3 as documented in the May 25, 2011 submittal.

These revisions (1) establish that GHG is a regulated pollutant under Colorado's NSR PSD program, and (2) establish emission thresholds for determining which new stationary sources and modification projects become subject to Colorado's NSR PSD permitting requirements for their GHG emissions consistent with the Tailoring Rule. Today's proposed action presents our rationale for approving these regulations as meeting the minimum federal requirements for the adoption and implementation of NSR PSD SIP permitting programs.

## II. History of EPA's GHG-Related Actions

This section briefly summarizes EPA's recent GHG-related actions that provide the background for this action. Please see the preambles for the identified GHG-related rulemakings for more information.

Beginning in 2010, EPA undertook a series of actions pertaining to the regulation of GHGs that established the overall framework for today's proposed action on the Colorado SIP. These actions include, as they are commonly called, the ''Endangerment Finding'' and ''Cause or Contribute Finding,'' which EPA issued in a single final action,[1] the ''Johnson Memo Reconsideration,'' [2] the ''Light-Duty Vehicle Rule,'' [3] and the ''Tailoring Rule.'' [4] Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds for determining the applicability of PSD requirements to GHG-emitting sources.

At the same time, EPA recognized that many states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tons per year (tpy) of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule. Therefore, EPA issued the GHG PSD SIP Narrowing Rule,[5] under which, EPA converted its previous full approval of the affected SIPs, including Colorado's, to a partial approval and partial disapproval, to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the ''error correction'' provisions of CAA section 110(k)(6). Many of those states have since submitted SIP revisions that have established the Tailoring Rule thresholds, and EPA has approved those SIP revisions and rescinded the partial disapprovals.

## III. EPA's Analysis of the State's Submittal

These revisions to Colorado's SIP are necessary because without them, and notwithstanding the GHG PSD SIP Narrowing Rule, PSD requirements would apply, as of January 2, 2011, at

[1] ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act.'' 74 FR 66496 (December 15, 2009).

[2] ''Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs.'' 75 FR 17004 (April 2, 2010).

[3] ''Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule.'' 75 FR 25324 (May 7, 2010).

[4] Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule.'' 75 FR 31514 (June 3, 2010).

[5] ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting Sources in State Implementation Plans,'' 75 FR 82536 (December 30, 2010).

the 100- or 250-tpy levels provided under the CAA. This would greatly increase the number of required permits, impose undue costs on small sources and overwhelm Colorado's permitting program. The May 25, 2011 proposed revisions establish thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under Colorado's NSR PSD program. Colorado is currently a SIP-approved state for the PSD program, and has incorporated EPA's 2002 NSR reform revisions for PSD into its SIP.

Colorado has adopted and submitted regulations that are substantively similar to the federal requirements for the permitting of GHG-emitting sources subject to PSD. The revisions incorporate the Tailoring Rule into Colorado's PSD Permitting Programs, and support synthetic minor permitting at stationary sources seeking federally enforceable limits to avoid major source or major stationary source applicability thresholds specific to GHG. The State revisions add the definitions of GHG, $CO_2e$ and subject to regulation, revise the definitions of major source and regulated pollutant, allow for synthetic minor source permitting and make the Tailoring Rule effective January 2, 2011. We propose to conclude that the revisions are consistent with the requirements of 40 CFR 51.166, in particular requirements set out in EPA's final GHG Tailoring Rule, and that the revisions should be approved into Colorado's SIP.

The cover letter to Colorado's May 25, 2011 submittal identified the specific regulations the State requested that EPA approve into the SIP including grammatical and capitalization changes. The State made these minor changes to Parts A, B, and D of Regulation Number 3. These Parts of Colorado's Regulation Number 3 address the State's permitting and PSD program. However, grammatical changes were also made to Part C of the regulation. Part C is the State's Title V permitting program that is not part of the SIP. Since the State included these non-SIP regulatory changes, EPA is taking no action on changes made to Part C.

## IV. Proposed Action

EPA proposes to approve the May 25, 2011 submittal for incorporation into the SIP. Specifically, EPA proposes to approve revisions to Regulation Number 3 Parts A, B and D and the Common Provisions Regulation. EPA has made the preliminary determination that these May 25, 2011 revisions are approvable because they were adopted and submitted in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

Minor grammatical and capitalization changes made throughout the May 25, 2011 revisions are proposed for approval. These include minor changes to all sections to the following provisions in Regulation Number 3, Part A, Part B, and Part D. The changes do not revise the regulatory language in Regulation Number 3 and are, therefore, proposed for approval without reference. We are not acting on grammatical revisions to Part C of Regulation Number 3 since this is the State's Title V operating permit program and it is not part of the SIP.

## V. Statutory and Executive Orders Review

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 that meets federal requirements and disapproves state law that does not meet federal requirements; when finalized, this action would not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, and Volatile organic compounds.

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

Dated: December 20, 2013.

**Howard M. Cantor,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2014–00397 Filed 1–10–14; 8:45 am]

**BILLING CODE 6560–50–P**

# Notices

Federal Register
Vol. 79, No. 8
Monday, January 13, 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

### Office of the Secretary

### Tongass Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to establish an advisory committee and call for nominations.

**SUMMARY:** The Secretary of Agriculture intends to establish the Tongass Advisory Committee (Committee) pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2). The Committee is being established to provide advice and recommendations for developing an ecologically, socially, and economically sustainable forest management strategy on the Tongass National Forest with an emphasis on young growth management. Recommendations and advice may directly inform the development of a proposed action for modification of the 2008 Tongass Land Management Plan. The Secretary has determined that the work of the Committee is in the public interest and relevant to the duties of the Department of Agriculture. The Committee will be solely advisory in nature. All activities of the Committee will be conducted in an open, transparent, and accessible manner. Therefore, the Secretary is seeking nominations to fill 15 vacancies, with a term up to two years. The public is invited to submit nominations for membership either as a self-nomination or a nomination of any qualified and interested person.

**DATES:** Written nominations must be received by February 27, 2014. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed form AD–755 (Advisory Committee or Research and Promotion Background Information). The form AD–755 may be obtained from the Forest Service contact person or from the following Web site: *http://www.ocio.usda.gov/forms/doc/AD-755_Master_2012_508%20Ver.pdf.* The package must be sent to the address below.

**ADDRESSES:** Send nominations and applications to Nicole McMurren, Tongass Advisory Committee Coordinator, U.S. Department of Agriculture, Forest Service, Tongass National Forest, P.O. Box 309, Petersburg, AK 99833–0309.

**FOR FURTHER INFORMATION CONTACT:** Nicole McMurren, U.S. Forest Service, Petersburg, AK 99833; telephone: 907–772–5875, email: *nmcmurren@fs.fed.us.* Individuals who use telecommunications devices or the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

#### Background

In accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C., App. 2), the Secretary of Agriculture intends to establish the Tongass Advisory Committee. The Committee will be a discretionary advisory committee. The Committee will operate under the provisions of FACA and will report to the Secretary of Agriculture through the Chief of the Forest Service.

The purpose of the Committee is to advise the Secretary of Agriculture, through the Chief of the Forest Service, by providing advice and recommendations for developing an ecologically, socially, and economically sustainable forest management strategy on the Tongass National Forest with an emphasis on young growth management. Recommendations and advice may directly inform the development of a proposed action for modification of the 2008 Tongass Land Management Plan.

#### Advisory Council Organization

The Council will be comprised of not more than 15 members. The members appointed to the Committee will be familiar with the ecological, social, and economic issues impacting Southeast Alaska.

Members shall be appointed by the Secretary of Agriculture as follows:

i. Federally Recognized Tribes, Alaska Native Organizations and/or Alaska Native Corporation representatives;

ii. National or regional environmental and/or conservation organizations;

iii. Timber industry representatives;

iv. Federal, State and local government representatives; and

v. Other commercial users, those holding land use permits or the public at large.

Three members and one alternate will be selected for each interest group. Of these members, one will become the Chairperson who is recognized for their ability to lead a group in a fair and focused manner and who has been briefed on the mission of this Committee. The Secretary appoints the Chairperson. No individual who is currently registered as a Federal lobbyist is eligible to serve as a member of the Committee. The Council will meet as often as necessary to complete its work, perhaps as frequently as every month.

The appointment of members to the Committee is made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the above vacancies on the Tongass Advisory Committee. Individuals may also nominate themselves. To be considered for membership, nominees must provide—

1. Resume describing qualifications for membership to the Committee;

2. Cover letter with a rationale for serving on the Committee and what they can contribute;

3. Show their past experience in working successfully as part of a coordinating group; and

4. Complete Form AD–755, Advisory Committee or Research and Promotion Background Information.

5. Letters of recommendation are welcome.

All nominations will be vetted by U.S. Department of Agriculture (USDA). A list of qualified applicants from which the Secretary of Agriculture shall appoint to the Tongass Advisory Committee will be prepared. Applicants are strongly encouraged to submit nominations priority mail via United States Post Office to ensure timely receipt by the USDA. Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee,

subject to approval by the Designated Federal Officer (DFO).

Equal opportunity practices, in accordance with USDA policies shall be followed in all appointments to the Committee. To ensure that the recommendation of the Committee have taken into account the needs of the diverse groups served by the Departments, membership should include, to the extent practicable, individuals with demonstrated ability to represent all racial and ethnic groups, women and men, and persons with disabilities.

Dated: December 30, 2013.

**Malcolm A. Shorter,**

*Deputy Assistant Secretary for Administration.*

[FR Doc. 2014–00326 Filed 1–10–14; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Forest Resource Coordinating Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Call for nominations.

**SUMMARY:** The Department of Agriculture is seeking nominations for the Forest Resource Coordinating Committee (Committee) pursuant to Section 8005 of the Food, Conservation, and Energy Act of 2008 (Act) (Pub. L. 110–246), and the Federal Advisory Committee Act (FACA), (5 U.S.C. App. 2). Additional information on the Committee can be found by visiting the Committee's Web site at: *http://www.fs.fed.us/spf/coop/frcc/.*

**DATES:** Written nominations must be received by February 12, 2014. Nominations must contain a completed application packet that includes the nominee's name, resume, and completed Form AD–755 (Advisory Committee or Research and Promotion Background Information). The package must be sent to the address below.

**ADDRESSES:** Maya Solomon, USDA Forest Service, Office of Cooperative Forestry, Yates Federal Building, 201 14th Street SW., mail stop 1123, Washington, DC 20024 by express mail delivery or overnight courier service. Nominations sent via the U.S. Postal Service must be sent to the following address: USDA Forest Service; Office of Cooperative Forestry, State & Private Forestry; mail stop 1123; 1400 Independence Avenue SW., Washington, DC 20250–1123.

**FOR FURTHER INFORMATION CONTACT:** Maya Solomon, Forest Resource Coordinating Committee Program Coordinator, Telephone: (202) 205–1376 or Karl Dalla Rosa, Designated Federal Officer, Telephone: (202) 205–6206. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 5 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:**

#### Background

In accordance with the provisions of FACA, the Secretary of Agriculture is seeking nominations to fill vacant positions in the State Forester and the Forest Industry categories. The purpose of the Committee is to continue providing direction and coordination of actions within the Department of Agriculture, and coordination with State agencies and the private sector, to effectively address the national priorities for private forest conservation, with specific focus on owners of non-industrial private forest land as described in Section 8005 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246). These priorities include:

1. Conserving and managing working forest landscapes for multiple values and uses.

2. Protecting forests from threats, including catastrophic wildfires, hurricanes, tornadoes, windstorms, snow or ice storms, flooding, drought, invasive species, insect or disease outbreak, or development, and restoring appropriate forest types in response to such threats, and

3. Enhancing public benefits from private forests, including air and water quality, soil conservation, biological diversity, carbon storage, forest products, forestry-related jobs, production of renewable energy, wildlife, wildlife corridors and wildlife habitat, and recreation.

#### Vacancy

A representative for the State Foresters category representing the Southern States will be appointed by the Secretary to a 3-year term. Representatives for the Forest Industry category representing anywhere in the United States will be appointed by the Secretary to a 3-year term. Vacancies will be filled in the manner in which the original appointment was made.

#### Nomination and Application Instructions

The nominees, for the State Forester position, must be associated with organizations, located in one of the Southern States and Territories (Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, Puerto Rico, and the U.S. Virgin Islands), and be willing to represent that sector as it relates to non-industrial private forestry. Nominees, for the Forest Industry position, may be located anywhere in the United States and must be associated with industrial forestry companies. The public is invited to submit nominations for membership on the Forest Resource Coordinating Committee, either as a self-nomination or a nomination of any qualified and interested person. The appointment of members to the Committee is made by the Secretary of Agriculture. Any individual or organization may nominate one or more qualified persons to represent the above vacancy on the Forest Resource Coordinating Committee. To be considered for membership, nominees must—

1. Resume describing qualifications on how they are qualified to represent the unoccupied vacancy;

2. State why they want to serve on the committee and what they can contribute;

3. Show their past experience in working successfully as part of a coordinating group; and

4. Complete Form AD–755, Advisory Committee or Research and Promotion Background Information. The form AD–755 may be obtained from the Forest Service contacts or from the following Web site: *http://www.usda.gov/documents/OCIO_AD_755_Master_2012.pdf.*

5. Letters of recommendation are welcome.

All nominations will be vetted by USDA. Individuals may also nominate themselves. A list of qualified applicants from which the Secretary of Agriculture shall appoint to the Forest Resource Coordinating Committee will be prepared. Applicants are strongly encouraged to submit nominations via overnight mail or delivery to ensure timely receipt by the USDA. Members of the Committee will serve without compensation, but may be reimbursed for travel expenses while performing duties on behalf of the Committee, subject to approval by the DFO.

Equal opportunity practices, in line with USDA policies, will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have been taken into account the needs of the diverse groups served by the Departments, membership should include, to the extent practicable, individuals with demonstrated ability to represent all racial and ethnic groups,

women and men, and persons with disabilities.

Dated: December 30, 2013.

**Malcolm A. Shorter,**

*Deputy Assistant Secretary for Administration.*

[FR Doc. 2014–00336 Filed 1–10–14; 8:45 am]

**BILLING CODE 3410–11–P**

## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Emergency Food Assistance Program; Availability of Foods for Fiscal Year 2014

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the surplus and purchased foods that the Department expects to make available for donation to States for use in providing nutrition assistance to the needy under The Emergency Food Assistance Program (TEFAP) in Fiscal Year (FY) 2014. The foods made available under this notice must, at the discretion of the State, be distributed to eligible recipient agencies (ERAs) for use in preparing meals and/or for distribution to households for home consumption.

**DATES:** *Effective Date:* October 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Anne Fiala, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594 or telephone (703) 305–2662.

**SUPPLEMENTARY INFORMATION:** In accordance with the provisions set forth in the Emergency Food Assistance Act of 1983 (EFAA), 7 U.S.C. 7501, *et seq.,* and the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Department makes foods available to States for use in providing nutrition assistance to those in need through TEFAP. In accordance with section 214 of the EFAA, 7 U.S.C. 7515, 60 percent of each State's share of TEFAP foods is based on the number of people with incomes below the poverty level within the State and 40 percent on the number of unemployed persons within the State. State officials are responsible for establishing the network through which the foods will be used by ERAs in providing nutrition assistance to those in need, and for allocating foods among those ERAs. States have full discretion in determining the amount of foods that will be made available to ERAs for use in preparing meals and/or for distribution to households for home consumption.

The types of foods the Department expects to make available to States for distribution through TEFAP in FY 2014 are described below.

#### Surplus Foods

Surplus foods donated for distribution under TEFAP are Commodity Credit Corporation (CCC) foods purchased under the authority of section 416 of the Agricultural Act of 1949, 7 U.S.C. 1431 (section 416) and foods purchased under the surplus removal authority of section 32 of the Act of August 24, 1935, 7 U.S.C. 612c (section 32). The types of foods typically purchased under section 416 include dairy, grains, oils, and peanut products. The types of foods purchased under section 32 include meat, poultry, fish, vegetables, dry beans, juices, and fruits.

Approximately $109.5 million in surplus foods acquired in FY 2013 are being delivered to States in FY 2014. These foods include blueberries, catfish, chicken leg quarters, cranberry juice, lamb (leg, shoulder), strawberries, and turkey (whole, breast, sliced). Other surplus foods may be made available to TEFAP throughout the year. The Department would like to point out that food acquisitions are based on changing agricultural market conditions; therefore, the availability of foods is subject to change.

#### Purchased Foods

In accordance with section 27 of the Food and Nutrition Act of 2008, 7 U.S.C. 2036, the Secretary is directed to purchase $268.75 million worth of foods in FY 2014 for distribution through TEFAP. These foods are made available to States in addition to those surplus foods which otherwise might be provided to States for distribution under TEFAP.

For FY 2014, the Department anticipates purchasing the following foods for distribution through TEFAP: dehydrated potatoes, dried plums, raisins, frozen ground beef, frozen whole chicken, frozen ham, frozen turkey roast, blackeye beans, garbanzo beans, great northern beans, light red kidney beans, lentils, lima beans, pinto beans, egg mix, shell eggs, lowfat bakery flour mix, egg noodles, white and yellow corn grits, spaghetti, macaroni, oats, peanut butter, roasted peanuts, white and brown rice, whole grain rotini, whole grain spaghetti, whole grain macaroni, vegetable oil, ultra high temperature fluid one percent milk, shredded wheat, bran flakes, corn flakes, oat cereal, rice cereal, corn cereal, and corn and rice cereal; the following canned items: low sodium blackeye beans, low sodium green beans, low sodium light red kidney beans, low sodium refried beans, low sodium vegetarian beans, low sodium carrots, low sodium cream corn, no salt added whole kernel corn, low sodium peas, low sodium sliced potatoes, no salt added pumpkin, low sodium spaghetti sauce, low sodium spinach, sweet potatoes with extra light syrup, no salt added whole and diced tomatoes, low sodium tomato sauce, low sodium mixed vegetables, low sodium tomato soup, low sodium vegetable soup, reduced sodium cream of chicken soup, reduced sodium cream of mushroom soup, apricots with extra light syrup, unsweetened applesauce, mixed fruit with extra light syrup, cling peaches with extra light syrup, pears with extra light syrup, beef, beef stew, chicken, pork, and salmon; and the following bottled juices: unsweetened apple juice, unsweetened cherry apple juice, unsweetened cran-apple juice, unsweetened grape juice, unsweetened grapefruit juice, unsweetened orange juice, and unsweetened tomato juice. The amounts of each item purchased will depend on the prices the Department must pay, as well as the quantity of each item requested by the States. Changes in agricultural market conditions may result in the availability of additional types of foods or the non-availability of one or more types listed above.

Dated: December 30, 2013.

**Audrey Rowe,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 2014–00325 Filed 1–10–14; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Food Safety and Inspection Service

**[Docket No. FSIS–2013–0040]**

### Notice of Request for Renewal of a Currently Approved Information Collection (Specified Risk Materials)

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, this notice announces the Food Safety and Inspection Service's (FSIS) intention to request a renewal of a currently approved information collection regarding specified risk materials

(SRMs) in cattle because the OMB approval will expire on March 31, 2014.

**DATES:** Comments on this notice must be received on or before March 14, 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–2013–0040. 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:** Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250; Telephone: (202) 690–6510.

**SUPPLEMENTARY INFORMATION:**

*Title:* Specified Risk Materials.

*OMB Number:* 0583–0129.

*Expiration Date of Approval:* 3/31/2014.

*Type of Request:* Revision of a currently approved information collection.

*Abstract:* FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, et seq.). This statute provides that FSIS is to protect the public by verifying that meat products are safe, wholesome, not adulterated, and properly labeled and packaged.

FSIS is requesting renewal of an approved information collection addressing paperwork requirements regarding the regulations relating to SRMs in cattle because the OMB approval will expire on March 31, 2014.

FSIS requires official establishments that slaughter cattle or process carcasses or parts of cattle to develop written procedures for the removal, segregation, and disposition of SRMs. The Agency requires that these establishments maintain daily records to document the implementation and monitoring of their procedures for the removal, segregation, and disposition of SRMs and any corrective actions that they take to ensure that the procedures are effective (9 CFR 310.22).

FSIS also requires official slaughter establishments that transport carcasses or parts of cattle containing vertebral columns from cattle 30 months of age and older to another federally inspected establishment for further processing to maintain records verifying that the official establishment that received the carcasses or parts, removed and properly disposed of the portions of the vertebral column designated as SRMs (9 CFR 310.22(g)).

This monitoring and recordkeeping is necessary for establishments to further ensure—and for FSIS to verify—that meat and meat products distributed in commerce for use as human food do not contain SRMs.

FSIS has made the following estimates for the renewal information collection:

*Estimate of Burden:* FSIS estimates that it will take respondents an average of approximately .12 hours per response.

*Respondents:* Official establishments that slaughter cattle or process parts of cattle.

*Estimated No. of Respondents:* 3,512.

*Estimated No. of Annual Responses per Respondent:* 303.

*Estimated Total Annual Burden on Respondents:* 123,916 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250; Telephone: (202) 690–6510.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may be sent to both FSIS, at the addresses provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

Responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**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.

**USDA Nondiscrimination Statement**

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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.

Dated: January 8, 2014.

**Alfred V. Almanza,**

*Administrator.*

[FR Doc. 2014–00377 Filed 1–10–14; 8:45 am]

**BILLING CODE 3410–DM–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* U.S. Census Bureau.

*Title:* Annual Capital Expenditures Survey (ACES).

*OMB Control Number:* 0607–0782.

*Form Number(s):* ACE–1(S), ACE–1(M), ACE–1(L), ACE–1(I), ACE–2, ACE–2(I).

*Type of Request:* Revision of a currently approved collection.

*Burden Hours:* 146,570.

*Number of Respondents:* 75,000.

*Average Hours per Response:* 2 hours.

*Needs and Uses:* A major concern of economic policymakers is the adequacy of investment in plant and equipment. Data on the amount of business expenditures for new plant and equipment and measures of the stock of existing facilities are critical to evaluating productivity growth, the ability of U.S. businesses to compete with foreign businesses, changes in industrial capacity, and overall economic performance. The ACES is the sole source of detailed comprehensive statistics on investment in buildings and other structures, machinery, and equipment by private nonfarm businesses in the United States.

Data users tell us that they need comprehensive and consistent data on investment by all private nonfarm businesses, by industry, by kind of investment, i.e., whether in new or used structures or equipment. The objectives of the ACES are:

(a) To provide estimates of capital expenditures for all private nonfarm sectors of the economy by 3-digit and selected 4-digit North American Industry Classification System (NAICS) levels;

(b) to base the survey on a probability sample that yields measures of the statistical reliability of the survey estimates;

(c) to develop a base survey to benchmark more frequent surveys on capital expenditures that do not have complete industry coverage;

(d) to produce annual enterprise-level data with the level of detail, coverage, and quality, which previously was only available as part of the quinquennial economic census;

(e) to provide detail on capital expenditures for estimating the national income and product accounts, estimating the productivity of U.S. industries, evaluating fiscal and monetary policy, and conducting research using capital expenditures data; and

(f) to provide industry analysts with capital expenditures data for market analysis, economic forecasting, product development, and business planning.

This request is for continuation of a currently approved collection and will cover the 2013 through 2015 ACES (conducted in fiscal years 2014 through 2016). Changes from the previous ACES authorization are the elimination of detailed capital expenditures by type of structure and equipment. These data, collected every five years, were last collected in the 2012 ACES and will not be collected again until the 2017 ACES.

We will collect and publish data based on the 2012 NAICS. Industries in the survey will comprise 3-digit and 4-digit 2012 NAICS codes.

For the 2012 and prior ACES data collection; the Census Bureau used mail out/mail back survey forms to collect data. Companies were able to respond via Centurion (The Census Bureau's online reporting system), by mail, or by using our toll-free number to reply via secure facsimile machine. We asked companies to respond to the survey within 30 days of the initial mailing. If companies did not respond by the designated time, they received letters and/or telephone calls encouraging participation.

Employer companies were mailed one of three forms based on their diversity of operations and number of industries with payroll. Companies that operated in only one industry received an ACE–1(S) form. Companies that operated in more than one, but less than nine industries received an ACE–1(M) form. Companies that operated in nine or more industries received an ACE–1(L). All nonemployer companies received an ACE–2 form.

For the 2013 ACES collection, the Census Bureau will collect the data from employer companies primarily through electronic reporting. Employer companies will receive a mailed notification letter containing their User ID and password, and directed to respond via Centurion through the Census Bureau's Business Help Site. The online reporting instrument is an electronic version of the paper data collection instrument, and based on their diversity of operations and number of industries with payroll. Companies operating in only one industry will access an ACE–1(S) form or electronic instrument. Companies operating in more than one, but less than nine industries will access an ACE–1(M) form or electronic instrument. Companies that operate in nine or more industries will access an ACE–1(L) form or electronic instrument. Companies will be able to print the form through online services or request a paper form by mail.

The Census Bureau will continue to use mail out/mail back survey forms to collect data from nonemployer companies. All nonemployer companies will receive an ACE–2 form. Nonemployer companies will have the option to respond by mail or online through the Census Bureau's Business Help Site using the User ID and password provided to them on their form.

The Census Bureau will continue to ask both companies with employees and nonemployer companies to respond to the survey within 30 days. Reminder letters and/or telephone calls encouraging participation will continue to all companies that have not responded by the designated time.

For the 2014 and 2015 ACES data collection, the Census Bureau will determine whether to use the same data collection strategy based upon the electronic response rate of the employer companies for the 2013 ACES.

All ACE–1 forms request sales and receipts information to calculate industry investment to sales ratios and to assist in verifying that consolidated company data are being reported. Asset and depreciation information, also collected, assists in measuring changes in the Nation's capital stock estimates.

Capital expenditures data are also collected annually from a sample of non-employer businesses using Form ACE–2. This collection is intended to better represent the total capital expenditures activity of all firms.

The ACES is an integral part of the Federal Government's effort to improve the quality and usefulness of National economic statistics. Federal agencies,

including the Census Bureau, use these data to improve and supplement ongoing statistical programs.

The Census Bureau uses these data to improve the quality of monthly economic indicators of investment. The Census Bureau's Value of New Construction Put in Place Survey currently uses the ACES data to benchmark its industrial buildings data. The Bureau of Economic Analysis (BEA) uses these data in refining and evaluating annual estimates of investment in structures and equipment in the national income and product accounts, compiling annual input-output tables, and computing gross domestic product by industry. The Federal Reserve Board (FRB) uses these data to improve estimates of investment indicators for monetary policy. The Bureau of Labor Statistics (BLS) uses these data to improve estimates of capital stocks for productivity analysis.

In addition, industry analysts use these data for market analysis, economic forecasting, product development, and business planning.

*Affected Public:* Businesses or other for-profit: Not-for-profit institutions.

*Frequency:* Annually.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* The Census Bureau conducts this survey under the authority of Title 13 of the United States Code, Sections 131 and 182. Sections 224 and 225 make the survey mandatory.

*OMB Desk Officer:* Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or email (*bharrisk@omb.eop.gov*).

Dated: January 7, 2014.

**Glenna Mickelson,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2014–00321 Filed 1–10–14; 8:45 am]

**BILLING CODE 3510–07–P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Alaska Crab Cost Recovery.

*OMB Control Number:* 0648–0570.

*Form Number(s):* NA.

*Type of Request:* Regular submission (revision and extension of a current information collection.

*Number of Respondents:* 44.

*Average Hours per Response:* Registered crab receiver fee submission form, 30 minutes. Ex-vessel value and volume report, 2 hours.

*Burden Hours:* 110.

*Needs and Uses:* This request is for revision and extension of a current information collection. Fishery Management Plans (FMP) are developed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) The FMP for Bering Sea and Aleutian Islands (BSAI) Crab includes the Crab Rationalization (CR) Program, a limited access system that allocates BSAI Crab resources among harvesters, processors, and coastal communities. The intent of the Alaska Crab Cost Recovery is to monitor crab landings in the BSAI crab fisheries through receipt of reports and provide for cost recovery payment of fees for all CR crab received.

Revision: The Eligible Crab Community Organization annual report has been moved to OMB Control No. 0648–0514, Alaska Region Bering Sea and Aleutian Island Crab Permits, as that collection is a better fit.

*Affected Public:* Businesses or other for-profit organizations.

*Frequency:* Annually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer: OIRA_Submission@omb.eop.gov.*

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov).*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov.*

Dated: January 7, 2014.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2014–00294 Filed 1–10–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Order No. 1924]**

### Expansion of Foreign-Trade Zone 277 Under Alternative Site Framework; Western Maricopa County, Arizona

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas,* the Board adopted the alternative site framework (ASF) (15 CFR Sec. 400.2(c)) as an option for the establishment or reorganization of zones;

*Whereas,* Greater Maricopa Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 277, submitted an application to the Board (FTZ Docket B–89–2012, docketed 12–12–2012) for authority to expand under the ASF to include a new magnet site, proposed Site 7, expand existing Site 5 to include additional acreage and be designated as a magnet site, and designate Site 6 as a usage-driven site, adjacent to the Phoenix, Arizona U.S. Customs and Border Protection port of entry;

*Whereas,* notice inviting public comment was given in the **Federal Register** (77 FR 75144–75145, 12–19–2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

*Whereas,* the Board adopts the findings and recommendation of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied;

*Now, therefore,* the Board hereby orders:

The application to expand FTZ 277 under the ASF is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the zone, to a five-year ASF sunset provision for magnet sites that would terminate authority for Site 5 and Site 7 if not activated by December 31, 2018, and to a three-year ASF sunset provision for usage-driven sites that would terminate authority for Site 6 if

no foreign-status merchandise is admitted for a *bona fide* customs purpose by December 31, 2016.

Signed at Washington, DC, this 23rd day of December 2013.

**Paul Piquado,**

*Assistant Secretary of Commerce for Enforcement and Compliance, Alternate Chairman, Foreign-Trade Zones Board.*

ATTEST:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2014–00396 Filed 1–10–14; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD073**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) will hold a 3-day meeting on January 28–30, 2014 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ).

**DATES:** The meeting will be held on Tuesday, Wednesday and Thursday, starting at 9 a.m. on Tuesday, January 28; and 8:30 a.m. on Wednesday and Thursday, January 29 and 30.

**ADDRESSES:** The meeting will be held at the Sheraton Harborside Hotel, 250 Market Street, Portsmouth, NH 03801; telephone: (603) 431–2300; and online at *www.sheratonportsmouth.com/*.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

**Tuesday, January 28, 2014**

The meeting will begin on the first day with introductions by the Chairman, and brief reports from the NEFMC Chairman and Executive Director, the Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel, and representatives of the Atlantic States Marine Fisheries Commission and staff from NOAA Law Enforcement. The Council also will receive an update from its Electronic Monitoring Working Group. Next, the Chairman will lead a discussion about the draft House of Representatives Magnuson-Stevens Act reauthorization bill. The Council will then receive an update on the development of the Draft Environmental Impact Statement associated with Omnibus EFH Amendment 2. A report from the Monkfish Committee will follow and address final approval of measures proposed for inclusion in Framework 8 to the Monkfish Fishery Management Plan (FMP). These include specifications for acceptable biological catch (ABC), annual catch targets, days-at-sea, trip limits for the 2014–16 fishing years and modifications to the permit category H boundaries. The Council intends to approve specifications for spiny dogfish for fishing years 2014–15. Measures being considered include specifications for ABC, an annual catch target, trip limits and the research-set aside catch limit. The day will conclude with final approval of Framework Adjustment 2 to the Northeast Skate Complex FMP, including harvest specifications, possession limits, and Vessel Trip Reporting and dealer code provisions. The Council also may consider approval of a control date for the skate wing fishery before meeting adjournment for the day.

**Wednesday, January 29, 2014**

Final approval of Scallop Fishery Management Plan Framework 25 will be considered at this meeting. The action includes specifications for fishing years 2014–15 (default), accountability measures for Southern New England/Mid-Atlantic windowpane flounder and measures to address unused fishing year 2012 and/or 2013 Closed Area I access trips. Following a lunch break, the Council will receive a presentation from the Northeast Fisheries Science Center on a process that considers an empirical approach for estimating the stock size of Georges Bank yellowtail flounder. There will be an update on Amendment 18 to the Northeast Multispecies FMP to include an overview of progress to develop measures to promote fleet diversity, enhance sector management, promote resilience and stability of fishing businesses, and prevent excessive shares in the fishery. A second presentation by staff from the Northeast Fisheries Science Center, this time from the Social Sciences Branch, will address the performance of the groundfish fishery in fishing year 2012.

**Thursday, January 30, 2014**

The Herring Committee will ask the Council to initiate action and provide guidance on Framework Adjustment 4 to the Atlantic Herring FMP. The framework will include alternatives to address several of the disapproved elements of Amendment 5 to the FMP (dealer weighing requirements and measures to address net slippage). The Council will review recommendations from the Herring Committee and Advisory Panel and provide guidance regarding the development of the framework. Provisions to potentially be included in an Omnibus Amendment that would address industry-funded monitoring will be considered next on the meeting agenda. The Council will be asked to review and approve draft alternatives for further analysis in this NMFS-led effort to establish provisions for industry-funded monitoring across all fisheries. (The Council also will consider related Herring Committee recommendations). Alternatives in this amendment include provisions that delineate cost-sharing between the government and fishing industry, a process for prioritizing additional monitoring needs, observer coverage targets for the Atlantic herring and mackerel fisheries (disapproved from Herring Amendment 5 and Squid, Mackerel, Squid and Butterfish Amendment 14), and provisions for approving service providers. This item will be followed by a review of the findings on swordfish and bluefin tuna contained in the full report from the November 2013 International Commission for the Conservation of Atlantic Tunas meeting in South Africa.

Prior to a lunch break, there also will be an open public comment period during which any interested party may provide brief remarks on issues relevant to Council business but not listed on the meeting agenda. Once it reviews public comments and ad hoc committee recommendations, the Council is also scheduled to approve an Omnibus Amendment that would modify New England and Mid-Atlantic FMPs with respect to Standardized Reporting Methodology. The day will conclude with a report from the Enforcement Committee concerning restrictions for hidden compartments aboard fishing vessels and requirements for having fish totes onboard; a report on VMS satellite availability; an update on implementation of alternative net covers which would allow the towing wires to remain attached to trawl doors during closed area transit; and progress on lobster gear marking using information

provided by the Atlantic States Marine Fisheries Commission.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: January 7, 2014.

**Tracey L. Thompson,**

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

[FR Doc. 2014–00317 Filed 1–10–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648–XD074**

### Western Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council (Council) will hold the First Meeting of its Protected Species Advisory Committee (PSAC) in Honolulu, HI.

**DATES:** The PSAC meeting will be held on Tuesday, January 28, 2014, from 9 a.m. to 5 p.m. and Wednesday, January 29, 2014, from 8:30 a.m. to 12 noon.

**ADDRESSES:** The meeting will be held at the Council Office Conference Room, 1164 Bishop Street, Suite 1400, Honolulu, HI; telephone: (808) 522–8220.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

**SUPPLEMENTARY INFORMATION:** The PSAC will review current and emerging protected species issues related to federal fisheries management as well as the Council's 5-year Program Plan and Research Priorities. The Committee may make recommendations on these topics.

**Agenda**

*9 a.m., Tuesday, January 28, 2014*

1. Introduction
2. Approval of the Agenda
3. Overview of the Council's Fisheries and Protected Species Issues
4. Review of Current and Future Fishery Management Measures
5. Committee Discussion on Current and Emerging Protected Species Issues Related to Fisheries Management

*8:30 a.m., Wednesday, January 29, 2014*

6. Council's Protected Species Program and Research Priority Planning
7. Other Business and Next Meeting
8. Public Comment
9. Committee Discussion and Recommendations

The order in which agenda items are addressed may change. The Committee will meet as late as necessary to complete scheduled business.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: January 8, 2014.

**Tracey L. Thompson,**

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

[FR Doc. 2014–00354 Filed 1–10–14; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DoD–2014–HA–0005]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Health Affairs, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 14, 2014.

**ADDRESSES:** You may submit comments, identified by docket number 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, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, TRICARE Overseas Program Office, ATTN: Ms. Kimberly Stakes,

7700 Arlington Boulevard, Suite 5101, Falls Church, VA 22042–5101, or call 703–681–0039.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Women, Infants and Children Overseas Participant Satisfaction Survey; OMB Control Number 0720–0046.

*Needs and Uses:* The information collection requirement is necessary to obtain the participant's satisfaction levels with the services provided by the WIC overseas staff and the overall program. The findings from the surveys will be used to determine the success of the WIC overseas program and if improvements are necessary.

*Affected Public:* Individual or Households

*Annual Burden Hours:* 37.5

*Number of Respondents:* 150

*Responses per Respondent:* 1

*Average Burden per Response:* 15 minutes

*Frequency:* On occasion

Respondents are individuals who are currently receiving WIC overseas services. The purpose of the WIC overseas survey is to assess the participant's satisfaction level with the services provided by the WIC overseas staff and the overall program. The survey includes questions regarding site access, customer service, quality of health information and overall program satisfaction. The findings of these surveys will be used to determine the success of the WIC overseas program and if improvements are necessary. The WIC overseas program is a legislatively mandated program and it is anticipated that the program will continue indefinitely. As such, DoD is publishing this formal notice.

Dated: January 8, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–00361 Filed 1–10–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID DoD–2014–HA–0004]**

### Proposed Collection; Comment Request

**AGENCY:** Office of the Assistant Secretary of Defense for Health Affairs, DoD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by March 14, 2014.

**ADDRESSES:** You may submit comments, identified by docket number 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, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at http://www.regulations.gov for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, Medical Benefits and Reimbursement Systems, 16401 East Centretech Parkway, ATTN: Elan Green, Aurora, CO 80011–9043, or call Defense Health Agency, Medical Benefits and Reimbursement Office, at (303) 676–3907.

**SUPPLEMENTARY INFORMATION:**

*Title; Associated Form; and OMB Number:* Application for TRICARE-Provider Status: Corporation Services Provider; DD Form X644; OMB Number 0720–0020.

*Needs and Uses:* The information collection requirement is necessary to allow eligible providers to apply for Corporate Services Provider status under the TRICARE program.

*Affected Public:* Business or other for profit; Not-for-profit institutions.

*Annual Burden Hours:* 100.

*Number of Respondents:* 300.

*Responses Per Respondent:* 1.

*Average Burden per Response:* 20 minutes.

*Frequency:* On occasion.

On March 10, 1999, TRICARE Management Activity (TMA), formerly known as OCHAMPUS, published a final rule in the **Federal Register** (64 FR 11765), creating a fourth class of TRICARE providers consisting of freestanding corporations and foundations that render principally professional ambulatory or in-home care and technical diagnostic procedures. Effective October 1, 2013, the TRICARE Management Activity is now the Defense Health Agency (DHA). The intent of the rule was not to create additional benefits that ordinarily would not be covered under TRICARE if provided by a more traditional healthcare delivery system, but rather to allow those services which would otherwise be allowed except for an individual provider's affiliation with a freestanding corporate facility. The addition of the corporate class recognized the current range of providers within today's health care delivery structure, and gave beneficiaries access to another segment of the health care delivery industry. Corporate services providers must be approved for Medicare payment, or when Medicare approval status is not required, be accredited by a qualified accreditation organization to gain provider authorization status under TRICARE. Corporate services providers must also enter into a participation agreement which will be sent out as part of the initial authorization process. The participation agreement will ensure that TRICARE-determined allowable payments, combined with the costshare/copayment, deductible, and other health insurance amounts, will be accepted by the provider as payment in full. The application for TRICARE-Provider Status: Corporate Services Provider, will collect the necessary information to ensure that the conditions are met for authorization as a TRICARE corporate services provider: i.e., the provider (1) is a corporation or a foundation, but not a

professional corporation or professional association; (2) provides services and related supplies of a type rendered by TRICARE individual professional providers or diagnostic technical services; (3) is approved for Medicare payment or, when Medicare approval status is not required, is accredited by a qualified accreditation organization; and (4) has entered into a participation agreement approved by the Director, DHA or a designee.

The collected information will be used by TRICARE contractors to process claims and verify authorized provider status. Verification involves collecting and reviewing copies of the provider's licenses, certificates, accreditation documents, etc. If the criteria are met, the provider is granted TRICARE authorization status. The documentation and information are collected when: (1) A provider requests permission to become a TRICARE-authorized provider; (2) a claim is filed for care received from a provider who is not listed on the contractors' computer listing of authorized providers; or (3) when a former TRICARE-authorized provider requests reinstatement. The contractors develop the forms used to gather information based on TRICARE conditions for participation listed above. Without the collection of this information, contractors cannot determine if the provider meets TRICARE-authorization requirements for corporate services providers. If the contractor is unable to verify that a provider meets these authorization requirements, the contractor may not reimburse either the provider or the beneficiary for the provider's health care services. To reduce the reporting burden to a minimum, TRICARE has carefully selected the information requested from respondents. Only that information which has been deemed absolutely essential is being requested. If necessary, contractors may verify credentials with Medicare, JCAHO and other national organizations by telephone. TRICARE is also participating with Medicare in the development of a National Provider System which will eliminate duplication of provider certification data collection among Federal government agencies. TRICARE contractors are required to maintain a computer listing of all providers that have submitted the appropriate authorization information and documentation. To avoid duplicate inquires, the contractors must search the computer provider listing before requesting documentation from providers. Since the providers affected by this information collection generally have not previously been eligible to be authorized providers, TRICARE contractors will have no information on file. The providers will have to submit the information requested on the data collection form (Application for TRICARE-Providers Status: Corporate Services Provider) in order to obtain provider authorization status under TRICARE. The information will usually be collected from each respondent only once. It is estimated that there will be approximately 300 applicants per year. TRICARE will request the provider authorization documentation and information when the provider asks to become TRICARE-authorized or when a claim is filed for a new provider's services. If after a provider has been authorized by a contractor, no claims are filed during two-year period of time, the provider's information will be placed in the inactive file. To reactivate a file, the provider must verify that the information is still correct, or supply new or changed information. The total annual reporting burden is estimated to be approximately 100 hours (approximately 300 respondents with 20 minutes to complete the form).

Dated: January 7, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2014–00296 Filed 1–10–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Anti-Filovirus Therapeutics

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/761,942, entitled ''Anti-Filovirus Therapeutics,'' filed on February 7, 2013. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to an antisense oligonucleotide directed to a mRNA encoding a mammalian Niemann-Pick C1 (NPC1) receptor, and combinations thereof and compositions comprising such are provided. Also provided are methods of treating or reducing filovirus infection of a subject.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00290 Filed 1–10–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Imidazenil, or a Combination of Imidazenil and [+]-Huperzine A and/or [-]-Huperzine A for Protection Against and/or Treatment of Seizure/Status Epilepticus and Neuropathology Following Nerve Agent or Organophosphate Exposure, Compositions and Kits

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/726,753, entitled ''Imidazenil, or a Combination of Imidazenil and [+]-Huperzine A and/or [-]-Huperzine A for Protection Against and/or Treatment of Seizure/Status Epilepticus and Neuropathology Following Nerve Agent or Organophosphate Exposure, Compositions and Kits,'' filed on November 15, 2012. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to methods, compositions and kits for use in protection against and/or treatment of chemical warfare nerve agent (CWNA) and/or organophosphate (OP) pesticide/insecticide exposure. In particular, the present invention relates to methods, compositions and kits for treating, preventing, inhibiting or reducing a seizure, status epilepticus, neuropathogenesis, or a neuropathology caused by exposure to a CWNA or an OP pesticide/insecticide using (a) imidazenil, (b) a combination treatment comprising imidazenil and [+]-Huperzine A, (c) a combination treatment comprising imidazenil and [-]-Huperzine A, or (d) a combination treatment comprising imidazenil, [+]-Huperzine A and [-]-Huperzine A.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00286 Filed 1–10–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Measurements of the Inhibition of Synaptic Activity (MISA) To Detect, Study and Evaluate All Active Botulinum Neurotoxin Serotypes

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/851,599, entitled ''Measurements of the Inhibition of Synaptic Activity (MISA) to Detect, Study and Evaluate All Active Botulinum Neurotoxin Serotypes,'' filed on March 8, 2013. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to measurements of spontaneous or evoked electrical activity in networked populations of primary neurons or stem cell-derived neurons as a rapid, sensitive assay for the presence of functional botulinum neurotoxin (BoNT) in various matrices.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00283 Filed 1–10–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Low Fat, High Protein, High Carbohydrate Complete Enteral Nutritional Compositions for Treatment of Burn Patients

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/733,938, entitled ''Low Fat, High Protein, High Carbohydrate Complete Enteral Nutritional Compositions for Treatment of Burn Patients,'' filed on December 6, 2012. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to low fat, high protein, high carbohydrate enteral nutritional formulations for use in providing the complete nutritional needs of subjects with severe burn, methods of providing nutritional support to burn patients using these formulations, and methods of making the same. These complete enteral nutritional formulations are polymeric, concentrated, and do not contain added arginine. In addition, these enteral nutritional formulations are homogeneous solutions that flow through tubing well.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00287 Filed 1–10–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Department of the Army

### Notice of Availability for Exclusive, Non-Exclusive, or Partially-Exclusive Licensing of an Invention Concerning Contact Pathway and Tissue Kallikrein Inhibitors Can Prevent/Reduce Leakage Caused by Hantavirus

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** Announcement is made of the availability for licensing of the invention set forth in U.S. Provisional Patent Application Serial No. 61/851,573, entitled ''Contact Pathway and Tissue Kallikrein Inhibitors can Prevent/Reduce Leakage Caused by Hantavirus,'' filed on March 15, 2013. The United States Government, as represented by the Secretary of the Army, has rights to this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research and Technology Applications (ORTA), (301) 619–6664, both at telefax (301) 619–5034.

**SUPPLEMENTARY INFORMATION:** The invention relates to treatment of vascular leakage symptoms infected with the Hantavirus using drugs that are already FDA approved.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 2014–00285 Filed 1–10–14; 8:45 am]

**BILLING CODE 3710–08–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number DARS–2013–0038]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Consideration will be given to all comments received by February 12, 2014.

*Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) part 205, Publicizing Contract Actions, and associated clause at DFARS 252.205–7000, Provision of Information to Cooperative Agreement Holders; OMB Control Number 0704–0286.

*Type of Request:* Extension.

*Number of Respondents:* 7,000.

*Responses per Respondent:* 1.

*Annual Responses:* 7,000.

*Average Burden per Response:* Approximately 1.1 hour.

*Annual Burden Hours:* 7,700.

*Needs and Uses:* This information collection requirement pertains to contractor information provided to Cooperative Agreement Holders. DFARS subpart 205.4, Release of Information, and the clause at DFARS 252.205–7000, require defense prime contractors awarded contracts over $1,000,000 to provide cooperative agreement holders, upon request, a list of employees or offices responsible for entering into subcontracts under defense contracts. The cooperative agreement holders further disseminate the information to other firms within a geographic area defined in the individual cooperative agreements. The purpose of the cooperative agreements is for the agreement holders to provide procurement technical assistance to business entities within a specified geographic area. This guidance implements 10 U.S.C. 2416.

*Affected Public:* Businesses or other for-profit entities and not-for-profit institutions.

*Frequency:* On occasion.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

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

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

*Instructions:* All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

*DoD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2014–00355 Filed 1–10–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**[Docket Number DARS–2013–0039]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Defense Acquisition Regulations System has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

**DATES:** Consideration will be given to all comments received by February 12, 2014.

*Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) subpart 215.4, Contract Pricing, related clauses at DFARS 252.215, and DD Form 1861, Contract Facilities Capital Cost of Money; OMB Control Number 0704–0232.

*Type of Request:* Extension.

*Number of Respondents:* 10,300.

*Responses per Respondent:* 5.

*Annual Responses:* 53,458.

*Average Burden per Response:* Approximately 10 hours.

*Annual Burden Hours:* 538,480.

*Needs and Uses:* DoD contracting officers use DD Form 1861 in computing profit objectives for negotiated contracts. A DD Form 1861 is normally completed for each proposal for a contract for supplies or services that is priced and negotiated on the basis of cost analysis. The form enables contracting officers to differentiate profit objectives for various types of contractor assets (land, buildings, equipment). DoD needs this information to develop appropriate profit objectives when negotiating Government contracts.

DoD contracting officers need the information required by DFARS 215.407–5, Estimating systems, and the related contract clause at 252.215–7002, Cost Estimating System Requirements, to determine if a contractor has an acceptable system for generating cost estimates, and to monitor the correction of any deficiencies.

*Affected Public:* Businesses and other for-profit entities.

*Frequency:* On Occasion.

*OMB Desk Officer:* Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Seehra at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

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

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

*Instructions:* All submissions received must include the agency name, docket number, and title for the **Federal Register** document. The general policy for comments and other public 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 provided. To confirm receipt of your comment(s), please check *http://www.regulations.gov* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

*DoD Clearance Officer:* Ms. Patricia Toppings.

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 4800 Mark Center Drive, 2nd Floor, East

Tower, Suite 02G09, Alexandria, VA 22350–3100.

**Manuel Quinones,**

*Editor, Defense Acquisition Regulations System.*

[FR Doc. 2014–00358 Filed 1–10–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

**[Docket ID USN–2014–0003]**

### Privacy Act of 1974; System of Records

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice to delete a System of Records.

**SUMMARY:** The Department of the Navy is deleting a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, as amended. The system notice is entitled ''N03501–1, FBM Submarine DASO Crew Evaluation''.

**DATES:** This proposed action will be effective on February 13, 2014 unless comments are received which result in a contrary determination. Comments will be accepted on or before February 12, 2014.

**ADDRESSES:** You may submit comments, identified by docket 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, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

*Instructions:* All submissions received must include the agency name and docket 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://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Robin Patterson, HEAD, FOIA/Privacy Act Policy Branch, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6545.

**SUPPLEMENTARY INFORMATION:** The Department of the Navy's systems of records notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**. The proposed deletion is not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: January 8, 2014.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

**DELETION:**

N03501–1, FBM Submarine DASO Crew Evaluation (February 22, 1993, 58 FR 10731).

**REASON:**

The Department of the Navy has determined that the SORN N03501–1, FBM Submarine DASO Crew Evaluation can be deleted as the collection is no longer needed. No information has been collected in the past 10 years, and all previous records were destroyed.

Therefore, SORN N03501–1, FBM Submarine DASO Crew Evaluation can be deleted.

[FR Doc. 2014–00351 Filed 1–10–14; 8:45 am]

**BILLING CODE 5001–06–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0002]**

### Agency Information Collection Activities; Comment Request; Teach Grant Supplementary Data Collection

**AGENCY:** Department of Education (ED), Office of Postsecondary Education (OPE).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before March 14, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0002 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 2E107, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For questions related to collection activities or burden, please call Kate Mullan, 202–401–0563 or electronically mail *ICDocketMgr@ed.gov*. Please do not send comments here. We will only accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Teach Grant Supplementary Data Collection.

*OMB Control Number:* 1840–0819.

*Type of Review:* An extension of an existing information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 796.

*Total Estimated Number of Annual Burden Hours:* 796.

*Abstract:* The Secretary of Education is required to report to Congress about the Teacher Education Assistance for Higher Education (TEACH) Grant Program, including the student's: (1) Eligible field of study and (2) cost of education. The Secretary includes these data elements as part of a report submitted to congressional authorizing

committees with respect to schools and students served by Teach Grant recipient schools. This report is required by Section 420P of the Higher Education Act, as amended by the Higher Education Opportunity Act of 2008.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–00291 Filed 1–10–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2014–ICCD–0001]**

### Agency Information Collection Activities; Comment Request; Education Resource Organizations Directory

**AGENCY:** Office of Communication and Outreach (OCO) Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a reinstatement of a previously approved information collection.

**DATES:** Interested persons are invited to submit comments on or before March 14, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2014–ICCD–0001 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E107, Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For questions related to collection activities or burden, please call Stephanie Valentine, 202–401–0526 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Education Resource Organizations Directory.

*OMB Control Number:* 1860–0508.

*Type of Review:* A reinstatement of a previously approved information collection.

*Respondents/Affected Public:* State, Local, or Tribal Governments.

*Total Estimated Number of Annual Responses:* 1,800.

*Total Estimated Number of Annual Burden Hours:* 373.

*Abstract:* Education Resource Organizations Directory (EROD) is an electronic directory of educational resource organizations and services available at the state, regional, and national level. The goal of this directory is to help individuals and organizations identify and contact organizational sources of information and assistance on a broad range of education-related topics. Users of the directory include diverse groups such as teachers, librarians, students, researchers, and parents.

Dated: January 7, 2014.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–00292 Filed 1–10–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No. ED–2013–ICCD–0138]**

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Annual Performance Reports for Title III and Title V Grantees

**AGENCY:** Office of Postsecondary Education (OPE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

**DATES:** Interested persons are invited to submit comments on or before February 12, 2014.

**ADDRESSES:** Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0138 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E103,Washington, DC 20202–4537.

**FOR FURTHER INFORMATION CONTACT:** For questions related to collection activities or burden, please call Kate Mullan, 202–401–0563 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that

is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Annual Performance Reports for Title III and Title V Grantees.

*OMB Control Number:* 1840–0766.

*Type of Review:* Extension without change of an existing collection of information.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 782.

*Total Estimated Number of Annual Burden Hours:* 16,415.

*Abstract:* Titles III and V of the Higher Education Act of 1965, as amended (HEA), provide discretionary and formula grant programs that make competitive awards to eligible institutions of Higher Education and organizations (Title III, Part E) to assist these institutions expand their capacity to serve minority and low-income students. Grantees annually submit a yearly performance report to demonstrate that substantial progress is being made towards meeting the objectives of their project.

Dated: January 7, 2014.

**Stephanie Valentine,**

*Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.*

[FR Doc. 2014–00347 Filed 1–10–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Applications for Eligibility Designation; Programs Under Parts A and F of Title III of the Higher Education Act of 1965, as Amended (HEA), and Programs Under Title V of the HEA

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice.

*Overview Information:*

This notice applies to the following programs:

1. Programs authorized under Part A, Title III of the HEA: Strengthening Institutions Program (Part A SIP), Predominantly Black Institutions (Part A PBI), Native American-Serving Nontribal Institutions (Part A NASNTI), and Asian American and Native American Pacific Islander-Serving Institutions (Part A AANAPISI).

2. Programs authorized under Part F, Title III of the HEA: Hispanic-Serving Institutions STEM and Articulation (Part F, Title III HSI STEM and Articulation), Predominantly Black Institutions (Part F PBI), and Asian American and Native American Pacific Islander-Serving Institutions (Part F AANAPISI).

3. Programs authorized under both Parts A and F in Title III of the HEA: Alaska Native and Native Hawaiian-Serving Institutions (ANNH).

4. Programs authorized under Title V of the HEA: Developing Hispanic-Serving Institutions (Title V HSI) and Promoting Postbaccalaureate Opportunities for Hispanic Americans (PPOHA).

Notice inviting applications for designation as an eligible institution for Fiscal Year (FY) 2014.

**DATES:** *Application Available:* January 13, 2014.

*Deadline for Transmittal of Applications:* March 7, 2014.

*Special Note:* There is now one deadline for applicants applying for designation as an eligible institution and the non-Federal cost share waiver.

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Programs:*

The Part A SIP, ANNH, Part A PBI, Part A NASNTI, and Part A AANAPISI programs are authorized under Title III, Part A, of the HEA. Part F, Title III HSI STEM and Articulation, Part F PBI, and Part F AANAPISI programs are authorized under Title III, Part F of the HEA. The Title V HSI and PPOHA programs are authorized under Title V of the HEA. Please note that certain programs in this notice have the same or a similar name as another program that falls under a different statutory authority. For this reason, we specify the statutory authority as part of the acronym for certain programs.

Under the programs discussed above, institutions of higher education (''IHEs'' or ''institutions'') are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements. An IHE that submits an application and is designated as an eligible institution may also receive a waiver of certain non-Federal cost-share requirements under the Federal Supplemental Educational Opportunity Grants (FSEOG) program authorized by Part A, Title IV of the HEA; the Federal Work Study Program (FWS) program authorized by section 443 of Part C, Title IV of the HEA; the TRIO Student Support Services (SSS) program authorized by section 402D of Part A, Title IV of the HEA; and the Undergraduate International Studies and Foreign Language (UISFL) program authorized by section 604 of Part A, Title VI of the HEA. Qualified institutions may receive these waivers even if they do not receive a grant under the Title III or Title V Programs.

**Special Note:** To qualify as an eligible institution under the grant programs listed in this notice, your institution must satisfy several criteria. For most of these programs, these criteria include those that relate to needy student enrollment and to average educational and general (E&G) expenditures for a specified base year. The most recent data available for E&G expenditures are for base year 2011–2012. In order to award FY 2014 grants in a timely manner, we will use these data to evaluate eligibility. Therefore, in completing your eligibility application, please use E&G expenditure data from the base year 2011–2012.

If you are designated as an eligible institution and you do not receive a new award under one of the Title III or Title V Programs subject to this application process in FY 2014, your eligibility for the non-Federal cost-share waiver under the FSEOG, FWS, SSS, and UISFL programs is valid for five consecutive years. You will not need to reapply for eligibility until 2019, unless you wish to apply for a new Title III or Title V grant. All institutions interested in applying for a new grant under the Title III or Title V programs addressed in this notice or in requesting a waiver of the non-Federal cost share, must apply for eligibility designation in FY 2014. Under the HEA, any IHE interested in applying for a grant under any of these programs must first be designated as an eligible institution. (34 CFR 606.5 and 607.5).

*Eligible Applicants:*

The eligibility requirements for the programs authorized under Part A of Title III of the HEA are in Sections 312 and 317–320 of the HEA [20 U.S.C. 1058, 1059d–1059g] and in the Department's implementing regulatons at 34 CFR 607.2 through 607.5. The regulations may be accessed at: *www.gpo.gov/fdsys/pkg/CFR-2001-title34-vol3/xml/CFR-2001-title34-vol3-part607.xml.*

The eligibility requirements for the programs authorized by Part F of Title III of the HEA are identified in Section

371 of the HEA [20 U.S.C. 1067q] . We are in the process of developing regulations for these programs; there are currently no specific program regulations.

The eligibility requirements for the Title V HSI Program are in Part A of Title V of the HEA and in 34 CFR 606.2 through 34 CFR 606.5. The regulations may be accessed at: *www.gpo.gov/fdsys/pkg/CFR-2001-title34-vol3/xml/CFR-2001-title34-vol3-part606.xml.*

The requirements for the PPOHA Program are in Part B of Title V of the HEA and in the notice of final requirements published in the **Federal Register** on July 27, 2010 (75 FR 44055) (PPOHA notice), and those in 34 CFR 606.2(a) and (b), and 606.3 through 606.5.

*Enrollment of Needy Students:* For the Part A SIP; ANNH; Part A NASNTI; Part A AANAPISI; Title III, Part F HSI STEM and Articulation; Part F AANAPISI; Title V HSI; and PPOHA programs, an institution is considered to have an enrollment of needy students if: (1) At least 50 percent of its degree students received financial assistance under one or more of the following programs: The Federal Pell Grant, FSEOG, FWS, or the Federal Perkins Loan Programs; or (2) the percentage of its undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offer similar instruction.

To qualify under this latter criterion, an institution's Federal Pell Grant percentage for base year 2011–2012 must be more than the median for its category of comparable institutions provided in the 2011–2012 Median Pell Grant and Average E&G Expenditures per full-time equivalent (FTE) Student Table in this notice.

For the definition of ''Enrollment of Needy Students'' for purposes of the Part A PBI Program, see section 318(b)(2) of the HEA and for purposes of the Part F PBI program see section 371(c)(9)of the HEA.

*Educational and General Expenditures PER FTE Student:* Under the Part A SIP; ANNH; Part A PBI; Part A NASNTI; Part A AANAPISI; Title III, Part F HSI STEM and Articulation; Part F PBI; Part F AANAPISI; Title V HSI; and PPOHA programs, an institution should compare its base year 2011–2012 average E&G expenditures per FTE student to the average E&G expenditure per FTE student for its category of comparable institutions contained in the base year 2011–2012 Median Pell Grant and Average E&G Expenditures per FTE Student Table in this notice. The institution meets this eligibility requirement under these programs if its average E&G expenditures for the 2011–2012 base year are less than the average for its category of comparable institutions.

An institution's average E&G expenditures are the total amount it expended during the base year for instruction, research, public service, academic support (including library expenditures, student services, institutional support, operation and maintenance, scholarships and fellowships), and mandatory transfers that the institution is required to pay by law.

The following table identifies the relevant median Federal Pell Grant percentages for the base year 2011–2012 and the relevant average E&G expenditures per FTE student for the base year 2011–2012 for the four categories of comparable institutions:

| Type of institution | Base year 2011–2012 median Pell Grant percentage | Base year 2011–2012 average E&G Expenditures per FTE student |
|---|---|---|
| Two-year Public Institutions | 37.6 | 11,606 |
| Two-year Non-profit Private Institutions | 44.1 | 23,454 |
| Four-year Public Institutions | 35.4 | 30,082 |
| Four-year Non-profit Private Institutions | 35.5 | 48,532 |

*Waiver Information:* IHEs that are unable to meet the needy student enrollment requirement or the average E&G expenditures requirement may apply to the Secretary for waivers of these requirements, as described in sections 392 and 522 of the HEA, and implementing regulations at 34 CFR 606.3(b), 606.4(c) and (d), 607.3(b), and 607.4(c) and (d).

IHEs requesting a waiver of the needy student enrollment requirement or the average E&G expenditures requirement must include in their application detailed information supporting the waiver request, as described in the instructions for completing the application.

The regulations governing the Secretary's authority to waive the needy student requirement, 34 CFR 606.3(b)(2) and (3) and 607.3(b)(2) and (3), refer to ''low-income'' students or families. The regulations at 34 CFR 606.3(c) and 607.3(c) define ''low-income'' as an amount that does not exceed 150 percent of the amount equal to the poverty level, as established by the U.S. Census Bureau.

For the purposes of this waiver provision, the following table sets forth the low-income levels for the various sizes of families:

| Size of family unit | Family income for the 48 contiguous States, DC, and outlying jurisdictions | Family income for Alaska | Family income for Hawaii |
|---|---|---|---|
| 1 | $16,335 | $20,400 | $18,810 |
| 2 | 22,065 | 27,570 | 25,395 |
| 3 | 27,795 | 34,740 | 31,980 |
| 4 | 33,525 | 41,910 | 38,565 |
| 5 | 39,255 | 49,080 | 45,150 |
| 6 | 44,985 | 56,250 | 51,735 |
| 7 | 50,715 | 63,420 | 58,320 |
| 8 | 56,445 | 70,590 | 64,905 |

**Note:** The 2011 annual low-income levels are being used because those are the amounts that apply to the family income reported by students enrolled for the fall 2011 semester. For family units with more than eight members, add the following amount for each additional family member: $5,730 for the contiguous 48 States, the District of Columbia, and outlying jurisdictions; $7,170 for Alaska; and $6,585 for Hawaii.

The figures shown under family income represent amounts equal to 150 percent of the family income levels established by the U.S. Census Bureau for determining poverty status. The poverty guidelines were published by the U.S. Department of Health and Human Services in the **Federal Register** on January 20, 2011 (76 FR 3637).

The information about ''metropolitan statistical areas'' referenced in 34 CFR 606.3(b)(4) and 607.3(b)(4) may be obtained at: *www.census.gov/prod/2010pubs/10smadb/appendixc.pdf* and *www.census.gov/prod/2008pubs/07ccdb/appd.pdf.*

*Electronic Submission of Applications:*

Applications for designation of eligibility must be submitted electronically at: *http://opeweb.ed.gov/title3and5/.*

To enter the Web site, you must use your institution's unique 8-digit identifier, i.e., your Office of Postsecondary Education Identification Number (OPE ID Number). Your business office or student financial aid office should have the OPE ID Number. If not, contact the Department using the email addresses of the contact persons listed in this notice under *For Applications and Further Information Contact.* You will find detailed instructions for completing the application form electronically under the ''Eligibility'' link at: *www.ed.gov/about/offices/list/ope/idues/eligibility.html.*

If your institution is unable to meet the needy student enrollment requirement or the average E&G expenditures requirement, you may request a waiver of one or both of these requirements. To request a waiver, you must upload a waiver narrative at: *http://opeweb.ed.gov/title3and5/.*

*Exception to the Electronic Submission Requirement:* You qualify for an exception to the electronic submission requirement, and may submit your application in paper format if you are unable to submit an application electronically because—

- You do not have access to the Internet; or
- You do not have the capacity to upload documents to the Web site. and
- No later than two weeks before the application deadline date (14 calendar days; or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Mail or fax your statement to: Nancy Regan, U.S. Department of Education, 1990 K Street NW., Room 6032, Washington, DC 20006–8513. Fax: (202) 502–7861.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

*Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: Nancy Regan, U.S. Department of Education, 1990 K Street NW., Room 6032, Washington, DC 20006–8513.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

*Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the application, on or before the application deadline date, to the Department at the following address: Nancy Regan, U.S. Department of Education, 1990 K Street NW., Room 6032, Washington, DC 20006–8513.

Hand delivered applications will be accepted daily between 8:00 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Education Department debarment and suspension regulations in 2 CFR part 3485. (c) The regulations for the Title III Programs in 34 CFR part 607, and for the HSI Program in 34 CFR part 606. (d) The notice of final requirements for the PPOHA Program, published in the **Federal Register** on July 27, 2010 (75 FR 44055).

**Note:** There are no program-specific regulations for the Part A AANAPISI, Part A NASNTI, and Part A PBI programs or any of the Part F, Title III programs. Also, there have been amendments to the HEA since we last issued regulations for the programs established under Titles III and V of the statute. Accordingly, we encourage each potential applicant to read the applicable sections of the HEA in order to fully understand the eligibility requirements for the program for which they are applying. Please note we are in the process of amending the Title III and Title V regulations. These updated regulations will include regulations for Part A AANAPISI, Part A NASNTI, and Part A PBI programs, as well as the Part F, Title III programs.

**Note:** The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

*For Applications and Further Information Contact:* Carnisia Proctor, Robyn Wood, or Jeffrey Hartman, Institutional Service, U.S. Department of Education, 1990 K Street NW., Room 6134, Request for Eligibility Designation, Washington, DC 20006–8513.

You can contact these individuals at the following email addresses or phone numbers:

*Carnisia.Proctor@ed.gov,* 202–502–7606.

*Robyn.Wood@ed.gov,* 202–502–7434.

*Jeffrey.Hartman@ed.gov,* 202–502–7607.

If you use a telecommunications device for the deaf (TDD) or a text

telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audio tape, or compact disc) on request to one of the contact persons listed in this section.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: January 8, 2014.

**Lynn B. Mahaffie,**

*Acting Deputy Assistant Secretary for Policy, Planning, and Innovation.*

[FR Doc. 2014–00401 Filed 1–10–14; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER14–950–000]**

## Great Bay Energy VI, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Great Bay Energy VI, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 27, 2014.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 6, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–00276 Filed 1–10–14; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. AD13–9–000]**

## Hydropower Regulatory Efficiency Act of 2013; Notice Soliciting Pilot Projects To Test a Two-Year Licensing Process

On August 9, 2013, President Obama signed into law the Hydropower Regulatory Efficiency Act of 2013 (Act). The Act, among other things, directs the Commission to investigate the feasibility of a two-year licensing process for hydropower development at non-powered dams and closed-loop pumped storage projects, develop criteria for identifying projects that may be appropriate for a two-year process, and by February 5, 2014, develop and implement pilot projects to test a two-year process, if practicable.

As directed by the Act, the Commission held an initial workshop on October 22, 2013, to solicit public comment and recommendations on how to implement a two-year process. By notice issued October 8, 2013, the Commission requested that written comments be filed by November 21, 2013. Federal and state agencies, hydropower developers, and non-governmental organizations provided input at the workshop, and 16 comment letters have been filed regarding the two-year process.

The Act does not authorize the Commission, by itself, to develop and implement pilot projects to test a two-year process; therefore, the Commission is seeking proposals from potential applicants wishing to do so. As a general principle, we expect applicants to propose pilot projects that: Are located at a non-powered dam or are a closed-loop pumped storage project; have a well-developed project proposal including project facilities and operation; would cause little to no change to environmental resources; and are located in areas where there is substantial existing information on environmental resources and effects. Prior to requesting the use of a two-year process, prospective applicants should meet with federal and state resource agencies, Indian tribes, non-governmental organizations, and the public regarding the project and potential pilot process proposal, potential project-related environmental effects, the availability of existing information, and the need for studies to supplement existing information. Further, prospective applicants should request written comments on the adequacy of available information and the need for studies, including the anticipated scope and duration of the studies.

Based on our experience with expediting projects, the comments received at the initial workshop, and comments filed in response to our October 8, 2013 Notice, we have identified the following minimum criteria and process for projects that may be appropriate for licensing within a two-year process:

- The project must cause little to no change to existing surface and groundwater flows and uses;

• The project must be unlikely to adversely affect federally listed threatened and endangered species;

• If the project is proposed to be located at or use a federal dam, the request to use the two-year process must include a letter from the dam owner that the applicant's plan of development is conceptually feasible;

• If the project would use any public park, recreation area, or wildlife refuge established under state or local law, the request to use the two-year process must include a letter from the managing entity indicating its approval of the site's use for hydropower development; [1] and

• For a closed loop pumped storage project, the project must not be continuously connected to a naturally-flowing water feature.

Any prospective applicant that wishes to test a two-year process must file a request to do so by no earlier than February 5, 2014 and no later than May 5, 2014. The request must include:

(1) Demonstration that the proposed project meets the above criteria;

(2) Documentation that the prospective applicant has met with, described, and consulted with the affected federal and state resource agencies, Indian tribes, non-governmental organizations, and the public regarding its project and pilot process proposal along with a summary of verbal comments and copies of any written comments received in response to the meeting;

(3) Copies of written comments from the affected federal and state agencies and Indian tribes regarding the availability of existing information and the need for studies to supplement the existing information, including the anticipated scope and duration of the studies;

(4) A Pre-Application Document (PAD) and Proposed Study Plan that meet the content requirements of 18 CFR 5.6 and 5.11, respectively. The PAD must include a defined and well-developed project proposal. If a prospective applicant determines that a Proposed Study Plan is not needed, then the prospective applicant must demonstrate that the PAD contains sufficient information to address its list of potential environmental effects for environmental analysis;

(5) List of potential environmental effects, including effects on geologic, aquatic, terrestrial, recreational, and cultural resources, as applicable; and

(6) A process plan and schedule. Based on the comments received at the initial workshop and comments filed in response to our October 8, 2013 Notice, the Commission has identified the process plan and schedule below for use by prospective applicants. A prospective applicant may file an alternative two-year process plan and schedule to test under the Act; however, the Commission reserves the right to modify any filed process plan and schedule as necessary to ensure that the Commission fulfills its responsibilities under the Federal Power Act and other applicable laws.

| Step | Responsible party | Pre-filing action or milestone description | Time |
|---|---|---|---|
| 1 | Prospective applicant | Prior to filing a request to use a two-year pilot process, prospective applicants must meet with Commission staff to discuss the nature of the project, the status of the applicant's consultation efforts, and the status of the applicant's efforts in obtaining the information described below. Prospective applicant files a request to use a two-year pilot process, a pre-application document including a detailed project description, a list of potential environmental effects for environmental analysis, a proposed study plan with schedule, and certification that the prospective applicant has met with the affected federal and state resource and land management agencies to discuss its project proposal. | 0. |
| 2 | Commission staff | Issue notice of request to use the two-year pilot process and notice of public technical meeting to discuss the two-year pilot process proposal (if needed), or issue a letter rejecting the pilot process request if the request does not meet the criteria or filing requirements, or if the request is otherwise deficient pursuant to the instructions in this notice. | 30 days. |
| 3 | Commission staff, prospective applicant, and interested parties. | Hold public technical meeting to discuss the proposed pilot process (if needed as determined by Commission staff). | 45 days. |
| 4 | Commission staff | Issue determinations on the request to use the pilot process, study plan, and environmental effects list, and if the pilot process is approved, designate the applicant to conduct informal section 106 of the National Historic Preservation Act and section 7 of the Endangered Species Act (ESA) consultations, as needed. | 90 days. |
| 5 | Prospective applicant | Complete studies, and apply for water quality and coastal zone certifications | 270 days. |
| 6 | Prospective applicant | File license application.[2] | 1 year. |
| **Step** | **Responsible party** | **Post-filing action or milestone description** | **Time** |
| 7 | Commission staff | Review license application and issue deficiency or additional information letter, if necessary. | 395 days. |
| 8 | Commission staff | Issue combined acceptance and ready for environmental analysis notice | 425 days. |
| 9 | State coastal zone certification agency. | File coastal zone consistency certification, or other relevant finding | 450 days. |
| 10 | Interested parties | File comments, recommendations, preliminary terms and conditions | 485 days. |
| 11 | State water quality certification agency. | File draft water quality certification conditions | 485 days. |
| 12 | Applicant | File reply comments | 500 days. |
| 13 | Commission staff | Issue environmental assessment (EA) and draft programmatic agreement (PA), section 10(j) letter, and section 7 ESA informal consultation letter, as necessary. | 605 days. |

[1] Section 21 of the Federal Power Act as amended by the Energy Act of 1992, states that no licensee may use the right of eminent domain to acquire any lands or other property that, prior to October 24, 1992 (the date of enactment of the Policy Act), were owned by a state or political subdivision thereof and were part of, or included within, any public park, recreation area, or wildlife refuge established under state or local law.

| Step | Responsible party | Post-filing action or milestone description | Time |
|---|---|---|---|
| 14 | Interested parties | File comments on EA and draft PA, final terms and conditions, water quality certification, and response to section 10(j) and informal ESA consultation letters. | 635 days. |
| 15 | Commission staff | Issue final PA and hold section 10(j) meeting, if necessary | 655 days. |
| 16 | Commission | Issue licensing decision | 2 years. |

Please note that in the event that multiple requests to test a pilot process are filed, the Commission reserves the right to choose a subset of pilot processes to test.

The Commission strongly encourages electronic filing. Please file your request using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number AD13–9–000.

For more information about this Notice, please contact: Nicholas Jayjack, Office of Energy Projects, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6073, *Nicholas.Jayjack@ferc.gov.*

Dated: January 6, 2014.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2014–00275 Filed 1–10–14; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–9905–36–OEI]**

## Agency Information Collection Activities OMB Responses

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This document announces the Office of Management and Budget (OMB) responses to Agency Clearance requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et. Seq.). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

**FOR FURTHER INFORMATION CONTACT:** Rick Westlund (202) 566–1682, or email at *westlund.rick@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

**SUPPLEMENTARY INFORMATION:**

### OMB Responses to Agency Clearance Requests

*OMB Approvals*

EPA ICR Number 1975.09; NESHAP for Stationary Reciprocating Internal Combustion Engines; 40 CFR part 63 subparts A and ZZZZ; was approved on 12/17/2013; OMB Number 2060–0548; expires on 12/31/2016; Approved without change.

EPA ICR Number 1789.08; NESHAP for Natural Gas Transmission and Storage; 40 CFR part 63 subparts A and HHH; was approved on 12/17/2013; OMB Number 2060–0418; expires on 04/30/2015; Approved without change.

EPA ICR Number 1361.16; Information Requirements for Boilers and Industrial Furnaces (Renewal); 40 CFR 261.38; 40 CFR 264.12, 264.13, 264.15, 264.16, 264.17, 264.37, 264.56, 264.73, 264.101, 264.112, 264.113, 264.115, 264.142, 264.143, 264.147, 264.148, 264.149, 264.150, 265.12, 265.13, 265.15, 265.16, 265.50, 265.51, 265.52, 265.53, 265.54, 265.56, 265.73, 265.112, 265.113, 265.115, 265.142, 265.143, 265.147, 265.148, 265.149, 265.150, 266.100, 266.102, 266.103, 266.104, 266.106, 266.107, 266.108, 266.109, 266.110, 266.111, 266.112, 270.14, 270.22, 270.30, 270.33, 270.40, 270.41, 270.42, 270.50, 270.51 and 270.66; was approved on 12/17/2013; OMB Number 2050–0073; expires on 12/31/2016; Approved without change.

EPA ICR Number 1071.11; NSPS for Stationary Gas Turbines; 40 CFR part 60 subparts A and GG; was approved on 12/17/2013; OMB Number 2060–0028; expires on 12/31/2016; Approved without change. EPA ICR Number 2256.04; NESHAP for Acrylic/Modacrylic Fibers Prod., Carbon Black Prod., Chemical Mfg: Chromium Compounds, Flexible Polyurethane Foam Production/Fabrication, Lead Acid Battery Mfg, Wood Preserving (Renewal); 40 CFR part 63 subparts A, LLLLLL, NNNNNN, OOOOOO, PPPPPP and QQQQQQ; was approved on 12/17/2013; OMB Number 2060–0598; expires on 12/31/2016; Approved without change.

EPA ICR Number 1687.09; NESHAP for Aerospace Manufacturing and Rework Facilities; 40 CFR part 63 subparts A and GG; was approved on 12/17/2013; OMB Number 2060–0314; expires on 12/31/2016; Approved without change.

EPA ICR Number 2228.04; Reformulated Gasoline Commingling Provisions (Renewal); 40 CFR 80.78(a)(8)(ii)(B) and 80.78(a)(8)(iii)(A); was approved on 12/17/2013; OMB Number 2060–0587; expires on 12/31/2016; Approved with change.

EPA ICR Number 1593.09; Air Emission Standards for Tanks, Surface Impoundments and Containers; 40 CFR part 60 subpart A; 40 CFR part 264 subpart CC; and 40 CFR part 265 subpart CC; was approved on 12/19/2013; OMB Number 2060–0318; expires on 12/31/2016; Approved without change.

EPA ICR Number 2375.02; Implementation of Ambient Air Protocol Gas Verification Program (Renewal); 40 CFR part 58; was approved on 12/19/2013; OMB Number 2060–0648; expires on 12/31/2016; Approved without change.

### Comment Filed

EPA ICR Number 1783.07; NESHAP for Flexible Polyurethane Foam Product; in 40 CFR part 63 subparts A and III; OMB filed comment on 12/17/2013.

EPA ICR Number 2462.01; Amended Heating Oil Definition Under the Renewable Fuels Standard (Proposed Rule); in 40 CFR 80.1450, 80.1453 and 80.1454; OMB filed comment on 12/31/2013.

### Withdrawn and Continue

EPA ICR Number 2482.01; Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel

[2] The filing of the license application and license application content requirements should be consistent with the Commission's existing regulations, including 18 CFR 5.17 and 5.18, except as otherwise stipulated in the approved process plan and schedule or other Commission issuance for the proposed pilot process.

Ethanol, and Other Oxygenates Under the Tier 3 Rule; Withdrawn from OMB on 12/13/2013.

**Short Term Approval Extension**

EPA ICR 1907.05 Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline Under the Tier 2 Rule; 40 CFR part 80, subpart H; on 12/17/2013 OMB granted an extension of the expiration date to 04/30/2014.

EPA ICR 2212.03 Minority Business Enterprise/Woman Business Enterprise (MBE/WBE) Utilization Under Federal Grants Cooperative Agreements and Interagency Agreements; on 12/19/2013 OMB granted an extension of the expiration date to 06/30/2014.

**John Moses,**

*Director, Collections Strategies Division.*

[FR Doc. 2014–00374 Filed 1–10–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2002–0011; FRL 9904–76–OEI]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Laboratory Quality Assurance Evaluation Program for Analysis of Cryptosporidium Under the Safe Drinking Water Act (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''Laboratory Quality Assurance Evaluation Program for Analysis of *Cryptosporidium* under the Safe Drinking Water Act'' (EPA ICR No. 2067.05, OMB Control No. 2040–0246) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through January 31, 2014. Public comments were previously requested via the **Federal Register** (78 FR 54643) on September 5, 2013, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before February 12, 2014.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OW–2002–0011, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *ow-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Carrie Miller, Technical Support Center (TSC), Office of Ground Water and Drinking Water, (MS–140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, Ohio 45268; telephone number: 513–569–7919; fax number: 513–569–7191; email address: *miller.carrie@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* Under the Long Term 2 Enhanced Surface Water Treatment Rule (LT2ESWTR), EPA requires public water systems to use approved laboratories when conducting *Cryptosporidium* monitoring. The Code of Federal Regulations at 40 CFR 141.705(a) provides for approval of *Cryptosporidium* laboratories by ''an equivalent'' State laboratory certification program (i.e., equivalent to EPA's Laboratory Quality Assurance Evaluation Program). In the preamble to the LT2ESWTR as well as several other notices, EPA has described the criteria for approval of laboratories to analyze *Cryptosporidium* samples under the LT2ESWTR. Through today's notice, EPA is inviting comment on refinements to the information collection approach to support EPA's Laboratory Quality Assurance Program.

*Form Numbers:* None.

*Respondents/affected entities:* Interested States and Laboratories.

*Respondent's obligation to respond:* Required to obtain or retain a benefit.

*Estimated number of respondents:* 45 laboratories and 20 States/Territories.

*Frequency of response:* Annual.

*Total estimated burden:* 5,472 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $803,774 (per year), includes $295,056 annualized capital or operation & maintenance (O&M) costs.

*Changes in Estimates:* There is an increase of 629 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. Changes in burden have occurred due to inflation, changes in the respondent universe, re-evaluation of hours for tasks, re-evaluation of O&M costs, and improved demonstration of capability. There is also new burden from states integrating Cryptosporidium into their existing certification programs, taking over this responsibility from the EPA.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2014–00379 Filed 1–10–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OECA–2013–0302; FRL–9904–93–OEI]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for the Graphic Arts Industry (40 CFR Part 60, Subpart QQ) (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for the Graphic Arts Industry (40 CFR part 60, Subpart QQ) (Renewal)'' (EPA ICR No. 0657.11, OMB Control No. 2060–0105), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq*). This is a proposed extension of the ICR, which is currently approved through March 31, 2014. Public comments were previously requested via the **Federal Register** (78 FR 33409) on June 4, 2013

during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before February 12, 2014.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2013–0302, to: (1) EPA online, using *www.regulations.gov* (our preferred method), by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460; and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *www.epa.gov/dockets.*

*Abstract:* The New Source Performance Standards (NSPS) for the Graphic Arts Industry (40 CFR part 60, subpart QQ) were proposed on October 28, 1980, and promulgated on November 8, 1982. The affected entities are subject to the General Provisions of the NSPS at 40 CFR part 60, subpart A and any changes, or additions to the Provisions specified at 40 CFR part 60, subpart QQ.

Owners or operators of the affected facilities must make an initial notification report, performance tests, periodic reports, and maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports are required semiannually at a minimum.

*Form Numbers:* None.

*Respondents/Affected Entities:* Graphic arts facilities.

*Respondent's Obligation to Respond:* Mandatory (40 CFR part 60, subpart QQ).

*Estimated Number of Respondents:* 20.33 (total).

*Frequency of Response:* Initially and semiannually.

*Total Estimated Burden:* 1,802 hours (per year). ''Burden'' is defined at 5 CFR 1320.3(b).

*Total Estimated Cost:* $176,264 (per year), which also includes no annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is an increase in the total estimated respondent burden as currently identified in the OMB Inventory of Approved Burdens. The change in burden is due to an increase in the number of sources subject to these standards, and is not due to any program changes. The number of sources has been increased to account for industry growth that has occurred since the most-recent ICR was approved.

Also, there is an increase in the respondent cost from the most recently-approved ICR due to the use of updated labor rates. This ICR references labor rates from the Bureau of Labor Statistics to calculate the respondent burden cost.

There is a decrease in the total estimated Agency burden as compared to the most recently-approved ICR. This change is due to a revision in the labor burden estimate for repeat performance testing. Due to a discrepancy in the previous ICR, the labor burden for repeat performance testing included respondents who passed the initial performance test. The revision accounts only for respondents who failed the initial performance test resulted in the reduced labor burden observed in this ICR. Also, note that the ICR also incorporates updated labor rates from OPM.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2014–00375 Filed 1–10–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2006–0369; FRL 9904–80–OEI]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; National Estuary Program (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted an information collection request (ICR), ''National Estuary Program'' (EPA ICR No. 1500.08, OMB Control No. 2040–0138) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through January, 2014. Public comments were previously requested via the **Federal Register** (78 FR 46332–02) on July 31, 2013 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before February 12, 2014.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OW–2006–0369 to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** John McShane, Oceans and Coastal Protection Division, Office of Wetlands, Oceans, and Watersheds, Mail Code 4504T, Environmental Protection

Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–566–1381; fax number: 202–566–1336; email address: *mcshane.john@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* The National Estuary Program (NEP) involves collecting information from the state or local agency or nongovernmental organizations that receive funds under Sec. 320 of the Clean Water Act (CWA). The regulation requiring this information is found at 40 CFR part 35. Prospective grant recipients seek funding to develop or oversee and coordinate implementation of Comprehensive Conservation Management Plans (CCMPs) for estuaries of national significance. In order to receive funds, grantees must submit an annual workplan to EPA which are used to track performance of each of the 28 estuary programs currently in the NEP.

EPA provides funding to NEPs to support long-term implementation of CCMPs if such programs pass a program evaluation process. The primary purpose of the program evaluation process is to help EPA determine whether the 28 programs included in the National Estuary Program (NEP) are making adequate progress implementing their CCMPs and therefore merit continued funding under Sec. 320 of the Clean Water Act. EPA also requests that each of the 28 NEPs receiving Sec. 320 funds report information that can be used in the GPRA reporting process. This reporting is done on an annual basis and is used to show environmental results that are being achieved within the overall NEP Program. This information is ultimately submitted to Congress along with GPRA information from other EPA programs.

*Form Numbers:* None.

*Respondents/Affected Entities:* Entities potentially affected by this action are those state or local agencies or nongovernmental organizations in the National Estuary Program (NEP) who receive grants under Section 320 of the Clean Water Act.

*Respondent's Obligation to Respond:* Required to obtain or retain a benefit (Section 320 of the Clean Water Act).

*Estimated Number of Respondents:* 28 (total).

*Frequency of Response:* Annual.

*Total Estimated Burden:* 4,900 hours (per year). Burden is defined at 5 CFR 1320.03(b)

*Total Estimated Cost:* $221,970 (per year), includes $0 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is decrease of 933 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to the fact that the respondents are not required to submit a program evaluation package in 2016, as a result of modifications made by EPA to the Program Evaluation Guidance and a redistribution of the number of NEPs to be reviewed each evaluation cycle.

**John Moses,**

*Director, Collection Strategies Division.*

[FR Doc. 2014–00376 Filed 1–10–14; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2012–0780; FRL–9904–99]**

## Amendment of a Pesticide Experimental Use Permit; Notice of Receipt of Application; Comment Request

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's receipt of an application from Monsanto Company requesting to amend 524–EUP–104 experimental use permit (EUP) for the plant-incorporated protectants (PIPs) corn event MON 87411 in combination with single and combined traits against lepidoptera and corn rootworm (CRW). The Agency has determined that the amendment request for the permit may be of regional and national significance. Therefore, because of the potential significance, and pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and is seeking comments on this application.

**DATES:** Comments must be received on or before February 12, 2014. Submit your comments, identified by docket identification (ID) number and the EUP File Symbol as shown in the body of this document, by one of the following methods:

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number and the EUP File Symbol as shown in the body of this document, by one of the following methods:

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

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

**FOR FURTHER INFORMATION CONTACT:** Robert McNally, Biopesticides and Pollution Prevention Division (BPPD), (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action.

*B. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked

will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticide(s) discussed in this document, compared to the general population.

**II. What Action is the Agency Taking?**

Under section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136c, EPA can allow manufacturers to field test pesticides under development. Manufacturers are required to obtain an EUP before testing new pesticides or new uses of pesticides if they conduct experimental field tests on 10 acres or more of land or one acre or more of water. Following the review of the application and any comments and data received in response to this solicitation, EPA will decide whether to issue or deny the amended EUP request, and if issued, the conditions under which it is to be conducted. Any issuance of an amended EUP will be announced in the **Federal Register**.

Therefore, pursuant to 40 CFR 172.11(a), the Agency has determined that the following amended EUP application may be of regional and national significance, and therefore is seeking public comment on the following amended EUP application:

*524–EUP–104.* (EPA–HQ–OPP–2012–0780). On March 1, 2013, EPA approved an application from Monsanto Company, 800 Lindbergh Blvd., St. Louis, MO 63167, for an experimental use permit (EPA Reg. No. 524–EUP–104) for the PIPs corn events MON 87410 and MON 87411. A notice of issuance of the EUP was published in the **Federal Register** on November 21, 2013 (78 FR 69849) (FRL–9403–1) . The corn events MON 87410 and Mon 87411 were approved for experimental use in combination with single and combined traits that produce active ingredients derived from *Bacillus thuringiensis* (*Bt*) and target lepidoptera and corn rootworm (CRW). The EUP allowed planting through February 28, 2015.

In a subsequent application, dated October 3, 2013, Monsanto has proposed to amend this permit (524–EUP–104) to plant MON 87411 in combination with other single- and combined-event PIPs that have been previously registered. The acreage to be planted under the proposed amendment over the 2-year period (2014–2016) are: 13,300 acres of event combinations containing MON 87411, 7,032 acres of other unregistered PIP combinations, 11,057 acres of registered PIPs to be used in comparators, and 14,653 acres of non-PIP and border plants.

The PIP events comprising the single or combined trait products in this EUP include MON 89034, TC1507, MIR162, MON 88017, DAS–59122–7, and MON 87411. The proposed new corn event, MON 87411, contains a suppression cassette with an inverted repeat sequence (DvSnf7) derived from *Diabrotica virgifera.* The expression of the DvSnf7 suppression cassette results in the formation of a double stranded RNA (dsRNA) transcript. The researchers postulate that when PIP-produced Dv49 dsRNA is consumed by the pest, it down regulates the targeted pest's *Snf7* gene, resulting in CRW mortality. MON 87411 also produces the Cry3Bb1 protein to protect against CRW larval feeding.

The *Bt* proteins to be used in the single or combination traits in the proposed amended EUP include Cry1A.105, Cry2Ab2, Cry IF, Vip3Aa20, Cry3Bb1, and Cry34Abl/Cry35Abl. The environmental and human health safety of these proteins has been demonstrated, and they are respectively exempted from the requirement of a tolerance (40 CFR 174.502, 174.519, 174.520, 174.501, 174.518, 174.506). A permanent tolerance exemption has been established for nucleic acids that are part of the PIPs proposed for testing, including the dsRNA from MON 87411 (40 CFR 174.507).

The tests will be conducted in the U.S. territory of Puerto Rico and in the states including: Alabama, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Washington and Wisconsin.

Proposed protocols for the EUP include: (1) Seed development and increase for future testing including nursery observations of traits in various genetic backgrounds; and (2) product characterization work, including phenotypic and agronomic observations, efficacy, yield benefit evaluations and regulatory data generation.

**Authority:** 7 U.S.C. 136c.

**List of Subjects**

Environmental protection, Experimental use permits.

Dated: December 30, 2013.

**G. Jeffrey Herndon,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 2014–00389 Filed 1–10–14; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0143)

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice and request for comment.

**SUMMARY:** The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of an existing information collection, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). On October 22, 2013, (78 FR 62631), the FDIC requested comment for 60 days on a proposal to

revise the following information collection: ''Forms Related to Processing Deposit Insurance Claims'' information collection (OMB No. 3064–0143). No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the revision of this collection, and again invites comment on this renewal.

**DATES:** Comments must be submitted on or before February 12, 2014.

**ADDRESSES:** Interested parties are invited to submit written comments. All comments should refer to the name of the collection. Comments may be submitted by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/propose.html.*
- *Email: comments@fdic.gov.*
- *Mail:* Gary Kuiper (202.898.3877), Counsel, Federal Deposit Insurance Corporation, 550 17th Street NW., NYA–5046, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

A copy of the comments may also be submitted to the FDIC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** For further information about the revisions covered by this notice, please contact Gary Kuiper, by telephone at 202.898.3877 or by mail at the address identified above. In addition, a link to copies of the revised and new forms is available directly beneath this notice on the FDIC's Web site (*http://www.fdic.gov/regulations/laws/federal/notices.html*).

**SUPPLEMENTARY INFORMATION:** The FDIC is proposing to revise three of the forms in the collection: Declaration for Combined Contribution Plan (7200/10), Declaration for Defined Benefit Plan (7200/12), and Declaration for Health and Welfare Plan (7200/14); make minor clarifying changes to 10 of the forms in the collection: Declaration for Government Deposit (7200/04), Declaration for Revocable Living Trust (7200/05), Declaration of Independent Activity (7200/06), Declaration of Independent Activity for Unincorporated Association (7200/07), Declaration of Joint Ownership Deposit (7200/08), Declaration of Testamentary Deposit (7200/09), Declaration of IRA Keogh Deposit (7200/11), Declaration of Custodian Deposit (7200/13), Declaration for Plan and Trust (7200/15), and Declaration for Irrevocable Trust (7200/18); and add two new forms to the collection: Claimant Verification Form (7200/24) and Depositor Interview Form (7200/26).

*Title:* Forms Related to Processing of Deposit Insurance Claims.

*Forms Currently In Use:*

Declaration for Public Unit Deposit, Form 7200/04
Declaration for Trust, Form 7200/05
Declaration of Independent Activity, Form 7200/06
Declaration of Independent Activity for Unincorporated Association, Form 7200/07
Declaration for Joint Ownership Deposit, Form 7200/08
Declaration for Testamentary Deposit (Multiple Grantors), Form 7200/09
Declaration for Defined Contribution Plan, Form 7200/10
Declaration for IRA/KEOGH Deposit, Form 7200/11
Declaration for Defined Benefit Plan, Form 7200/12
Declaration of Custodian Deposit, Form 7200/13
Declaration for Health and Welfare Plan, Form 7200/14
Declaration for Plan and Trust, Form 7200/15
Declaration for Irrevocable Trust, Form 7200/18.

ESTIMATED NUMBER OF RESPONDENTS AND BURDEN HOURS

| FDIC document | Hours per response | Number of respondents | Burden hours |
|---|---|---|---|
| Declaration for Public Unit Deposit, Form 7200/04 | 0.50 | 500 | 250 |
| Declaration for Trust, Form 7200/05 | 0.50 | 900 | 450 |
| Declaration of Independent Activity, Form 7200/06 | 0.50 | 25 | 12.5 |
| Declaration of Independent Activity for Unincorporated Association, Form 7200/07 | 0.50 | 25 | 12.5 |
| Declaration for Joint Ownership Deposit, Form 7200/08 | 0.50 | 25 | 12.5 |
| Declaration for Testamentary Deposit, Form 7200/09 | 0.50 | 1500 | 750 |
| Declaration for Defined Contribution Plan, Form 7200/10 | 1.0 | 50 | 50 |
| Declaration for IRA/KEOGH Deposit, Form 7200/11 | 0.50 | 50 | 25 |
| Declaration for Defined Benefit Plan, Form 7200/12 | 1.0 | 200 | 200 |
| Declaration of Custodian Deposit, Form 7200/13 | 0.50 | 50 | 25 |
| Declaration for Health and Welfare Plan, Form 7200/14 | 1.0 | 200 | 200 |
| Declaration for Plan and Trust, Form 7200/15 | 0.50 | 1300 | 650 |
| Declaration for Irrevocable Trust, Form 7200/18 | 0.50 | 200 | 100 |
| Subtotal | | 5095 | 2,875 |
| Additional Burden for Deposit Brokers Only | | 211 | 137 |
| **New Forms To Be Added** | | | |
| Claimant Verification Form, Form 7200/24 | 0.50 | 700 | 350 |
| Depositor Interview Form, Form 7200/26 | 0.50 | 75 | 37.5 |
| Subtotal | | 1100 | 570 |
| Total | | 6406 | 3582 |

*General Description of Collection:* The collection involves forms used by the FDIC to obtain information from individual depositors and deposit brokers necessary to supplement the records of failed depository institutions to make determinations regarding deposit insurance coverage for depositors of failed institutions. The information provided allows the FDIC to identify the actual owners of an account

and each owner's interest in the account.

*Current Action:* The FDIC is proposing modifications, which may be considered substantive and material, to the following forms: 7200/10, Declaration for Combined Contribution Plan; 7200/12, Declaration for Defined Benefit Plan; and 7200/14, Declaration for Health and Welfare Plan. The content of the forms was revised to reflect current deposit insurance rules and regulations; to focus on the collection of information required for an insurance determination; and to incorporate applicable Code of Federal Regulations (both FDIC and non-FDIC) citations. The FDIC also proposes modifications, which may be considered non-substantive and nonmaterial, to the following forms: 7200/04, Declaration for Government Deposit; 7200/05, Declaration for Revocable Living Trust; 7200/06, Declaration of Independent Activity; 7200/07, Declaration of Independent Activity for Unincorporated Association; 7200/08, Declaration of Joint Ownership Deposit; 7200/09, Declaration of Testamentary Deposit; 7200/11, Declaration of IRA Keogh Deposit; 7200/13, Declaration of Custodian Deposit; 7200/15, Declaration for Plan and Trust; and 7200/18, Declaration for Irrevocable Trust. Finally, the FDIC proposes to add two new forms: 7200/24, Claimant Verification Form, 7200/24, and Depositor Interview Form, 7200/06. The purpose of the new forms is to facilitate collection of specific information that the FDIC will need in calculating insurance coverage after a bank failure.

**Request for Comment**

Comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 8th day of January 2013.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 2014–00499 Filed 1–10–14; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 28, 2014.

A. Federal Reserve Bank of Minneapolis (Jacqueline K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Shirley R. Borgerding,* Belgrade, Minnesota, individually and as part of the Borgerding Family Group acting in concert, to retain voting shares of NASB Shares, Inc., and thereby indirectly retain voting shares of North American State Bank, both in Belgrade, Minnesota.

In connection with this application, the Shirley R. Borgerding Trust, the George N. Borgerding Trust, and Marjorie Borgerding, as trustee of the James R. Borgerding Trust of 1994, have applied to become members of the Borgerding Family Group. The Borgerding Family Group includes Shirley R. Borgerding; George N. Borgerding; the Shirley R. Borgerding Trust and its co-trustees, George and Shirley Borgerding; the George N. Borgerding Trust and its co-trustees, George and Shirley Borgerding; and Brian Borgerding, all of Belgrade, Minnesota; Paul Borgerding; Willmar, Minnesota; The James R. Borgerding Trust of 1994 and its trustee, Marjorie Borgerding, both of Fort Worth, Texas; Mary Gerding, Chicago, Illinois; and the Mark E. Borgerding Trust and its trustee, Mark E. Borgerding, both of Belgrade, Minnesota.

B. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Scott M. Browning, Sally W. Browning, Gay Browning, James M. Browning, Eliza R. Browning, all of Salt Lake City, Utah; Diane B. Oblock, Hannah B. Oblock, Alyson B. Oblock, all of Richmond, Utah; Jennifer H. Kawasaki, Gallatin Gateway, Montana; Christine H. Chambers, Tremonton, Utah; The Scott M. Browning Living Trust (Scott Browning and Sally Browning trustees), The Gay Browning Living Trust (Gay Browning and Scott Browning Trustees), The Diane B. Oblock Living Trust (Diane B. Oblock and Scott M. Browning Trustees), The First Utah Irrevocable Trust for benefit of Alyson B. Oblock (Alyson B. Oblock and Hannah B. Oblock Trustees), The First Utah Irrevocable Trust for benefit of Hannah B. Oblock (Hannah B. Oblock and Alyson B. Oblock Trustees), The First Utah Irrevocable Trust for benefit of James M. Browning (James M. Browning and Eliza R. Browning Trustees), The First Utah Irrevocable Trust for benefit of Eliza R. Browning (Eliza R. Browning and James M. Browning Trustees), The First Utah Irrevocable Trust for benefit of Robert T. W. Browning (James M. Browning and Eliza R. Browning Trustees), The First Utah Irrevocable Trust for benefit of Jennifer H. Kawasaki (Jennifer H. Kawasaki and Christine H. Chambers Trustees), The First Utah Irrevocable Trust for benefit of Christine H. Chambers (Christine H. Chambers and Jennifer H. Kawasaki Trustees);* to acquire and retain voting shares of First Utah Bancorporation, and thereby indirectly acquire and retain voting shares of First Utah Bank, both in Salt Lake City, Utah.

Board of Governors of the Federal Reserve System, January 8, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–00356 Filed 1–10–14; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the

assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 7, 2014.

**A. Federal Reserve Bank of Dallas** (E. Ann Worthy, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Independent Bank Group, Inc.,* McKinney, Texas; to merge with BOH Holdings, Inc., and thereby indirectly acquire Bank of Houston, both in Houston, Texas.

Board of Governors of the Federal Reserve System, January 8, 2014.

**Michael J. Lewandowski,**

*Associate Secretary of the Board.*

[FR Doc. 2014–00357 Filed 1–10–14; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL TRADE COMMISSION

### Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-ScottRodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination—on the dates indicated—of the waiting period provided by law and the premerger notification rules. The listing for each transaction includes the transaction number and the parties to the transaction. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

EARLY TERMINATIONS GRANTED
DECEMBER 1, 2013 THRU DECEMBER 31, 2013

| | | |
|---|---|---|
| **12/02/2013** | | |
| 20140135 ..... | G | Almost Family, Inc.; OMNI Home Health Acquisition, LLC; Almost Family, Inc. |
| 20140198 ..... | G | On Assignment, Inc.; Riordan, Lewis & Haden, Inc.; On Assignment, Inc. |
| 20140204 ..... | G | Arsenal Capital Partners III LP; Steven B. Erikson; Arsenal Capital Partners III LP. |
| 20140209 ..... | G | VEPF IV AIV VI, L.P.; Thoma Bravo Fund IX, L.P.; VEPF IV AIV VI, L.P. |
| 20140210 ..... | G | Coller International Partners VI, L.P.; Credit Suisse Group AG; Coller International Partners VI, L.P. |
| 20140220 ..... | G | Roark Capital Partners III LP; Apollo Investment Fund VII, L.P.; Roark Capital Partners III LP. |
| 20140224 ..... | G | TA XI L.P.; Towne Holdings, Inc.; TA XI L.P. |
| 20140228 ..... | G | Charles J. Chanaratsopon Trust U/T/A dated 12/11/2008; Hancock Park Capital III, L.P.; Charles J. Chanaratsopon Trust U/T/A dated 12/11/2008. |
| 20140232 ..... | G | Crestview Partners III, L.P.; NYDJ Apparel, LLC; Crestview Partners III, L.P. |
| **12/03/2013** | | |
| 20140167 ..... | G | Corvex Master Fund LP; Fidelity National Financial, Inc.; Corvex Master Fund LP. |
| 20140229 ..... | G | American Securities Partners VI, L.P.; OCM Telcni-Plex Holdings, L.P.; American Securities Partners VI, L.P. |
| 20140236 ..... | G | Energy Capital Partners II–A, LP; Richland-Stryker Investment LLC; Energy Capital Partners II–A, LP. |
| 20140240 ..... | G | Dr. George D. Yancopoulos; Regeneron Pharmaceuticals, Inc.; Dr. George D. Yancopoulos. |
| 20140241 ..... | G | EIF United States Power Fund IV, L.P.; Global Infrastructure Partners-C, L.P.; EIF United States Power Fund IV, L.P. |
| 20140244 ..... | G | The Goldman Sachs Group, Inc.; Kelso Investment Associates VII, L.P.; The Goldman Sachs Group, Inc. |
| **12/04/2013** | | |
| 20140159 ..... | G | Elliott Associates, L.P.; Riverbed Technology, Inc.; Elliott Associates, L.P. |
| 20140218 ..... | G | Nippon Telegraph and Telephone Corporation; Tailwind Capital Partners, L.P.; Nippon Telegraph and Telephone Corporation. |
| 20140226 ..... | G | David W. Maschhoff Family GST Trust; Michael J. Helgeson; David W. Maschhoff Family GST Trust. |
| 20140227 ..... | G | Kenneth D. Maschhoff Family GST Trust; Michael J. Helgeson; Kenneth D. Maschhoff Family GST Trust. |
| 20140239 ..... | G | ABRY Partners VII, L.P.; Satellite Tracking of People LLC; ABRY Partners VII, L.P. |
| 20140248 ..... | G | Precision Castparts Corp.; Mr. and Mrs. Brian and Christine Leibl; Precision Castparts Corp. |
| 20140249 ..... | G | Deutsche Telekom AG; Verizon Communications Inc.; Deutsche Telekom AG. |
| 20140250 ..... | G | Verizon Communications Inc.; Deutsche Telekom AG; Verizon Communications Inc. |
| **12/05/2013** | | |
| 20140257 ..... | G | CIM Fund III, LP.; Berkeley Point Financial LLC; CIM Fund III, LP. |

EARLY TERMINATIONS GRANTED—Continued
DECEMBER 1, 2013 THRU DECEMBER 31, 2013

| | | |
|---|---|---|
| **12/06/2013** | | |
| 20140230 ..... | G | Blackstone Capital Partners (Caymen II) VI L.P.; Pactera Technology International Ltd.; Blackstone Capital Partners (Caymen II) VI L.P. |
| 20140251 ..... | G | Parkland Fuel Corporation; Jeffrey L. Farstad; Parkland Fuel Corporation. |
| 20140254 ..... | G | Avista Corporation; Alaska Energy Resources Company; Avista Corporation. |
| 20140258 ..... | G | Tinicum L.P.; Tinicum Capital Partners II, L.P.; Tinicum L.P. |
| 20140264 ..... | G | Sterling Capital Partners IV, L.P.; Innotrac Corporation; Sterling Capital Partners IV, L.P. |
| 20140268 ..... | G | F.L.P. Trust #11; Hyatt Hotels Corporation; F.L.P. Trust #11. |
| 20140269 ..... | G | F.L.P. Trust #14; Hyatt Hotels Corporation; F.L.P. Trust #14. |
| 20140272 ..... | G | NRG Energy, Inc.; Todd Johnson; NRG Energy, Inc. |
| 20140274 ..... | G | American Securities Partners VI, L.P.; Sun Capital Partners V, L.P.; American Securities Partners VI, L.P. |
| 20140276 ..... | G | First Reserve Fund XII, L.P.; One Rock Voltage Investors, LLC; First Reserve Fund XII, L.P. |
| 20140278 ..... | G | Universal Truckload Services, Inc.; Sebastiao Luis Pereira de Lima c/o SM Brasil Participacoes; Universal Truckload Services, Inc. |
| 20140281 ..... | G | TransDigm Group Incorporated Metalmark Capital Partners, L.P.; TransDigm Group Incorporated. |
| **12/11/2013** | | |
| 20140056 ..... | G | Advance Auto Parts, Inc.; General Parts International, Inc.; Advance Auto Parts, Inc. |
| 20140202 ..... | G | International Business Machines Corporation; Fiberlink Communications Corp.; International Business Machines Corporation. |
| 20140205 ..... | G | Zebra Technology Corporation; Topspin Partners LBO, L.P.; Zebra Technology Corporation. |
| 20140235 ..... | G | TCV VII, L.P.; Spotify Technology S.A.; TCV VII, L.P. |
| 20140265 ..... | G | Moelis Capital Partners Opportunity Fund I, LP; Fair Oaks Anesthesia Associates, P.C.; Moelis Capital. |
| 20140282 ..... | G | Partners Opportunity Fund I, LP, William B. Reily, III; New England Tea & Coffee Co., Inc.; William B. Reily, III. |
| 20140285 ..... | G | Genstar Capital Partners V, L.P.; Charlesbank Equity Fund VI, Limited Partnership; Genstar Capital Partners V. L.P. |
| **12/12/2013** | | |
| 20140184 ..... | G | Orange Capital Offshore I, Ltd.; PHH Corporation; Orange Capital Offshore I, Ltd. |
| 20140221 ..... | G | Carl C. Icahn; Hologic, Inc.; Carl C. Icahn. |
| **12/13/2013** | | |
| 20140208 ..... | G | University Hospitals Health System, Inc.; The Parma Community General Hospital Association; University Hospitals Health System, Inc. |
| 20140252 ..... | G | The Hearst Family Trust; Homecare Homebase, LLC; The Hearst Family Trust. |
| 20140259 ..... | G | Kentz Corporation Limited; Valerus Compression Services, L.P.; Kentz Corporation Limited. |
| 20140270 ..... | G | Catholic Health Initiatives; Baylor College of Medicine; Catholic Health Initiatives. |
| 20140271 ..... | G | Baylor College of Medicine; Catholic Health Initiatives; Baylor College of Medicine. |
| **12/16/2013** | | |
| 20140217 ..... | G | Mylan Inc.; Pfizer Inc.; Mylan Inc. |
| 20140284 ..... | G | New Mountain Partners III, L.P.; Fortegra Financial Corporation; New Mountain Partners III, L.P. |
| 20140286 ..... | G | University Hospitals Health System, Inc.; Comprehensive Health Care of Ohio, Inc.; University Hospitals Health System, Inc. |
| 20140289 ..... | G | Azim H. Premji; Opus Capital Market Consultants, LLC; Azim H. Premji. |
| 20140290 ..... | G | Devon Energy Corporation; GeoSouthem Energy Corporation; Devon Energy Corporation. |
| 20140296 ..... | G | Verizon Communications, Inc.; EdgeCast Networks, Inc.; Verizon Communications, Inc. |
| **12/17/2013** | | |
| 20140219 ..... | G | Grifols, S.A.; Novartis AG; Grifols, S.A. |
| 20140256 ..... | G | Arsenal Capital Partners AIV III LP; Vector Capital International, LP Arsenal Capital Partners AIV III LP. |
| 20140266 ..... | G | Paladin Labs, Inc.; Endo Health Solutions Inc.; Paladin Labs, Inc. |
| 20140267 ..... | G | Ansell Limited; Odyssey Investment Partners Fund IV, L.P.; Ansell Limited. |
| 20140297 ..... | G | Wells Fargo & Company: Apigee Corporation; Wells Fargo & Company. |
| **12/20/2013** | | |
| 20130985 ..... | G | Gannett Co., Inc.; Belo Corp.; Gannett Co., Inc. |
| 20131220 ..... | G | Rockwell Collins, Inc.; Carlyle Partners IV ARINC Holdings, L.P.; Rockwell Collins, Inc. |
| 20140306 ..... | G | Green Equity Investors VI, L.P.; Fifth & Pacific Companies, Inc.; Green Equity Investors VI, L.P. |
| 20140308 ..... | G | KKR Asian Fund II L.P. AIV, a To-Be-Formed Entity; Panasonic Corporation; KKR Asian Fund II L.P. AIV, a To-Be-Formed Entity. |
| 20140309 ..... | G | The WhiteWave Foods Company; Canada Pension Plan Investment Board; The WhiteWave Foods Company. |
| 20140311 ..... | G | XPO Logistics, Inc.; Landstar System, Inc.; XPO Logistics, Inc. |
| 20140312 ..... | G | AT&T Inc.; SoftBank Corporation; AT&T Inc. |
| 20140313 ..... | G | SoftBank Corporation; AT&T Inc.; SoftBank Corporation. |
| 20140314 ..... | G | Comvest Investment Partners IV, L.P.; Amin Rahman Ramjee; Comvest Investment Partners IV, L.P. |

EARLY TERMINATIONS GRANTED—Continued
DECEMBER 1, 2013 THRU DECEMBER 31, 2013

| | | |
|---|---|---|
| | **12/23/2013** | |
| 20140253 ..... | G | Henry Schein, Inc.; HealthPoint Capital Partners II, LP; Henry Schein, Inc. |
| 20140303 ..... | G | NCR Corporation; Fandango Holdings Corporation; NCR Corporation. |
| 20140318 ..... | G | Post Holdings, Inc.; TA XI L.P.; Post Holdings, Inc. |
| | **12/24/2013** | |
| 20140300 ..... | G | LKQ Corporation; Platinum Equity Capital Partners II, L.P.; LKQ Corporation. |
| 20140310 ..... | G | Calpine Corporation; Wayzata Opportunities Fund II, L.P.; Calpine Corporation. |
| 20140317 ..... | G | Genuine Parts Company; Mickey M. Hamano; Genuine Parts Company. |
| 20140322 ..... | G | David D. Smith; Robert C. Russel; David D. Smith. |
| 20140324 ..... | G | Steven B. Fader; Robert C. Russel; Steven B. Fader. |
| 20140328 ..... | G | Fairfax Financial Holdings Ltd.; EXCO Resources, Inc.; Fairfax Financial Holdings Ltd. |
| | **12/26/2013** | |
| 20140299 ..... | G | DXP Enterprises, Inc.; Champlain Capital Partners, L.P.; DXP Enterprises, Inc. |
| | **12/31/2013** | |
| 20140307 ..... | G | JDS Uniphase Corporation; Thoma Bravo Fund X, L.P.; JDS Uniphase Corporation. |
| 20140319 ..... | G | Bertram Growth Capital II, L.P.; Maxcess International, LLC; Bertram Growth Capital II, L.P. |
| 20140329 ..... | G | Mark Mitchell; Centene Corporation; Mark Mitchell. |
| 20140330 ..... | G | Centene Corporation; Mark Mitchell; Centene Corporation. |
| 20140332 ..... | G | Blackstone Capital Partners (Caymen) V–NQ L.P.; Todd Batten; Blackstone Capital Partners (Caymen) V–NQ L.P. |
| 20140333 ..... | G | E. Merck KG; AZ Electronic Materials S.A.; E. Merck KG. |
| 20140335 ..... | G | Clayton, Dubilier & Rice Fund IX, L.P.; PharMEDium Healthcare Corporation; Clayton, Dubilier & Rice Fund IX, L.P. |
| 20140338 ..... | G | Macquarie Infrastructure Company LLC; Martin F. Greenberg; Macquarie Infrastructure Company LLC. |
| 20140339 ..... | G | Post Holdings, Inc.; Tricor Pacific Capital Partners (Fund IV), LP; Post Holdings, Inc. |
| 20140343 ..... | G | Seneca Foods Corporation; All Veg, LLC; Seneca Foods Corporation. |
| 20140346 ..... | G | Audax Private Equity Fund IV AIV, L.P.; Evangelos P. Proimos Living Trust UAD 11/19/2003; Audax Private Equity Fund IV AIV, L.P. |
| 20140353 ..... | G | Cummins Inc.; Ben J. Strafuss; Cummins Inc. |

**FOR FURTHER INFORMATION CONTACT:** Renee Chapman, Contact Representative; or Theresa Kingsberry, Legal Assistant, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 2014–00240 Filed 1–10–14; 8:45 am]

**BILLING CODE 6750–01–M**

## FEDERAL TRADE COMMISSION

**[File No. 122 3077]**

### Accretive Health, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed Consent Agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the draft complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before January 30, 2014.

**ADDRESSES:** Interested parties may file a comment at *https://ftcpublic.commentworks.com/ftc/accretiveconsent* online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Accretive Health, Inc.- Consent Agreement; File No. 122 3077'' on your comment and file your comment online at *https://ftcpublic.commentworks.com/ftc/accretiveconsenthttps://ftcpublic.commentworks.com/ftc/fidelitynationalconsent* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** David Lincicum, Bureau of Consumer Protection, (202–326–2773), 600 Pennsylvania Avenue NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and FTC Rule 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for December 31, 2013), on the World Wide Web, at *http://www.ftc.gov/os/actions.shtm.* A paper copy can be obtained from the FTC Public Reference Room, Room 130–H, 600 Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–2222.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 30, 2014. Write ''Accretive Health, Inc.- Consent

Agreement; File No. 122 3077'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential,'' as discussed in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).[1] Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/accretiveconsent* by following the instructions on the web-based form. If this Notice appears at *http://www.regulations.gov/#!home,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Accretive Health, Inc.- Consent Agreement; File No. 122 3077'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex D), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at *http://www.ftc.gov* to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before January 30, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm.*

**Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted, subject to final approval, a consent order applicable to Accretive Health Systems, Inc.

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement's proposed order.

Accretive Health enters into service agreements with hospital systems around the country to provide services related to the hospital systems' ''revenue cycle'' operations. Revenue cycle operations include registration, transcription, coding and medical documentation, billing, pricing, and collection of past due accounts. In exchange for these services, hospital systems pay Accretive Health both fixed fees and incentive payments based on a percentage of the monetary benefit from increased revenues. Accretive Health employees work at hospital facilities to assist with these services. As part of its service to client hospitals, Accretive Health collects, maintains, and has access to information about hospitals' patients, including sensitive health and personal information. This information may include patient names, dates of birth, billing information, diagnostic information, and Social Security numbers.

The Commission's complaint alleges that Accretive Health unfairly failed to provide reasonable and appropriate security for consumers' personal information it collected and maintained by engaging in a number of practices that, taken together, unreasonably and unnecessarily exposed consumers' personal data to unauthorized access. Among other things, Accretive Health created unnecessary risks of unauthorized access or theft of personal information by:

a. Transporting laptops containing personal information in a manner that made them vulnerable to theft or other misappropriation;

b. Failing to adequately restrict access to, or copying of, personal information based on an employee's need for information;

c. Failing to ensure that employees removed information from their computers for which they no longer had a business need; and

d. Using consumers' personal information in training sessions with employees and failing to ensure that the information was removed from employees' computers following the training.

The complaint further alleges that these failures contributed to a July 2011 incident in Minneapolis, Minnesota in which an Accretive Health laptop containing over 600 files with over 20 million pieces of information related to 23,000 patients was left in the locked passenger compartment of the employee's car and stolen. The laptop included sensitive health and personal information, including patient names, dates of birth, billing information, diagnostic information, and Social Security numbers. The user of this laptop had data that was not necessary to perform his job.

The proposed order contains provisions designed to prevent Accretive Health from engaging in the future in practices similar to those alleged in the complaint.

Part II of the proposed order requires Accretive Health to establish and maintain, or continue to maintain, a comprehensive information security program that is reasonably designed to protect the security, confidentiality, and integrity of personal information collected from or about consumers. The security program must contain administrative, technical, and physical safeguards appropriate to Accretive Health's size and complexity, nature and scope of its activities, and the sensitivity of the information collected

[1] In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c), 16 CFR 4.9(c).

from or about consumers. Specifically, the proposed order requires Accretive Health to:

- Designate an employee or employees to coordinate and be accountable for the information security program;
- identify material internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, loss, alteration, destruction, or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks;
- design and implement reasonable safeguards to control the risks identified through risk assessment, and regularly test or monitor the effectiveness of the safeguards' key controls, systems, and procedures;
- develop and use reasonable steps to select and retain service providers capable of appropriately safeguarding personal information they receive from Accretive Health, and require service providers by contract to implement and maintain appropriate safeguards; and
- evaluate and adjust its information security program in light of the results of testing and monitoring, any material changes to operations or business arrangement, or any other circumstances that it knows or has reason to know may have a material impact on its information security program.

Part III of the proposed order requires Accretive Health to obtain within the first one hundred eighty (180) days after service of the order, and on a biennial basis thereafter for a period of twenty (20) years, an assessment and report from a qualified, objective, independent third-party professional, certifying, among other things, that: (1) It has in place a security program that provides protections that meet or exceed the protections required by Part II of the proposed order; and (2) its security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of sensitive consumer, information has been protected.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IV requires Accretive Health to retain documents relating to its compliance with the order. For most records, the order requires that the documents be retained for a five-year period. For the third-party assessments and supporting documents, Accretive Health must retain the documents for a period of three years after the date that each assessment is prepared. Part V requires dissemination of the order now and in the future to all current and future principals, officers, directors, and managers, and to persons with responsibilities relating to the subject matter of the order. Part VI ensures notification to the FTC of changes in corporate status. Part VII mandates that Accretive Health submit a compliance report to the FTC within 60 days, and periodically thereafter as requested. Part VIII is a provision ''sunsetting'' the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed complaint or order or to modify the order's terms in any way.

By direction of the Commission.

**Janice Podoll Frankle,**

*Acting Secretary.*

[FR Doc. 2014–00373 Filed 1–10–14; 8:45 am]

**BILLING CODE 6750–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### Request for Notification From Industry Organizations Interested in Participating in the Selection Process for Nonvoting Industry Representatives and Request for Nominations for Nonvoting Industry Representatives on the Pharmacy Compounding Advisory Committee

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting that industry organizations interested in participating in the selection of nonvoting industry representatives to represent the interests of the pharmacy compounding industry and the pharmaceutical manufacturing industry on the Pharmacy Compounding Advisory Committee for the Center for Drug Evaluation and Research notify FDA in writing. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for two vacancies effective with this notice.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees, and therefore, encourages nominations of appropriately qualified candidates from these groups. Specifically, in this document, nominations for nonvoting representatives of industry interests are encouraged from the pharmacy compounding industry and the pharmaceutical manufacturing industry.

**DATES:** Any industry organization interested in participating in the selection of appropriate nonvoting members to represent the interests of the pharmacy compounding industry and the pharmaceutical manufacturing industry should send a letter stating the interest to FDA by February 12, 2014, for the vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA by February 12, 2014.

**ADDRESSES:** All letters of interest and nominations should be submitted electronically to *PCAC@fda.hhs.gov,* or in writing by mail to Jayne E. Peterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993.

**FOR FURTHER INFORMATION CONTACT:** Jayne E. Peterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993, 301–796–9001, FAX: 301–847–8533, email: *PCAC@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:** The Agency requests nominations for nonvoting industry representatives on the Pharmacy Compounding Advisory Committee (the Committee) to represent the interests of the pharmacy compounding industry and the pharmaceutical manufacturing industry.

#### I. Pharmacy Compounding Advisory Committee

The Committee advises the Commissioner of Food and Drugs (the Commissioner) or designee in discharging responsibilities as they relate to the regulation of compounded drug products. The Committee provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a and 353b), and as required, any other product for which FDA has regulatory responsibility. The Committee also makes appropriate recommendations to the Commissioner.

The Committee will include one or more nonvoting members who represent industry interests. These members will include one representative of the pharmacy compounding industry and

one representative of the pharmaceutical manufacturing industry. With this notice, nominations are being sought for one representative from the pharmacy compounding industry and one representative from the pharmaceutical manufacturing industry.

**II. Criteria for Nonvoting Members**

Any pharmacy compounding organization and any pharmaceutical manufacturing organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**).

Within the subsequent 30 days, FDA will send a letter to each pharmacy compounding organization that has expressed an interest and attach a complete list of all such organizations. A list of all nominees from the pharmacy compounding industry along with their current résumés will also be attached. The letter will also state that it is the responsibility of the interested organizations to confer with one another and select a candidate to serve as the nonvoting member to represent the pharmacy compounding industry on the committee within 60 days of receiving the FDA letter. FDA will send similar letters to the pharmaceutical manufacturing organizations that have expressed interest, and they will be expected to follow a similar process to select their nominee.

Interested organizations are not bound by the list of nominees when selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member in each category to represent industry interests.

**III. Nomination Procedure**

Individuals may self-nominate, and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. Nominations should include contact information and a current, complete résumé or curriculum vitae for each nominee. Nominations should also include the name of the Committee and should be sent to the FDA contact person (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). FDA will forward all nominations to the organizations expressing interest in participating in the selection process for the Committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process).

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice requesting nominations for voting members of the Committee, a notice for consumer organizations to participate in the nominations for and selection of the consumer representative for the Committee, and a final rule updating information regarding the Committee.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: January 7, 2014.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2014–00320 Filed 1–10–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### Request for Nominations for a Voting Consumer Representative on the Pharmacy Compounding Advisory Committee and Request for Notification From Consumer Organizations Interested in Participating in the Selection Process for Nominations for a Voting Consumer Representative on the Pharmacy Compounding Advisory Committee

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting that any consumer organizations interested in participating in the selection of a voting consumer representative to serve on the Pharmacy Compounding Advisory Committee notify FDA in writing. FDA is also requesting nominations for a voting consumer representative to serve on the Pharmacy Compounding Advisory Committee for which a vacancy currently exists. Nominees recommended to serve as the voting consumer representative may be self-nominated or nominated by a consumer organization. Nominations will be accepted for the current vacancy through February 12, 2014.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees, and therefore, encourages nominations of appropriately qualified candidates from these groups.

**DATES:** Any consumer organization interested in participating in the selection of an appropriate voting member to represent consumer interests on an FDA advisory committee should send a letter or email stating that interest to FDA (see **ADDRESSES**) by February 12, 2014, for the vacancy in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA (see **ADDRESSES**) by February 12, 2014.

**ADDRESSES:** All statements of interest from consumer organizations interested in participating in the selection process and consumer representative nominations should be sent electronically to *cv@oc.fda.gov,* or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993–0002, FAX: 301–847–8640. Information about becoming a member of an FDA advisory committee can be obtained by visiting FDA's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

**FOR FURTHER INFORMATION CONTACT:** Dornette Spell-LeSane, Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993–0002, 301–796–8224, email: *dornette.spelllesane@fda.hhs.gov.*

*For questions relating to the Pharmacy Compounding Advisory Committee, contact:* Jayne E. Peterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993, 301–796–9001; FAX: 301–847–8533, email: *PCAC@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations for a voting consumer representative listed in table 1:

TABLE 1—COMMITTEE DESCRIPTION, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE DATE NEEDED

| Committee areas of expertise needed | Current vacancies | Approximate date needed |
|---|---|---|
| Pharmacy Compounding—Knowledgeable in the fields of pharmaceutical compounding; pharmaceutical manufacturing; pharmacy, medicine, and related specialties. | 1—Voting | Immediately. |

**I. Pharmacy Compounding Drugs Advisory Committee**

The Committee provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a and 353b), and, as required, any other product for which FDA has regulatory responsibility, and makes appropriate recommendations to the Commissioner of Food and Drugs.

**II. Criteria for Members**

Persons nominated for membership as consumer representatives on committees should meet the following criteria: (1) Demonstrate ties to consumer- and community-based organizations; (2) be able to analyze technical data; (3) understand research design; (4) be able to discuss benefits and risks; and (5) be able to evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

**III. Selection Procedures**

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and consumer advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments may also participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within the subsequent 30 days, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, along with each nominee's current curriculum vitae or résumé. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee.

**IV. Nomination Procedures**

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees. Self-nominations are also accepted. Nominations should include a cover letter and a current, complete résumé or curriculum vitae for each nominee, including a current business address and/or home address, telephone number, email address if available, and a list of consumer- or community-based organizations for which the candidate can demonstrate active participation.

Nominations also should specify the advisory committee for which the nominee is recommended. In addition, nominations should include confirmation that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee if selected, and appears to have no conflict of interest. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts in order to permit evaluation of possible sources of conflicts of interest. Members will be invited to serve for terms of up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and will be reviewed periodically by FDA to determine continued interest. Upon selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting consumer representatives will not participate in the selection process.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice requesting nominations for voting members of the Committee, a notice for industry organizations to participate in the nominations for and selection of the industry representatives for the Committee, and a final rule updating information regarding the Committee.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: January 7, 2014.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2014–00319 Filed 1–10–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0001]**

### Request for Nominations for Voting Members on a Public Advisory Committee; Pharmacy Compounding Advisory Committee

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is requesting nominations for 12 voting members to serve on the Pharmacy Compounding Advisory Committee, Center for Drug Evaluation and Research.

FDA seeks to include the views of women and men, members of all racial and ethnic groups, and individuals with and without disabilities on its advisory committees, and therefore, encourages nominations of appropriately qualified candidates from these groups.

**DATES:** Nominations received on or before March 14, 2014 will be given first consideration for membership on the Pharmacy Compounding Advisory Committee. Nominations received after March 14, 2014 will be considered for nomination to the committee if nominees are still needed.

**ADDRESSES:** All nominations for membership should be sent electronically to *cv@oc.fda.gov,* or by mail to Advisory Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5103, Silver Spring, MD 20993–0002. Information about becoming a member on an FDA advisory committee can also be obtained by visiting FDA's Web site at: *http://www.fda.gov/AdvisoryCommittees/default.htm.*

**FOR FURTHER INFORMATION CONTACT:** Jayne E. Peterson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993, 301–796–9001; FAX: 301–847–8533, email: *PCAC@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** FDA is requesting nominations for voting members on the Pharmacy Compounding Advisory Committee (the Committee).

### I. General Description of the Committee's Duties

The Committee provides advice on scientific, technical, and medical issues concerning drug compounding under sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353a and 353b), and as required, any other product for which FDA has regulatory responsibility. The Committee also makes appropriate recommendations to the Commissioner of Food and Drugs.

### II. Criteria for Voting Members

Persons nominated for membership must have adequately diversified research and/or experience appropriate to the work of the Committee in such fields as pharmaceutical compounding, pharmaceutical manufacturing, pharmacy, medicine, and related specialties. These members will include representatives from the National Association of Boards of Pharmacy, the United States Pharmacopoeia, pharmacists with current experience and expertise in compounding, physicians with background and knowledge in compounding, and patient and public health advocacy organizations.

The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, pharmacy practice, teaching, research, and/or public service relevant to the field of activity of the Committee. Members will be invited to serve for terms of up to 4 years.

### III. Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on the Committee. Self-nominations are also accepted. Nominations should include a cover letter and a current, complete résumé or curriculum vitae for each nominee, including a current business address and/or home address, telephone number, and email address if available. Nominations should also specify the advisory committee for which the nominee is recommended. Nominations should state that the nominee is aware of the nomination unless self-nominated. Nominations should also state that the nominee is willing to serve as a member of the advisory committee if selected and appears to have no conflict of interest. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts in order to permit evaluation of possible sources of conflict of interest.

Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice for industry organizations to participate in the nominations for and selection of industry representatives for the Committee, a notice for consumer organizations to participate in the nominations for and selection of the consumer representative for the Committee, and a final rule updating information regarding the Committee.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: January 7, 2014.

**Jill Hartzler Warner,**

*Acting Associate Commissioner for Special Medical Programs.*

[FR Doc. 2014–00318 Filed 1–10–14; 8:45 am]

**BILLING CODE 4160–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurobiology of Memory Formation.

*Date:* January 16, 2014.

*Time:* 3:30 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181 MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Population Sciences and Epidemiology Integrated Review Group; Behavioral Genetics and Epidemiology Study Section.

*Date:* February 3, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marines' Memorial Club and Hotel, 609 Sutter Street, San Francisco, CA 94102.

*Contact Person:* George Vogler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3140, MSC 7770, Bethesda, MD 20892, (301) 237–2693, *voglergp@csr.nih.gov.*

*Name of Committee:* Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.

*Date:* February 5–6, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

*Contact Person:* Dennis Hlasta, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6185, MSC, Bethesda, MD 20892, 301–435–1047, *dennis.hlasta@nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

*Date:* February 6–7, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

*Contact Person:* John Burch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–408–9519, *burchjb@csr.nih.gov.*

*Name of Committee:* Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.

*Date:* February 6–7, 2014.

*Time:* 8:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005.

*Contact Person:* William A Greenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4168, MSC 7806, Bethesda, MD 20892, (301) 435–1726, *greenbergwa@csr.nih.gov.*

*Name of Committee:* Immunology Integrated Review Group; Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.

*Date:* February 6–7, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Westin St. Francis San Francisco on Union Square, 335 Powell Street, San Francisco, CA 94102.

*Contact Person:* Bahiru Gametchu, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–408–9329, *gametchb@csr.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group; Drug Discovery and Molecular Pharmacology Study Section.

*Date:* February 6–7, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Dupont Hotel, 1500 New Hampshire Avenue NW., Washington, DC 20036.

*Contact Person:* Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–594–7945, *smileyja@csr.nih.gov.*

*Name of Committee:* Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

*Date:* February 6–7, 2014.

*Time:* 8:30 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:* Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301–435–1223, *haydenb@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.

*Date:* February 6–7, 2014.

*Time:* 10:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Westin Riverwalk Hotel, 420 Westin Market Street, San Antonio, TX 78205.

*Contact Person:* Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 5181 MSC 7846, Bethesda, MD 20892–7846, 301–435–1236, *zhaow@csr.nih.gov.*

*Name of Committee:* Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

*Date:* February 7, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Pier 2620 Hotel, 2620 Jones Street, San Francisco, CA 94133.

*Contact Person:* Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group; Nuclear and Cytoplasmic Structure/Function and Dynamics Study Section.

*Date:* February 10–11, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Monaco, 700 F Street NW., Washington, DC 20001.

*Contact Person:* David Balasundaram, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurotoxicology and Alcohol Study Section.

*Date:* February 10, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

*Contact Person:* Christine Melchior, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176 MSC 7844, Bethesda, MD 20892, (301) 435–1713, *melchioc@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Motivated Behavior Study Section.

*Date:* February 10, 2014.

*Time:* 8:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

*Contact Person:* Nicholas Gaiano, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892–7844, 301–435–1033, *gaianonr@csr.nih.gov.*

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group; Hepatobiliary Pathophysiology Study Section.

*Date:* February 10–11, 2014.

*Time:* 8:00 a.m. to 3:00 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:* Bonnie L Burgess-Beusse, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, 301–435–1783, *beusseb@mail.nih.gov.*

*Name of Committee:* Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

*Date:* February 10–11, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Pier 2620 Hotel, 2620 Jones Street, San Francisco, CA 94133.

*Contact Person:* Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3180, MSC 7848, Bethesda, MD 20892, 301–437–9858, *tianbi@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: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00308 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial

property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council on Drug Abuse.

*Date:* February 4, 2014.

*Closed:* 12:30 p.m. to 2:15 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, Conference Rooms C & D, 6001 Executive Boulevard, Rockville, MD 20852.

*Open:* 2:15 p.m. to 4:30 p.m.

*Agenda:* This portion of the meeting will be open to the public for announcements and reports of administrative, legislative and program developments in the drug abuse field.

*Place:* National Institutes of Health, Neuroscience Center, Conference Rooms C & D, 6001 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Mark Swieter, Ph.D., Acting Director, Office of Extramural Affairs, Branch Chief, Extramural Activities Branch, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Boulevard, Room 4243, Bethesda, MD 20892–9550, (301) 435–1389, *ms80x@nih.gov.*

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS).

Dated: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00300 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; 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 USC, as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Products to Prevent (Lethal) Drug-induced Respiratory Depression (2239; Phase I, Topic 153).

*Date:* January 13, 2014.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Jose F. Ruiz, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, Room 4228, MSC 9550, 6001 Executive Blvd., Bethesda, MD 20892–9550, (301) 451–3086, *ruizjf@nida.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Affordable Care Act (ACA) Web Platform to Integrate Behavioral Health and Prevention with Primary Care (5679; Phase I, Topic 155).

*Date:* January 22, 2014.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; National Addiction and HIV Data Archive Program (NAHDAP) (5576).

*Date:* February 6, 2014.

*Time:* 10:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 435–1439, *lf33c.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00301 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group Nursing and Related Clinical Sciences 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:* Priscah Mujuru, RN, DRPH, COHNS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, 301–594–6594, *mujurup@mail.nih.gov.*

*Name of Committee:* Oncology 2—Translational Clinical Integrated Review Group Chemo/Dietary Prevention Study Section.

*Date:* February 6, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sheraton Silver Spring, 8777 Georgia Ave, Silver Spring, MD 20910.

*Contact Person:* Sally A Mulhern, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 408–9724, *mulherns@csr.nih.gov.*

*Name of Committee:* Healthcare Delivery and Methodologies Integrated Review Group Biomedical Computing and Health Informatics Study Section.

*Date:* February 6, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Sir Francis Drake Hotel, 450 Powell Street at Sutter, San Francisco, CA 94102.

*Contact Person:* Melinda Jenkins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892, 301–437–7872, *jenkinsml2@mail.nih.gov.*

*Name of Committee:* Immunology Integrated Review Group, Innate Immunity and Inflammation Study Section.

*Date:* February 6–7, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites, 1900 Diagonal Road, Alexandria, VA 22314.

*Contact Person:* Tina McIntyre, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4202, MSC 7812, Bethesda, MD 20892, 301–594–6375, *mcintyrt@csr.nih.gov.*

*Name of Committee:* Vascular and Hematology Integrated Review Group, Hemostasis and Thrombosis Study Section.

*Date:* February 6, 2014.

*Time:* 10:00 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Bukhtiar H Shah, Ph.D., DVM, Scientific Review Officer, Vascular and Hematolog IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC 7802, Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Bioinformatics in Surgical Sciences, Imaging and Independent Living.

*Date:* February 7, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

*Contact Person:* Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, 301–237–9870, *xuguofen@csr.nih.gov.*

*Name of Committee:* Digestive, Kidney and Urological Systems Integrated Review Group; Kidney Molecular Biology and Genitourinary Organ Development.

*Date:* February 11, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* Ryan G Morris, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4205, MSC 7814, Bethesda, MD 20892, 301–435–1501, *morrisr@csr.nih.gov.*

*Name of Committee:* Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cellular, Molecular and Integrative Reproduction Study Section.

*Date:* February 11, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Gary Hunnicutt, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, 301–435–0229, *hunnicuttgr@csr.nih.gov.*

*Name of Committee:* Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Clinical Molecular Imaging and Probe Development.

*Date:* February 11–12, 2014.

*Time:* 8:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Dana on Mission Bay, 1710 West Mission Bay Drive, San Diego, CA 92109.

*Contact Person:* David L Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *williamsdl2@csr.nih.gov.*

*Name of Committee:* Bioengineering Sciences & Technologies Integrated Review Group; Modeling and Analysis of Biological Systems Study Section.

*Date:* February 11–12, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hotel Nikko San Francisco, 222 Mason Street, San Francisco, CA 94102.

*Contact Person:* Craig Giroux, Ph.D., Scientific Review Officer, BST IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, Bethesda, MD 20892, 301–435–2204, *girouxcn@csr.nih.gov.*

*Name of Committee:* Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Mechanisms of Sensory, Perceptual, and Cognitive Processes Study Section.

*Date:* February 11–12, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Serrano Hotel, 405 Taylor Street, San Francisco, CA 94102.

*Contact Person:* Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

*Name of Committee:* Biological Chemistry and Macromolecular Biophysics Integrated Review Group Macromolecular Structure and Function D Study Section.

*Date:* February 11, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

*Contact Person:* James W Mack, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4154, MSC 7806, Bethesda, MD 20892, (301) 435–2037, *mackj2@csr.nih.gov.*

*Name of Committee:* Cell Biology Integrated Review Group Development—1 Study Section.

*Date:* February 11–12, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

*Contact Person:* Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Member Conflict: Cancer Initiation, Progression, and Metastasis.

*Date:* February 11, 2014.

*Time:* 11:00 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Manzoor Zarger, MS, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–2477, *zargerma@csr.nih.gov.*

*Name of Committee:* Emerging Technologies and Training Neurosciences Integrated Review Group Neuroscience and Ophthalmic Imaging Technologies Study Section.

*Date:* February 12–13, 2014.

*Time:* 8:00 a.m. to 9:00 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Torrance Marriott South Bay, 3635 Fashion Way, Torrance, CA 90503.

*Contact Person:* Yvonne Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 5199, MSC 7846, Bethesda, MD 20892, 301–379–3793, *bennetty@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel PAR–11–257: Systems Developmental Biology.

*Date:* February 12, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Renaissance Harborplace Hotel, 202 East Pratt Street, Baltimore, MD 21202.

*Contact Person:* Jonathan Arias, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5170, MSC 7840, Bethesda, MD 20892, 301–435–2406, *ariasj@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel Special: Systemic Injury By Environmental Exposure.

*Date:* February 12–13, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Patricia Greenwel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2178, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

*Name of Committee:* Center for Scientific Review Special Emphasis Panel PAR11–216: Early Phase Clinical Trials in Imaging and Image-Guided Interventions.

*Date:* February 12, 2014.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* The Dana on Mission Bay, 1710 West Mission Bay Drive, San Diego, CA 92109.

*Contact Person:* David L Williams, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *williamsdl2@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: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00307 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Children's Study Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Please visit the National Children's Study Advisory Committee Web site for additional meeting information at *http://www.nationalchildrensstudy.gov/about/organization/advisorycommittee/Pages/default.aspx.* For additional information about the Federal Advisory Committee, please email at *ContactNCS@nih.gov.* Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* National Children's Study Advisory Committee.

*Date:* January 29, 2014.

*Time:* 9:00 a.m. to 4:30 p.m.

*Agenda:* The Committee will receive an update on the current status of Vanguard Study and will discuss efforts underway to refine the visit content framework.

*Place:* National Institutes of Health, Natcher Conference Center, Room E1/E2, 45 Center Drive, Bethesda, MD 20892.

*Contact Person:* Leslie Cooke, Program Analyst, National Children's Study, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 3A01, Bethesda, MD 20892, (301) 594–1302, *contactncs@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. For additional information about the Federal Advisory Committee meeting, please contact *contactncs@nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS).

Dated: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00303 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Subcommittee MID–B February 2014.

*Date:* February 3–4, 2014.

*Time:* 8:00 a.m. to 7:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Residence Inn Bethesda, Montgomery I & II, 7335 Wisconsin Ave., Bethesda, MD 20814.

*Contact Person:* Nancy Lewis Ernst, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–451–7383, *nancy.ernst@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: January 7, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00306 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Dental and Craniofacial Research Council.

*Date:* January 28, 2014.

*Open:* 8:30 a.m. to 12:00 p.m.

*Agenda:* Report to the Director, NIDCR.

*Place:* National Institutes of Health, Building 31C, Room 10, 31 Center Drive, 6th Floor, Bethesda, MD 20892.

*Closed:* 1:00 p.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31C, Room 10, 31 Center Drive, 6th Floor, Bethesda, MD 20892.

*Contact Person:* Alicia J. Dombroski, Ph.D., Director, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, National Institutes of Health, Bethesda, MD 20892.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS).

Dated: January 7, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00311 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Clinical Center; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors of the NIH Clinical Center.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the CLINICAL CENTER, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors of the NIH Clinical Center.

*Date:* February 10, 2014.

*Time:* 8:00 a.m. to 3:45 p.m.

*Agenda:* To review and evaluate the Reports and Responses to the Clinical Center's various Departments. The Departments are: the Rehabilitation Medicine, Bioethics, Critical Care Medicine, Imaging Sciences, Transfusion Medicine, Laboratory Medicine, Nursing, and Pharmacy.

*Place:* National Institutes of Health, Building 10, 4–2551, 10 Center Drive, Bethesda, MD 20892.

*Contact Person:* Mary Sparks, Nurse Consultant for the Deputy Director for Clinical Care, Office of the Deputy Director, Clinical Center, National Institutes of Health, Building 10, Room 6–3521, Bethesda, MD, 20892 (301) 496–3515.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Dated: January 7, 2014.

**Michelle Trout,**

*Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00309 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; 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 materials, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; HIV/AIDS and Substance Use Among the Homeless and Unstably Housed (R01).

*Date:* February 11, 2014.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; HIV/AIDS and Substance Use among Black/African American Women and Young MSM.

*Date:* February 12, 2014.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD

20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Comorbid HIV, Chronic Pain, and Substance Use among Older Adults (R21).

*Date:* February 13, 2014.

*Time:* 9:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

*Contact Person:* Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, *rogersn2@nida.nih.gov.*

*Name of Committee:* National Institute on Drug Abuse Special Emphasis Panel; Abuse-Resistant and Abuse-Deterrent Formulations and Devices to Avoid the Abuse, Misuse and Diversion of Prescription Opioids by Patients (RFA–DA–14–013; R43/R44 SBIR).

*Date:* February 25, 2014.

*Time:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

*Contact Person:* Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–402–6626, *gm145a@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS).

Dated: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00302 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, ITP Review meeting II.

*Date:* January 21, 2014.

*Time:* 1:00 p.m. to 3:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institute on Aging, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: January 7, 2014.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00313 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Dental and Craniofacial Research Special Emphasis Panel.

*Date:* February 10, 2014.

*Time:* 10:00 a.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Room 602, 6701 Democracy Blvd., Bethesda, MD 20892.

*Contact Person:* Jayalakshmi Raman, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Dental and Craniofacial Research, One Democracy Plaza, Room 670, Bethesda, MD 20892–4878, 301–594–2904, *ramanj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 7, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00310 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

*Date:* January 29–30, 2014.

*Time:* 8:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

*Contact Person:* Quirijn Vos, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/NIH/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2666, *qvos@niaid.nih.gov.*

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

*Date:* February 20, 2014.

*Time:* 12:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive,

Bethesda, MD 20817, (Telephone Conference Call).

*Contact Person:* Dharmendar Rathore, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Rm. 3134, Bethesda, MD 20892, 301–435–2766, *rathored@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: January 7, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00304 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

*Date:* January 13–14, 2014.

*Time:* 10:00 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(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: January 7, 2014.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00314 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy And Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

*Date:* February 5–6, 2014.

*Time:* 8:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate contract proposals.

*Place:* Hilton Washington/Rockville, Regency Room, 1750 Rockville Pike, Rockville, MD 20852.

*Contact Person:* Lakshmi Ramachandra, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 6700–B Rockledge Drive, MSC–7616, Room 3264, Bethesda, MD 20892, 301–402–5658, *ramachandral@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: January 7, 2014.

**David Clary,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00312 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Advisory Council.

*Date:* February 12, 2014.

*Open:* 8:00 a.m. to 1:00 p.m.

*Agenda:* To discuss program policies and issues.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

*Closed:* 1:00 p.m. to 4:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

*Contact Person:* Stephen C. Mockrin, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7100, Bethesda, MD 20892, (301) 435–0260, *mockrins@nhlbi.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be

inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nhlbi.nih.gov/meetings/nhlbac/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS).

Dated: January 7, 2014.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2014–00305 Filed 1–10–14; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

**Proposed Project: Evaluation of SAMHSA Homeless Programs (OMB No. 0930–0320)—Extension**

SAMHSA's Center for Mental Health Services (CMHS) and Center for Substance Abuse Treatment (CSAT) is conducting an external evaluation of the impact of the Grants for the Benefit of Homeless Individuals (GBHI) and Services in Supportive Housing (SSH) programs. GBHI/SSH grant programs link substance abuse and mental health treatment with housing and other needed services and expand and strengthen these services for people with substance use and co-occurring mental health problems who are homeless. The national cross-site evaluation will assess the effectiveness, efficiency and sustainability of the GBHI/SSH project services for client abstinence, housing stability, homelessness, and related employment, criminal justice and services outcomes, as well as lessons learned to inform future efforts.

The Client Interview—Baseline and the Client Interview—6-Month Follow-up have been developed to assess program impact on client outcomes based on review of the literature and consultation with a panel of national experts, grantees and SAMHSA. The Client Interview is comprised of questions (unique from the Government Performance and Results Act (GPRA) Client-Level Tool and the National Outcome Measures (NOMS) Client-Level Measures) that measure the outcomes of interest and subpopulations of focus: homelessness, housing, treatment history, readiness to change, trauma symptoms, housing and treatment choice, burden and satisfaction, military service, employment, and criminal justice involvement. Immediately following the SAMHSA-required administration of the GPRA/NOMS client-level tools, which are completed by enrolled accepted clients for each grantee project at baseline and 6-month follow-up, the paper and pencil Client Interview will be administered face-to-face by the GPRA/NOMS interviewer. Questions regarding perception of care and treatment coercion will be self-administered by participating clients and returned to the interviewer in a sealed envelope to be included in the full package mailed to the evaluation coordinating center by the interviewer. Client participation is voluntary; non-cash incentives will be given at baseline worth a $10 value and at 6-month follow-up worth a $25 value. Clients will be assigned unique identifiers by local projects; responses will be recorded on a fill-in-the-bubble answer sheet, mailed by the grantee project to the evaluation coordinating center, and scanned into a secure dataset. This process will eliminate the need for data entry, thereby reducing cost and potential for data entry error, and ensuring privacy for evaluation data.

The Stakeholder Survey will be conducted with GBHI/SSH program stakeholders via a web survey to assess the types of stakeholder partnerships involved in the GBHI/SSH programs and the barriers and strategies developed to overcome barriers to facilitate the implementation and sustainability of project activities under the GBHI/SSH programs. Each survey respondent will be issued a username and password to login to and complete the secure web-based survey. The web-based survey format will reduce burden on the respondent and minimize potential for measurement error.

ESTIMATE OF ANNUALIZED BURDEN HOURS

| Instrument/activity | Number of respondents | Number of responses per respondent | Total number of responses | Average burden per response | Total burden hours per collection |
|---|---|---|---|---|---|
| Client Interview: | | | | | |
| Baseline Data Collection | 5,885 | 1 | 5,885 | .33 | 1,942 |
| 6-month Follow-up Data Collection (80% of baseline) | 4,708 | 1 | 4,708 | .40 | 1,883 |
| Stakeholder Survey | 648 | 1 | 648 | .28 | 181 |
| Total | 11,241 | | 11,241 | | 4,006 |

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by March 14, 2014.

**Summer King,**

*Statistician.*

[FR Doc. 2014–00364 Filed 1–10–14; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002]**

### Final Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final Notice.

**SUMMARY:** Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

**DATES:** The effective date of April 16, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

**ADDRESSES:** The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

| Community | Community map repository address |
|---|---|
| **Clark County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1284** | |
| City of Charlestown | City Hall, 304 Main Cross Street, Charlestown, IN 47111. |
| City of Jeffersonville | City Hall, 500 Quartermaster Court, Jeffersonville, IN 47130. |
| Town of Borden | Town Hall, 129 West Street, Borden, IN 47106. |
| Town of Clarksville | Town Hall, 2000 Broadway Street, Clarksville, IN 47129. |
| Town of Sellersburg | Public Works Building, 103 South New Albany Avenue, Sellersburg, IN 47172. |
| Town of Utica | Town Hall, 107 North Fourth Street, Utica, IN 47130. |
| Unincorporated Areas of Clark County | Clark County Government Building, 501 East Court Avenue, Room 416, Jeffersonville, IN 47130. |
| **Floyd County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1283** | |
| City of New Albany | City Plan Commission, City-County Building, 311 Hauss Square, Room 329, New Albany, IN 47150. |
| Unincorporated Areas of Floyd County | Pineview Government Center, 2524 Corydon Pike, Suite 203, New Albany, IN 47150. |
| **Switzerland County, Indiana, and Incorporated Areas Docket No.: FEMA–B–1292** | |
| Town of Patriot | Switzerland County Courthouse, 212 West Main Street, Vevay, IN 47043. |
| Town of Vevay | Switzerland County Courthouse, 212 West Main Street, Vevay, IN 47043. |
| Unincorporated Areas of Switzerland County | Switzerland County Courthouse, 212 West Main Street, Vevay, IN 47043. |

| Community | Community map repository address |
|---|---|
| **Muscatine County, Iowa, and Incorporated Areas Docket No.: FEMA–B–1299** | |
| City of Fruitland | City Hall, 104 Sand Run Road, Fruitland, IA 52749. |
| City of Muscatine | City Hall, 215 Sycamore Street, Muscatine, IA 52761. |
| Unincorporated Areas of Muscatine County | Muscatine County Building, 3610 Park Avenue West, Muscatine, IA 52761. |
| **Washington County, Ohio, and Incorporated Areas Docket No.: FEMA–B–1292** | |
| City of Marietta | Engineering Department, 304 Putnam Street, Marietta, OH 45750. |
| Unincorporated Areas of Washington County | Washington County Building Department, 217 Putnam Street, Marietta, OH 45750. |
| **Lee County, Texas, and Incorporated Areas Docket No.: FEMA–B–1259** | |
| City of Giddings | City Hall, 118 East Richmond Street, Giddings, TX 78942. |
| Town of Lexington | City Hall, 604 Wheatley Street, Lexington, TX 78947. |
| Unincorporated areas of Lee County | Lee County Courthouse, 200 South Main Street, Room 107, Giddings, TX 78942. |
| **Chippewa County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1299** | |
| City of Eau Claire | City Hall, 203 South Farwell Street, Third Floor, Eau Claire, WI 54701. |
| Unincorporated Areas of Chippewa County | Chippewa County Courthouse, 711 North Bridge Street, Chippewa Falls, WI 54729. |
| **Eau Claire County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1299** | |
| City of Eau Claire | City Hall, 203 South Farwell Street, Third Floor, Eau Claire, WI 54701. |
| Unincorporated Areas of Eau Claire County | Eau Claire County Courthouse, 721 Oxford Avenue, Room 1510, Eau Claire, WI 54703. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 18, 2013.

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2014–00330 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002]**

### Final Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final notice.

**SUMMARY:** Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

**DATES:** The effective date of February 19, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

**ADDRESSES:** The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for

floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

| Community | Community map repository address |
|---|---|
| **Santa Clara County, California, and Incorporated Areas Docket No.: FEMA–B–1275** | |
| City of Campbell | Planning Department, 70 North First Street, Campbell, CA 95008. |
| City of Milpitas | Engineering Division, 455 East Calaveras Boulevard, Milpitas, CA 95035. |
| City of San Jose | Department of Public Works, 200 East Santa Clara Street Tower, 3rd Floor, San Jose, CA 95113. |
| City of Santa Clara | Planning and Inspection Department, 1500 Warburton Avenue, Santa Clara, CA 95050. |
| City of Saratoga | Planning Department, 13777 Fruitvale Avenue, Saratoga, CA 95070. |
| Town of Los Gatos | Engineering Services, 110 East Main Street, Los Gatos, CA 95030. |
| Unincorporated Areas of Santa Clara County | Santa Clara Office of Planning, 70 West Hedding Street, San Jose, CA 95110. |
| **Sonoma County, California, and Incorporated Areas Docket No.: FEMA–B–1265** | |
| City of Petaluma | Community Development Department, 11 English Street, Petaluma, CA 94952. |
| Unincorporated Areas of Sonoma County | Sonoma County Permit and Resource Management, 2550 Ventura Avenue, Santa Rosa, CA 95403. |
| **Hillsdale County, Michigan (All Jurisdictions) Docket No.: FEMA–B–1266** | |
| City of Hillsdale | City Hall, 97 North Broad Street, Hillsdale, MI 49242. |
| City of Litchfield | City Council Room, 221 Jonesville Street, Litchfield, MI 49252. |
| Township of Adams | Adams Township Hall, 5675 Knowles Road, North Adams, MI 49262. |
| Township of Allen | 139 West Chicago Road, Allen, MI 49227. |
| Township of Cambria | Cambria Township Hall, 7249 Cambria Road, Hillsdale, MI 49242. |
| Township of Camden | 13500 Bishop Road, Montgomery, MI 49255. |
| Township of Fayette | Fayette Township Hall, 211 North Street, Jonesville, MI 49250. |
| Township of Hillsdale | Township Hall, 2985 West Bacon Road, Hillsdale, MI 49242. |
| Township of Jefferson | Jefferson Township Hall, 2837 Bird Lake Road South, Osseo, MI 49266. |
| Township of Litchfield | Township Hall, 9596 Homer Road, Litchfield, MI 49252. |
| Township of Reading | Township Hall, 5355 South Edon Road/M–49, Reading, MI 49274. |
| Township of Scipio | 11740 French Road, Litchfield, MI 49252. |
| Village of Jonesville | Village Hall, 265 East Chicago Street, Jonesville, MI 49250. |
| **City of Carson City, Nevada (Independent City) Docket No.: FEMA–B–1275** | |
| City of Carson City | Permit Center, 108 East Proctor Street, Carson City, NV 89701. |
| **Mecklenburg County, North Carolina, and Incorporated Areas Docket No.: FEMA–B–1261** | |
| City of Charlotte | Mecklenburg County Storm Water Services Office, 700 North Tryon Street, Charlotte, NC 28202. |
| Town of Matthews | Town Hall, 232 Matthews Station Street, Matthews, NC 28105. |
| Town of Mint Hill | Town Hall, 4430 Mint Hill Village Lane, Mint Hill, NC 28227. |
| Town of Pineville | Town Hall, 200 Dover Street, Pineville, NC 28134. |
| Unincorporated Areas of Mecklenburg County | Mecklenburg County Storm Water Services Office, 700 North Tryon Street, Charlotte, NC 28202. |
| **Union County, North Carolina, and Incorporated Areas Docket No.: FEMA–B–1261** | |
| Town of Indian Trail | Administrative Services, 130 Blythe Drive, Indian Trail, NC 28079. |
| Town of Stallings | Town Hall, 315 Stallings Road, Stallings, NC 28104. |
| Town of Weddington | Town Hall, 1924 Weddington Road, Weddington, NC 28104. |
| Unincorporated Areas of Union County | Union County Office, 500 North Main Street, Monroe, NC 28112. |
| Village of Marvin | Village Hall, 10004 New Town Road, Marvin, NC 28173. |

| Community | Community map repository address |
|---|---|
| **Waukesha County, Wisconsin, and Incorporated Areas Docket No.: FEMA–B–1292** | |
| City of Delafield | City Hall, 500 Genesee Street, Delafield, WI 53018. |
| Unincorporated Areas of Waukesha County | Waukesha County Administration Center, 515 West Moreland Boulevard, Waukesha, WI 53188. |
| Village of Dousman | Village Hall, 118 South Main Street, Dousman, WI 53118. |
| Village of Hartland | Village Hall, 210 Cottonwood Avenue, Hartland, WI 53029. |
| Village of Merton | Village Hall, N67W28343 Sussex Road, Merton, WI 53056. |
| Village of Nashotah | Village Hall, N44W32950 Watertown Plank Road, Nashotah, WI 53058. |
| Village of Summit | Village Hall, 2911 North Dousman Road, Oconomowoc, WI 53066. |
| **Big Horn County, Wyoming, and Incorporated Areas Docket No.: FEMA–B–1258** | |
| Town of Basin | 209 South 4th Street, Basin, WY 82410. |
| Town of Byron | 35 South Pryor, Byron, WY 82412. |
| Town of Cowley | 20 South Division, Cowley, WY 82420. |
| Town of Deaver | 112 First Avenue West, Deaver, WY 82421. |
| Town of Frannie | 311 5th Street, Frannie, WY 82423. |
| Town of Greybull | 24 South 5th Street, Greybull, WY 82426. |
| Town of Lovell | 336 Nevada Avenue, Lovell, WY 82431. |
| Town of Manderson | 100 Railway Avenue, Manderson, WY 82432. |
| Unincorporated Areas of Big Horn County | 417 Murphy Street, Basin, WY 82401. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 18, 2013.

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2014–00333 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

**[Docket ID FEMA–2013–0002]**

### Final Flood Hazard Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final Notice.

**SUMMARY:** Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

**DATES:** The effective date of February 5, 2014 which has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

**ADDRESSES:** The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *www.msc.fema.gov* by the effective date indicated above.

**FOR FURTHER INFORMATION CONTACT:** Luis Rodriguez, Chief, Engineering Management Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–4064, or (email) *Luis.Rodriguez3@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *www.floodmaps.fema.gov/fhm/fmx_main.html.*

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Adminstrator for Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *www.msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

| Community | Local map repository address |
|---|---|
| **Montgomery County, Alabama, and Incorporated Areas<br>Docket No.: FEMA–B–1283** | |
| City of Montgomery | 103 North Perry Street, Montgomery, AL 36104. |
| Town of Pike Road | 915 Meriweather Road, Pike Road, AL 36064. |
| Unincorporated Areas of Montgomery County | Montgomery County Engineering Dept, 3152 Rolling Circle Road, Montgomery, AL 36111. |
| **Jefferson County, Colorado, and Incorporated Areas<br>Docket No.: FEMA–B–1272** | |
| City of Arvada | Engineering Department, 8101 Ralston Road, Arvada, CO 80001. |
| City of Edgewater | 5845 West 25th Avenue, Edgewater, CO 80214. |
| City of Golden | 1445 10th Street, Golden, CO 80401. |
| City of Lakewood | 480 South Allison Parkway, Lakewood, CO 80226. |
| City of Westminster | 4800 West 92nd Avenue, Westminster, CO 80031. |
| City of Wheat Ridge | Planning and Development, 7500 West 92nd Avenue, Wheat Ridge, CO 80033. |
| Town of Morrison | Town Offices, 321 Highway 8, Morrison, CO 80465. |
| Unincorporated Areas of Jefferson County | Jefferson County Department of Planning and Zoning, 100 Jefferson County Parkway, Suite 3, Golden, CO 8040. |
| **Franklin County, Florida, and Incorporated Areas<br>Docket No.: FEMA–B–1267** | |
| City of Apalachicola | City Hall, 1 Avenue E, Apalachicola, FL 32320. |
| City of Carrabelle | City Hall, 1001 Gray Avenue, Carrabelle, FL 32322, |
| Unincorporated Areas of Franklin County | Franklin County Planning and Building Department, 34 Forbes Street, Suite 1, Apalachicola, FL 32320. |
| **Jefferson County, Florida, and Incorporated Areas<br>Docket No.: FEMA–B–1267** | |
| City of Monticello | City Hall, 245 South Mulberry Street, Monticello, FL 32344. |
| Unincorporated Areas of Jefferson County | Jefferson County Courthouse, 1 Courthouse Circle, Monticello, FL 32344. |
| **Union County, Indiana, and Incorporated Areas<br>Docket No.: FEMA–B–1272** | |
| Town of Liberty | Union County Area Plan Commission, 6 West South Street, Liberty, IN 47353. |
| Unincorporated Areas of Union County | Union County Area Plan Commission, 6 West South Street, Liberty, IN 47353. |
| **Vermillion County, Indiana, and Incorporated Areas<br>Docket No.: FEMA–B–1272** | |
| City of Clinton | City Hall, 259 Vine Street, Clinton, IN 47842. |
| Town of Cayuga | Town Hall, 301 South 1st Street, Cayuga, IN 47928. |
| Town of Newport | Vermillion County Area Plan Commission, 255 South Main Street, Newport, IN 47966. |
| Town of Perrysville | Town Hall, 130 West Main Street, Perrysville, IN 47974. |
| Town of Universal | Vermillion County Area Plan Commission, 255 South Main Street, Newport, IN 47966. |
| Unincorporated Areas of Vermillion County | Vermillion County Area Plan Commission, 255 South Main Street, Newport, IN 47966. |
| **Plymouth County, Massachusetts (All Jurisdictions)<br>Docket No.: FEMA–B–1275** | |
| Town of Marion | Town House, 2 Spring Street, Marion, MA 02738. |
| Town of Mattapoisett | Town Hall, 16 Main Street, Mattapoisett, MA 02739. |
| Town of Wareham | Memorial Town Hall, 54 Marion Road, Wareham, MA 02571. |
| **Dodge County, Wisconsin, and Incorporated Areas<br>Docket No.: FEMA–B–1292** | |
| City of Fox Lake | City Hall, 248 East State Street, Fox Lake, WI 53933. |
| Unincorporated Areas of Dodge County | Administration Building, 127 East Oak Street, Juneau, WI 53039. |
| **Fremont County, Wyoming, and Incorporated Areas<br>Docket No.: FEMA–B–1307** | |
| Town of Shoshoni | Town Hall, 102 East Second Street, Shoshoni, WY 82649. |

| Community | Local map repository address |
|---|---|
| Unincorporated Areas of Fremont County | Planning Department, 450 North Second Street, Room 360, Lander, WY 82520. |

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 18, 2013.

**Roy E. Wright,**

*Deputy Associate Administrator for Mitigation, Department of Homeland Security, Federal Emergency Management Agency.*

[FR Doc. 2014–00328 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–12–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–IA–2014–N004; FXIA16710900000–145–FF09A30000]**

### Endangered Species; Issuance of Permits

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of issuance of permits.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species. We issue these permits under the Endangered Species Act (ESA).

**ADDRESSES:** Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

**SUPPLEMENTARY INFORMATION:** On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species; and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

ENDANGERED SPECIES

| Permit No. | Applicant | Receipt of application *Federal Register* notice | Permit issuance date |
|---|---|---|---|
| 93277A | Busch Gardens | 78 FR 25296; April 30, 2013 | June 27, 2013. |
| 00002B | San Diego Zoological Society | 78 FR 44961; July 25, 2013 | September 20, 2013. |
| 01604B | Association for the Conservation of Threatened Parrots, Inc.. | 78 FR 45954; July 30, 2013 | October 25, 2013. |
| 06267B | Paul Fiedler | 78 FR 45954; July 30, 2013 | September 12, 2013. |
| 08059B | Feld Entertainment, Inc. | 78 FR 45954; July 30, 2013 | November 15, 2013. |
| 10814B | Larry Bell | 78 FR 45954; July 30, 2013 | September 12, 2013. |
| 73008A | University of South Carolina | 78 FR 50083; August 16, 2013 | October 24, 2013. |
| 10934B & 11018B | Phoenix Herpetological Society | 78 FR 52966; August 27, 2013 | November 01, 2013. |
| 13916B | Larry Vaden | 78 FR 53474; August 29, 2013 | October 17, 2013. |
| 13585B | Blake Corrigan | 78 FR 53474; August 29, 2013 | October 17, 2013. |
| 13144B | Coby Bausch | 78 FR 54479; September 4, 2013 | November 5, 2013. |
| 10766B | Dr. Christopher D. Marshall, Texas A & M University | 78 FR 56924; September 16, 2013 | November 13, 2013. |
| 11850B | Volusia Co. Marine Science Center | 78 FR 59052; September 25, 2013 | October 28, 2013. |
| 16912B | Daniel Saab Salem | 78 FR 62647; October 22, 2013 | November 22, 2013. |

### Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280.

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2014–00349 Filed 1–10–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–R–2013–N118; FXRS12650800000–134–FF08R00000]**

### Hopper Mountain, Bitter Creek, and Blue Ridge National Wildlife Refuges, Ventura, Kern, San Luis Obispo, and Tulare Counties, CA

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) announce the availability of a Final Comprehensive Conservation Plan and Environmental

Assessment (CCP/EA), and Finding of No Significant Impact (FONSI) for the Hopper Mountain, Bitter Creek, and Blue Ridge National Wildlife Refuges (Refuges or NWRs). The CCP/EA, prepared under the National Wildlife Refuge System Improvement Act of 1997, and in accordance with the National Environmental Policy Act of 1969, describes how the Service will manage the three refuges for the next 15 years.

**DATES:** The CCP and FONSI are available now. The FONSI was signed on September 30, 2013. Implementation of the CCP may begin immediately.

**ADDRESSES:** You may view or obtain copies of the Final CCP and FONSI by any of the following methods. You may request a CD–ROM copy. A limited number of paper copies are available.

*Agency Web site:* Download a copy of the document(s) at *http://www.fws.gov/hoppermountain/.*

*Email: fw8plancomments@fws.gov.* Include ''Hopper CCP'' in the subject line of the message.

*Fax:* Attn: Refuge Planning, (916) 414–6497.

*U.S. Mail:* Pacific Southwest Region, Refuge Planning, U.S. Fish and Wildlife Service, 2800 Cottage Way, W–1832, Sacramento, CA 95825–1846.

*In-Person Viewing or Pickup:* Copies of the Final CCP/EA and FONSI may also be viewed during regular business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Sandy Osborn, Planning Team Leader, at (916) 414–6503, or Michael Brady, Project Leader, at (805) 644–5185 or *fw8plancomments@fws.gov.* Further information may also be found at *http://www.fws.gov/hoppermountain/.*

**SUPPLEMENTARY INFORMATION:**

## Background

Hopper Mountain NWR was established in 1974 and includes 2,471 contiguous acres in Ventura County, California. Bitter Creek NWR was established in 1985 and includes 14,097 acres, primarily in Kern County and extending into San Luis Obispo and Ventura Counties. Blue Ridge NWR was established in 1982 and includes 897 acres in Tulare County in the foothills of the Sierra Nevada Mountains. These three refuges in the Hopper Mountain NWR Complex (Complex) in southern California were created under the authority of the Federal Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), primarily to restore the endangered California condor population to its native range. Through this CCP process, we determined that areas of Bitter Creek NWR and Blue Ridge NWR can provide opportunities for public and Service-guided wildlife-dependent recreational opportunities.

We announce our decision and the availability of the FONSI for the Final CCP for Hopper Mountain, Bitter Creek, and Blue Ridge National Wildlife Refuges in accordance with National Environmental Policy Act (NEPA) (40 CFR 1506.6(b)) requirements. We completed a thorough analysis of impacts on the human environment, which we included in the environmental assessment (EA) that accompanied the draft CCP.

The National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) (Administration Act), as amended by the National Wildlife Refuge System Improvement Act of 1997, requires us to develop a CCP for each national wildlife refuge. The purpose for developing a CCP is to provide refuge managers with a 15-year plan for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish and wildlife management, conservation, legal mandates, and our policies. In addition to outlining broad management direction on conserving wildlife and their habitats, CCPs identify wildlife-dependent recreational opportunities available to the public, including opportunities for hunting, fishing, wildlife observation and photography, and environmental education and interpretation. We intend to review and update the CCP at least every 15 years in accordance with the Administration Act.

Our Draft CCP/EA was available for a 60-day public review and comment period, which we announced via several methods, including press releases, updates to constituents, and a **Federal Register** notice (77 FR 2012, April 11, 2012). The Draft CCP/EA identified and evaluated three alternatives for managing the Refuges for the next 15 years.

## Alternatives Considered

### *Alternative A for All Three Refuges (No Action Alternative)*

Under Alternative A (no action alternative) for each of the three refuges, the Service would continue to manage the Refuges as we have in the recent past. There would be continued maintenance of facilities and support of the California Condor Recovery Program activities. The three Refuges would remain closed to public use.

### *Alternatives B and C for Hopper Mountain NWR*

Under Alternative B (selected alternative), the Service would increase condor management and support actions; collect baseline data for Refuge resources with emphasis on special status species; improve management of all habitat types on the Refuge; and increase outreach and Service-guided visitor and volunteer opportunities. The Refuge would remain closed to public use.

Under Alternative C for Hopper Mountain NWR, the Service would increase some condor management and support actions, expand baseline data collection, manage invasive plants without using pesticides, increase habitat protection and enhancement of select black walnut and oak woodlands and increase some visitor services. The Refuge would remain closed to public use.

### *Alternatives B and C for Bitter Creek NWR*

Under Alternative B (selected alternative), the Service would increase condor management and support actions, install a 1,000-square-foot condor treatment facility, and collect baseline data on Refuge resources with emphasis on special status species. The Service would also use grazing and other methods to improve habitat quality to support special status San Joaquin Valley species, and restore some springs and drainages. We would also expand visitor services by opening a new interpretive trail, and developing a new Refuge administrative office with visitor area, and condor observation point.

Under Alternative C for Bitter Creek NWR, the Service would improve and expand current management by increasing some condor management and support actions; restore more habitat to support special status species; manage invasive plants without using pesticides; restore more springs and drainages; and expand outreach, interpretation, and visitor and volunteer opportunities.

### *Alternatives B and C for Blue Ridge NWR*

Under Alternative B (selected alternative), the Service would improve current management by increasing condor management activities, collecting baseline data for special status species, and adding volunteer opportunities. Portions of the Refuge would be opened to public use.

Under Alternative C for Blue Ridge NWR, the Service would increase some

condor management actions, but to a lesser extent than Alternative B, and work with partners to increase some guided visitor and volunteer opportunities. The Refuge would remain closed to public use.

**Selected Alternative for All Three Refuges**

During the review and comment period, we received 25 letters on the Draft CCP/EA containing over 750 comments. Comments focused on habitat management (including grazing, fire management, and protection of special status plants) and visitor services (wildlife-dependent recreation). We incorporated comments we received into the CCP when appropriate and we responded to the comments in an appendix to the CCP. In the FONSI, we selected Alternative B for implementation for all three Refuges. The FONSI documents our decision and is based on the information and analysis contained in the EA.

Under the selected alternative, the Service will expand both natural resource management and visitor services opportunities on the Refuges. Additional biological activities would include baseline surveys on native flora and fauna. Other habitat management activities would include development of a comprehensive integrated pest management plan and addressing the effects of climate change on Refuge resources.

Visitor services, specifically interpretation and environmental education opportunities, would be expanded at all three refuges. Additional volunteer opportunities would be offered at Hopper Mountain and Bitter Creek NWRs. A new Refuge administrative office with visitor area, and a condor observation area would be constructed at Bitter Creek NWR.

The selected alternative best meets the Refuges' purposes, vision, and goals; contributes to the Refuge System mission; addresses the significant issues and relevant mandates; and is consistent with principles of sound fish and wildlife management. Implementation of the selected alternative will be subject to the availability of funding and other resources, and may occur incrementally over the life of the 15-year plan. Based on the associated environmental assessment, this alternative is not expected to result in significant environmental impacts and therefore does not require an environmental impact statement.

**Alexandra Pitts,**

*Acting Regional Director, Pacific Southwest Region, Sacramento, California.*

[FR Doc. 2014–00367 Filed 1–10–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–IA–2014–N003;FXIA16710900000–145–FF09A30000]**

### Endangered Species; Receipt of Applications for Permit

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of applications for permit.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

**DATES:** We must receive comments or requests for documents on or before February 12, 2014.

**ADDRESSES:** Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

**FOR FURTHER INFORMATION CONTACT:** Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

**SUPPLEMENTARY INFORMATION:**

**I. Public Comment Procedures**

*A. How do I request copies of applications or comment on submitted applications?*

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

*B. May I review comments submitted by others?*

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**II. Background**

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

**III. Permit Applications**

*A. Endangered Species*

Applicant: Los Angeles Zoo, Los Angeles, CA; PRT–24209B

The applicant requests a permit to import two captive-born ale brush-tailed bettong (*Bettongia penicillata*) from Zoo Duisburg Ag, Germany, for the purpose of enhancement of the survival of the species.

Applicant: Zoofari Animal Park & Preserve, Como, MS; PRT–24177B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

*Species*

Barasingha (*Rucervus duvaucelii*)
Eld's deer (*Rucervus eldii*)
Scimitar-horned oryx (*Oryx dammah*)
Arabian oryx (*Oryx leucoryx*)
Addax (*Addax nasomaculatus*)
Dama gazelle (*Nanger dama*)
Red lechwe (*Kobus leche*)
Southern white rhinoceros (*Ceratotherium simum simum*)
Grevy's zebra (*Equus grevyi*)
Hartmann's mountain zebra (*Equus zebra hartmannae*)
Przewalski's horse (*Equus przewalskii*)
African wild ass (*Equus africanus*)
Asian wild ass (*Equus hemionus*)
Bontebok (*Damaliscus pygargus pygargus*)
Arabian gazelle (*Gazella gazella*)
Cuvier's gazelle (*Gazella cuvieri*)
Slender-horned gazelle (*Gazella leptoceros*)
Anoa (*Bubalus depressicornis*)
Seladang (*Bos gaurus*)
Galapagos tortoise (*Chelonoidis nigra*)

Applicant: Anthony Pierlioni, Plainville, CT; PRT–24368B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the radiated tortoise (*Astrochelys radiata*), yellow-spotted river turtle (*Podocnemis unifilis*), and spotted pond turtle (*Geoclemys hamiltonii*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Turtles and Tortoises Inc., Lakeland, FL; PRT–24163B

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the Galapagos tortoise (*Chelonoidis nigra*), radiated tortoise (*Astrochelys radiata*), aquatic box turtle (*Terrapene coahuila*), yellow-spotted river turtle (*Podocnemis unifilis*), tartaruga (*Podocnemis expansa*) spotted pond turtle (*Geoclemys hamiltonii*), river terrapin (*Batagur baska*), African dwarf crocodile (*Osteolaemus tetraspis*), Nile crocodile (*Crocodylus niloticus*), Siamese crocodile (*Crocodylus siamensis*), Cuban crocodile (*Crocodylus rhombifer*), saltwater crocodile (*Crocodylus porosus*), yacare caiman (*Caiman yacare*), caiman (*Caiman crocodilus*), broad-snouted caiman (*Caiman latirostris*), and Chinese alligator (*Alligator sinensis*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ralph Hoekstra, Huntington Beach, CA; PRT–050827

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for radiated tortoise (*Astrochelys radiata*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Oregon Zoo, Portland, OR; PRT–677662

The applicant requests amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) to include African wild dog (*Lycaon pictus*) to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Zoo New England, Boston, MA; PRT–692781

The applicant requests renewal of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following families and species, to enhance the species' propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

*Family:*

Bovidae
Cercopithecidae
Cervidae
Equidae
Felidae (does not include jaguar, margay or ocelot)
Hominidae
Hylobatidae
Lemuridae
Tapiridae
Gruidae
Crocodylidae (does not include American crocodile)

*Species*

African wild dog (*Lycaon pictus*)
Northern bald ibis (*Geronticus eremita*)
Andean condor (*Vultur gryphus*)
Rothschild's starling (*Leucopsar rothschildi*)
Scarlet-chested parakeet (*Neophema splendida*)
Panamanian golden frog (*Atelopus zeteki*)

**Brenda Tapia,**

*Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.*

[FR Doc. 2014–00348 Filed 1–10–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[Docket No. FWS–R8–ES–2013–N263; 81420–1113–0000–F3]**

### Proposed Safe Harbor Agreement With the California Department of Fish and Wildlife for the Abbott Lake Unit of the Feather River Wildlife Area in Sutter County, California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** This notice advises the public that the California Department of Fish and Wildlife (Department) has applied to the U.S. Fish and Wildlife Service (Service) for an enhancement of survival permit under the Endangered Species Act of 1973, as amended (Act). The permit application includes a proposed safe harbor agreement (agreement) between the Department and the Service for the federally-threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) (beetle). The Agreement is available for public comment.

**DATES:** To ensure consideration, please send your written comments by February 12, 2014.

**ADDRESSES:** Send comments to Mr. Rick Kuyper, via U.S. Mail at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, CA 95825.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Kuyper, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414–6600.

**SUPPLEMENTARY INFORMATION:**

**Availability of Documents**

You may obtain copies of the document for review by contacting the individual named above (see **FOR FURTHER INFORMATION CONTACT**). You may also make an appointment to view the document at the above address

during normal business hours (see **ADDRESSES**).

**Background**

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements and the subsequent enhancement of survival permits, issued pursuant to Section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c) and 17.32(c). These permits allow any necessary future incidental take of covered species above the mutually agreed upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

The Agreement is expected to promote the recovery of the beetle within the Abbott Lake Unit of the Feather River Wildlife Area, Sutter County, which is owned and managed by the Department. The proposed duration of the Agreement is 20 years. The enhancement of survival permit would authorize the incidental taking of the beetle associated with: the restoration, enhancement, and maintenance of suitable habitat for the beetle; routine activities associated with routine and ongoing lands management within the Abbott Lake Unit; and the potential future return of the property to baseline conditions. The Department would receive assurances under our ''no surprises'' regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for the beetle. In addition to meeting other criteria, actions to be performed under the enhancement of survival permit must not jeopardize the existence of federally listed fish, wildlife, or plants.

**Public Review and Comments**

The Service has made a preliminary determination that the proposed Agreement and permit application are eligible for categorical exclusion under the National Environmental Policy Act of 1969 (NEPA). We explain the basis for this determination in an Environmental Action Statement that is also available for public review.

Individuals wishing copies of the Environmental Action Statement, and/or copies of the full text of the Agreement should contact the office and personnel listed in the **ADDRESSES** section above.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service will evaluate this permit application, associated documents, and comments submitted to determine whether the permit application meets the requirements of section 10(a) of the Act and NEPA regulations. If the Service determines that the requirements are met, we will sign the proposed Agreement and issue an enhancement of survival permit under section 10(a)(1)(A) of the Act to the Department for take of the beetle incidental to otherwise lawful activities in accordance with the terms of the Agreement. The Service will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

Dated: January 7, 2014.

**Jennifer M. Norris,**

*Field Supervisor, Sacramento Fish and Wildlife Office, Sacramento, California.*

[FR Doc. 2014–00368 Filed 1–10–14; 8:45 am]

**BILLING CODE 4310–55–P**

## DEPARTMENT OF THE INTERIOR

### Office of Natural Resources Revenue

**[Docket No. ONRR–2011–0002; DS63610300 DR2PS0000.CH7000 134D0102R2]**

### States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties

**AGENCY:** Office of Natural Resources Revenue, Interior.

**ACTION:** Notice.

**SUMMARY:** Final regulations that the Office of Natural Resources Revenue (ONRR) published September 13, 2004 (69 FR 55076), provide two types of accounting and auditing relief for Federal onshore or Outer Continental Shelf lease production from marginal properties. As the regulations require, ONRR provided a list of qualifying marginal Federal oil and gas properties to States that received a portion of Federal royalties. Each State then decided whether to participate in one or both relief options. For calendar year 2013, we provide in this notice the affected States' decisions to allow one or both types of relief.

**DATES:** Effective January 1, 2013.

**FOR FURTHER INFORMATION CONTACT:** Richard Adamski, Program Manager, Asset Valuation, at (303) 231–3410; or (303) 231–3744 via fax; or via email to *richard.adamski@onrr.gov.*

**SUPPLEMENTARY INFORMATION:** The regulations, codified at 30 CFR part 1204, subpart C, implement certain provisions of section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) (30 U.S.C. 1726), which allows States to relieve the lessees of marginal properties from certain reporting, accounting, and auditing requirements. States make an annual determination of whether or not to allow relief. Two options for relief are provided: (1) Notification-based relief for annual reporting and (2) other requested relief, as industry proposed and ONRR and the affected State approved. The regulations require ONRR to publish by December 1 of each year a list of the States and their decisions regarding marginal property relief.

To qualify for the first relief option (notification-based relief) for calendar year 2013, properties must have produced less than 1,000 barrels-of-oil-equivalent (BOE) per year for the base period (July 1, 2011, through June 30, 2012). Annual reporting relief will begin January 1, 2013, with the annual report and payment due February 28, 2014, or March 31, 2014, if you have an estimated payment on file. To qualify for the second relief option (other requested relief), the combined equivalent production of the marginal properties during the base period must equal an average daily well production of less than 15 BOE per well, per day calculated under 30 CFR 1204.4(c).

The following table shows the States that have qualifying marginal properties and the States' decisions to allow one or both forms of relief.

| State | 1,000 BOE | 15 BOE |
|---|---|---|
| Alabama | No | No. |
| California | No | No. |
| Colorado | No | No. |

| State | 1,000 BOE | 15 BOE |
|---|---|---|
| Kansas | No | No. |
| Louisiana | Yes | Yes. |
| Michigan | Yes | Yes. |
| Mississippi | No | No. |
| Montana | No | No. |
| Nebraska | No | No. |
| Nevada | No | No. |
| New Mexico | No | Yes. |
| North Dakota | Yes | Yes. |
| Oklahoma | No | No. |
| South Dakota | No | No. |
| Utah | No | No. |
| Wyoming | No | No. |

Federal oil and gas properties located in all other States where ONRR does not share a portion of Federal royalties with the State are eligible for relief if they qualify as marginal under the regulations (See section 117(c) of RSFA (30 U.S.C. 1726(c))). For information on how to obtain relief, please refer to 30 CFR 1204.205 or to the published rule, which you may view at *www.onrr.gov/Laws_R_D/FRNotices/AC30.htm.*

Unless the information that ONRR received is proprietary data, all correspondence, records, or information that we receive in response to this notice may be subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552 *et seq.*). If applicable, please highlight the proprietary portions, including any supporting documentation, or mark the page(s) that contain proprietary data. We protect the proprietary information under the Trade Secrets Act (18 U.S.C. 1905); FOIA, Exemption 4 (5 U.S.C. 552(b)(4)); and Department regulations (43 CFR part 2).

Dated: December 19, 2013.

**Gregory J. Gould,**

*Director, Office of Natural Resources Revenue.*

[FR Doc. 2014–00353 Filed 1–10–14; 8:45 am]

**BILLING CODE 4310–T2–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1123–0010]**

### Agency Information Collection Activities: Proposed Collection; Comments Requested Request for Registration Under the Gambling Devices Act of 1962

**ACTION:** 60-Day notice.

The Department of Justice (DOJ), Criminal Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 14, 2014. This process is conducted in accordance with 5 CFR 1320.10. March 14, 2014.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Sandra A. Holland, U.S. Department of Justice, 950 Pennsylvania Avenue NW., Criminal Division, Office of Enforcement Operations, Gambling Device Registration Program, JCK Building, Washington, DC 20530–0001.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Request for Registration Under the Gambling Devices Act of 1962.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: DOJ\CRM\OEO\GDR–1. Sponsoring component: Criminal Division, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. Other: Not-for-profit institutions, individuals or households, and State, Local or Tribal Government. The form can be used by any entity required to register under the Gambling Devices Act of 1962 (15 U.S.C. 1171–1178).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 7,400 respondents will complete each form within approximately 5 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 617 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Suite 3W–1407B, Washington, DC 20530.

Dated: January 7, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2014–00340 Filed 1–10–14; 8:45 am]

**BILLING CODE 4410–14–P**

## DEPARTMENT OF JUSTICE

**[OMB Number 1122–NEW]**

### Agency Information Collection Activities: New Collection; Comments Requested Survey of Transitional Housing Assistance for Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault Program Grantees

**ACTION:** 30-Day notice.

The Department of Justice, Office on Violence Against Women (OVW) will b submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register**, 78 FR 64245, on October 28, 2013, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until February 12, 2014. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time,

should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Survey of Transitional Housing Assistance Program Grant for Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault Program (Transitional Housing Assistance Program) grantees

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: 1122–XXXX. U.S. Department of Justice, Office on Violence Against Women

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* The affected public includes approximately 300 Transitional Housing Assistance Program Grant for Victims of Domestic Violence, Dating Violence, Stalking, or Sexual Assault Program (Transitional Housing Assistance Program) grantees. The Transitional Housing Assistance Program focuses on a holistic, victim-centered approach to providing transitional housing services that move survivors into permanent housing. Grants made under this grant program support programs that provide assistance to victims of sexual assault, domestic violence, dating violence, and/or stalking who are in need of transitional housing, short-term housing assistance, and related supportive services. Successful transitional housing programs provide a wide range of flexible and optional services that reflect the differences and individual needs of victims and that allow victims to choose the course of action that is best for them. Transitional housing programs may offer individualized services such as counseling, support groups, safety planning, and advocacy services as well as practical services such as licensed child care, employment services, transportation vouchers, telephones, and referrals to other agencies. Trained staff and case managers may also be available to work with survivors to help them determine and reach their goals of permanent housing.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the approximately 300 respondents (approximately 300 Transitional Housing Assistance Program grantees) approximately 30 minutes to complete the survey. The survey will address promising practices, specific interventions, how different programs track success, how different programs serve clients with different needs, how programs interact with other programs that do not have a focus on domestic violence, dating violence, sexual assault or stalking, how housing assistance and staffing are utilized for different kinds of programs, and successes and challenges experienced either under the grant program or in general.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the data collection forms is 150 hours, that is approximately 300 respondents with an estimated completion time for the form being 30 minutes.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3W–1407B,Washington, DC 20530.

Dated: January 7, 2014.

**Jerri Murray,**

*Department Clearance Officer for PRA, United States Department of Justice.*

[FR Doc. 2014–00339 Filed 1–10–14; 8:45 am]

**BILLING CODE 4410–FX–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On January 6, 2014, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Southern District of Illinois in the lawsuit entitled *United States* v. *Schlumberger Technology Corp. and General Dynamics—Ordnance and Tactical Systems, Inc.,* Civil Action No. 3:11–CV–00399.

The Consent Decree would resolve claims alleged by the United States on behalf of the United States Environmental Protection Agency (''EPA'') and the United States Department of the Interior (''DOI'') pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9607. The United States' Complaint asserts claims against Schlumberger Technology Corp. and General Dynamics—Ordnance and Tactical Systems, Inc., (''Defendants''), and seeks recovery of unreimbursed costs incurred for response activities undertaken in response to the release and threatened release of hazardous substances from facilities at and near Site 36 of the Miscellaneous Areas Operable Unit (''Site 36'') located at the Sangamo Electric Dump/Crab Orchard National Wildlife Refuge Site near Marion, Illinois. The unreimbursed costs total approximately $9.8 million.

The Proposed Consent Decree would also resolve counter-claims asserted by the Defendants against DOI, the United States Department of the Army, and the United States Federal Bureau of Prisons (''Counterclaim Defendant Agencies''); as well as third-party claims asserted by the Defendants against Crane Co., Illinois Tool Works, Olin Corporation, Sherwin-Williams Company, Mallinckrodt US LLC, Great Lakes Synergy Corporation, and Pennzoil-Quaker State Company (''Third-Party Defendants''). Under the proposed settlement, the United States would pay $5,621,985 on behalf of the Settling Federal Agencies and the private parties would pay an additional $4,167,458.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Schlumberger Technology Corp. and General Dynamics—Ordnance and Tactical*

*Systems, Inc.,* D.J. Ref. No. 90–11–3–643/11. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| To submit comments: | Send them to: |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General; U.S. DOJ—ENRD; P.O. Box 7611; Washington, DC 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.50 (25 cents per page reproduction cost) payable to the United States Treasury.

**Maureen Katz,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2014–00365 Filed 1–10–14; 8:45 am]

**BILLING CODE 4410–15–P**

## NATIONAL SCIENCE FOUNDATION

### Astronomy and Astrophysics Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

*Date and Time:* February 3, 2014 9:00 a.m.–5:00 p.m.

February 4, 2014 9:00 a.m.–12:00 p.m.

*Place:* National Science Foundation, Room 595–II, Stafford II Building, 4221 Wilson Blvd., Arlington, VA, 22230.

*Type of Meeting:* Open.

*Contact Person:* Dr. Jim Ulvestad, Division Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–7165.

*Purpose of Meeting:* To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

*Agenda:* To hear presentations of current programming by representatives from NSF, NASA, DOE and other agencies relevant to astronomy and astrophysics; to discuss current and potential areas of cooperation between the agencies; to formulate recommendations for continued and new areas of cooperation and mechanisms for achieving them.

Dated: January 8, 2014.

**Susanne E. Bolton,**

*Committee Management Officer.*

[FR Doc. 2014–00350 Filed 1–10–14; 8:45 am]

**BILLING CODE 7555–01–P**

## OFFICE OF SCIENCE AND TECHNOLOGY POLICY

### Notice of Request for Information (RFI)

**SUMMARY:** The Office of Science and Technology Policy requests public comments to inform its policy development related to high-impact learning technologies. This Request for Information offers the opportunity for interested individuals and organizations to identify public and private actions that have the potential to accelerate the development, rigorous evaluation, and widespread adoption of high-impact learning technologies. The focus of this RFI is on the design and implementation of ''pull mechanisms'' for technologies that significantly improve a given learning outcome. Comments must be received by 11:59 p.m. on March 7, 2014, to be considered. In your comments, please reference the question to which you are responding.

**DATES:** Comments must be received by 11:59 p.m. on March 7, 2014, to be considered.

**ADDRESSES:** Respondents are encouraged to submit their comments through one of the following methods. Email is the preferred method of submission. Please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. Responses to this notice are not offers and cannot be accepted by the Federal Government to form a binding contract or issue a grant. Information obtained as a result of this notice may be used by the Federal Government for program planning on a non-attribution basis. Please be aware that your comments may be posted online.

- *Email: learning@ostp.gov.* Email submissions will receive an electronic confirmation acknowledging receipt of your response, but will not receive individualized feedback on any suggestions.
- *Postal Mail:* Office of Science and Technology Policy, Attn: Cristin Dorgelo, 1650 Pennsylvania Avenue NW., Washington, DC 20504. Submissions by postal mail must be received by the deadline, and should allow sufficient time for security processing.
- *Fax:* 202.456.6021

**SUPPLEMENTARY INFORMATION:** This Request for Information (RFI) offers the oppm1unity for interested individuals and organizations to identify public and private actions that have the potential to accelerate the development, rigorous evaluation, and widespread adoption of high-impact learning technologies. The focus of this RFI is on the design and implementation of ''pull mechanisms'' for technologies that significantly improve a given learning outcome. Pull mechanisms increase the incentives to develop specific products or services by committing to reward success. Examples of pull mechanisms include incentive prizes, Advance Market Commitments, milestone payments, ''pay for success'' bonds, and purchasing consm1ia. The public input provided through this notice will inform the deliberations of the Office of Science and Technology Policy (OSTP).

#### Background

OSTP is interested in identifying policies and serving as a catalyst for public-private pat1nerships that have the potential to accelerate the development, rigorous evaluation, and widespread adoption of high-impact learning technologies. For example, imagine if learners in the United States had access to technologies that:

- Dramatically reduced the large and persistent gap in vocabulary size between children from wealthy and poor households.
- Allowed middle and high school students to outperform their international peers in math and science.
- Enabled English-language learners that are reading at several grade levels below average to catch up after only a year.
- Gave non-college bound students an industry skills ce1tification or set of cognitive skills (e.g. literacy, numeracy, ability to understand and apply chmis, graphs and diagrams) that are a ticket to a middle-class job, increasing their employability and their incomes by $10,000–$20,000 or more in less than a year.
- Doubled the percentage of community college students that pass remedial math, which is currently only 30 percent.

• Successfully delivered a ''growth mindset'' intervention to teachers and students.

• Were as effective as a personal tutor, were as engaging as the best video game, and improved the more students used them.

Currently, there is a large gap between the relatively modest impact that technology has had on education, particularly in K–12, and the transformative impact that it has had in many aspects of our economic and social life. For example, businesses are using information and communications technologies to dramatically increase productivity, tap the expe1iise of their employees, slash the time needed to develop new products, tailor products and services to meet the needs of individual consumers, orchestrate global networks of suppliers, derive insights from huge volumes of transactional data, and improve their products and services by conducting rapid, low-cost experiments.

Education, particularly K–12 education, remains relatively untouched by advances in our understanding of how people learn, how to design instruction that incorporates those insights, and the explosion in information technologies such as low-cost smartphones and tablets, cloud computing, broadband networks, speech recognition and speech synthesis, predictive analytics, data mining, machine learning, intelligent tutors, simulations, games, computer-suppmied collaborative work, and many other technologies. That is why President Obama has proposed ConnectED, a new initiative to connect 99 percent of America's students to the Internet through high-speed broadband and high-speed wireless within 5 years.

Learning technologies will be much more effective if they informed by ''learning science''—advances in disciplines in fields such as neuroscience, cognitive science, educational psychology, and discipline-based education research that shed light on how people learn. This research can provide actionable insights on issues such as student motivation, the circumstances under which prior knowledge helps or hmis learning, how students can organize knowledge in rich and meaningful ways, and the ways in which students can progress from novice to expeti in a given domain.

There are a number of reasons for the gap between the potential of learning science and technology and the cunent state-of-the-practice:

• The United States is investing 0.1 percent of K–12 expenditures on R&D, compared to 2 percent in mature industries and 18.7 percent in the pharmaceutical industry. This extremely low level of investment in educational R&D has clearly limited the pace of innovation.

• Entrepreneurs seeking to develop and market new products to the K–12 market face a number of challenges, including low per-pupil expenditures on software, lengthy adoption cycles, and a highly fragmented market. This in turn limits the amount that companies can spend on research and product development.

• It is difficult for companies to make authoritative claims about the impact of their products on learning outcomes assessed through rigorous third-party validation, which limits the premium that school districts and other consumers of learning technology are willing to pay for high-quality, effective products.

This suggests that an effective national strategy for increasing the impact of learning science and technology should address both the ''supply'' and ''demand'' for advanced learning technologies.

To increase the ''supply'' of learning technology, the Federal government and philanthropists could increase funding for research and development and support training grants and scholarships in relevant disciplines such as educational psychology, cognitive science, instructional design, artificial intelligence, etc. The National Science Foundation is funding a program called ''Cyberlearning Transforming Education'' and the Depmiment of Defense is supporting research in advanced training technologies. The President FY14 Budget request includes funding for a ''DARPA for Education'' (ARPA–ED).

**The Power**

However, there has been little discussion of the potential of what economists call ''pull mechanisms'' to accelerate the development, evaluation, and adoption of high-impact learning technologies.

As economists have recently noted, governments and other funders can suppmt innovation using ''push'' programs (e.g. funding grants and contracts to universities and companies, providing tax incentives for R&D, or supporting government laboratories) and ''pull'' mechanisms that ''increase the rewards for developing specific products by committing to reward success.'' Push programs pay for research inputs; pull mechanisms pay for research outcomes.

''Pull mechanisms'' have been used successfully in the field of global health. In December 2010, children in developing countries began receiving a vaccine that will prevent deaths from ''pneumococcal'' diseases including pneumonia, meningitis, and sepsis. Nearly one million young children die every year from pneumococcal infections, with 90 percent of these deaths occurring in developing countries.

The development of this vaccine was accelerated by a $1.5 billion ''Advance Market Commitment'' backed by five governments and a private foundation. Pharmaceutical companies that have agreed to provide the vaccine at $3.50 per dose to low-income countries for the next 10 years will receive additional payments from the $1.5 billion in donor commitments. The AMC increased the size and predictability of the market for pneumococcal vaccines, which increased the willingness of companies to invest in high-volume production of these vaccines for developing country markets. Expe1ts predict that this AMC will save 7 million lives over the next twenty years.

Non-binding commitments to purchase products can also provide market pull, if there is both a clearly defined performance specification and a strong expression of interest from potential buyers. For example, in June 2013, the U.S. Department of Energy put together a coalition of the Federal government and over 200 major commercial building pmtners that issued a challenge to U.S. manufacturers: ''If you can build wireless sub-meters that cost less than $100 apiece and enable us to identify opportunities to save money by saving energy, we will buy them.'' At least 18 manufacturers agreed to take up the challenge. In 2011, the Department of Energy put together a similar and successful challenge for energy-efficient and cost-effective commercial air conditioners, with the first manufacturer meeting the challenge in May 2012.

In addition, Federal agencies have offered almost 300 incentive prizes on Challenge.gov, providing opportunities for citizen solvers to offer novel solutions to tough problems, while minimizing risk to Federal agencies by only paying for success. More information about pull mechanisms can be found in this supplemental information document.

OSTP is interested in stimulating a conversation about how pull mechanisms could be used to accelerate the development, evaluation, and adoption of learning technologies. Some of the advantages of pull mechanisms are that a funder can (a) pay only for

success; (b) set a goal without having to choose in advance which team or approach is most likely to be successful; and (c) increase the number and intellectual diversity of the teams that are working to solve a particular problem. Although there a variety of different types of pull mechanisms, they generally require establishing a clear goal and an agreed-upon set of metrics for evaluating progress towards that goal. If education is going to benefit from increased use of pull mechanisms, policy-makers and stakeholders have to identify some specific challenges that are important and measurable, and where it is plausible that learning technology can help improve student outcomes.

**Using Pull Mechanisms for Learning Technologies**

Pull mechanisms can be used for social interventions that do not use technology. For example, the first ''social impact bond'' is being used by the United Kingdom to reduce recidivism among 3,000 prisoners. The United Kingdom's Depa11ment for International Development (DfiD) is supporting a ''Results-Based Aid'' approach to improving education in Ethiopia. Under this pilot, DfiD will make grant payments to the education ministry for the increase in the number of students above a baseline that sits for or passes the national grade 10 exam. There will be additional payments for students in the poorest regions, and for girls compared to boys.

It may also make sense to experiment with pull mechanisms to accelerate the development and rigorous evaluation of learning technologies. Some of the potential advantages of learning technologies include:

- *Low marginal cost:* The marginal cost of making software or digital content and services available to more students is very low, although the fixed cost of R&D and rigorous evaluation may be high. This is why IT stmtups are able to grow rapidly—the cost of serving tens or hundreds of millions of customers does not increase arithmetically with the number of customers.
- *Ability to maintain high levels of ''time on task'':* For example, good game developers can keep users riveted for hours at a time. They can create experiences that are intrinsically motivating, and that offer an increasingly difficult set of challenges that keep users in the ''sweet spot'' between being bored and frustrated.
- *Continuous improvement:* The productivity of most public sector services is flat or negative. Researchers and entrepreneurs have ideas for developing online services that get better the more people use them by (a) conducting many low-cost experiments to discover what works; and (b) collect, analyze and act on the data that can be generated online.
- *Learning anytime, anywhere:* Mobile devices allow individuals to access digital content at a time, place, and pace that is convenient for them. This might be particularly impmiant for an adult who is trying to upgrade their skills while balancing the competing demands of work and family.
- *Digital tutors:* Research suggests that the average student tutored one-on-one using ''mastery learning'' techniques (students are helped to master each concept before proceeding to a more advanced learning task) performed better than 98 percent of the students that learn the same material using conventional instructional methods. Projects funded by DARPA and the Office of Naval Research suggest that it may be possible to develop ''digital tutors'' that model the one-on-one interaction between a world-class subject matter expeti and a student. A pilot suppmied by the Veteran's Administration is allowing unemployed veterans that use the digital tutor for 6 months to get IT jobs that pay $40,000 to $80,000.
- *Personalization:* Researchers and firms are developing software and online services that are personalized to the needs, background, interests and skill levels of individuals.
- *Interactive simulations that enable ''learning by doing'':* Researchers have developed simulations in areas such as physics, chemistry, biology, emih science, and math. For example, an ''Energy Skate Park'' simulation allows students to explore energy conservation with multiple different variables (shape of the track, starting height and speed of the skater, mass of the skater, and friction). Students can quicldy repeat experiments and rapidly explore the effect of many different parameters.
- *Embedded assessment:* Technology can help provide continuous assessment of a given set of knowledge, skills and abilities if the designers know (a) what behaviors would constitute evidence that a student has mastered a given competency; and (b) which tasks can elicit those behaviors.

**Questions**

To stimulate a national conversation on whether and how pull mechanisms might be used to accelerate the development of high-impact learning technologies, OSTP seeks public comment on the questions listed below:

(1) What learning outcomes would be good candidates for the focus of a pull mechanism to catalyze the creation and use of new learning technology? These outcomes could be relevant to early childhood education, K–20, life-long learning, workforce readiness and skills, etc.

(2) How are these learning outcomes currently measured and assessed?

(3) What information exists about current U.S. performance relative to this learning outcome? What information exists about the presence (currently available or potential given current trends or breakthroughs) or absence of effective interventions (technology-based, offline, or hybrid) to improve this learning outcome?

(4) Why would a pull mechanism in this area accelerate innovation in learning technology?

(5) What role might different stakeholders (e.g. Federal agencies, state and local educational agencies, foundations, researchers, practitioners, companies, investors, or non-profit organizations) play in designing, funding, and implementing a pull mechanism for learning technology? What role would your organization be willing to play?

(6) What changes in public policy would facilitate experimentation with pull mechanisms at different levels of government?

Response to this RFI is voluntary. Responders are free to address any or all the above items, as well as provide additional information that they think is relevant to accelerating the development, rigorous evaluation and widespread adoption of high-impact learning technologies. Please note that the U.S. Government will not pay for response preparation or for the use of any information contained in the response.

**Ted Waelder,**

*Deputy Chief of Staff and Assistant Director.*

**Supplementary Information: Overview of Pull Mechanisms**

Incentive prizes are one type of ''pull mechanism''—results-based market incentives designed to overcome market failures and catalyze itmovation. Experts often make a distinction between ''recognition'' prizes that honor past achievements and ''inducement'' or ''incentive'' prizes that encourage participants in the competition to achieve a particular goal. In a 2009 repot1, McKinsey identified six prize archetypes that provide a useful framework for identifying types of prizes that can best achieve different types of goals:

• Exemplar Prizes that define excellence within an area.

• Point Solution Prizes that aim to spur development of solutions for a pmiicular well-defined problem. Solutions can include software applications, algorithms, predictive models, ideas, business plans, policy proposals, designs, or prototypes.

• Market Stimulation Prizes that try to establish the viability of a market to address a potential market failure, mobilize additional human talent and financial capital to jumpstati the development of a new industry, or change public perceptions about what is possible.

• Exposition Prizes that are designed to highlight a broad range of promising ideas and practices, attract attention, and mobilize capital to further develop the winning innovations.

• Participation Prizes that create value during and after the competition-not through conferral of the prize award itself but through their role in encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and beyond the competition.

• Network Prizes that build networks and strengthen communities by organizing winners into new problem-solving communities that can deliver more impact than individual effmis.

Other types of pull mechanisms include:

• Advance Market Commitments: Binding commitments to purchase, or to subsidize purchase, of a ce1iain volume of a product at a fixed prize, if the product meets pre defined performance characteristics (pneumococcal vaccine and Department of Energy examples discussed above).

• Buyer's Consortia: Cooperative agreements between purchasers of products that leverage the combined buying power of those purchasers to drive down the price of products, such as a buyer's consmiium set up for Maine school districts to purchase specialized software and specific assistive technology devices.

• Pay-for-Success Bonds: Under a Pay for Success bond, also known as a social impact bond, the financing organization and the Federal, state, or local government enter into a contract that specifies the population to be served, the outcomes to be achieved, the measurement methodology to be used, and the schedule of payments to be made. The financing organization works with philanthropic and other investors to invest in innovative, data-driven service providers that can achieve results. One example of a pay for-success bond program is an initiative in New York targeted at reducing recidivism in adult males.

• Milestone-based Payments: Payment terms in a standard grant or contract in which the payment for each performance milestone established in the statement of work is not made until the milestone is proven to have been achieved. One example of this approach has been successfully demonstrated in NASA 's *Commercial Orbital Transportation Services* (COTS) program.

• Priority Review Vouchers: An accelerated regulatory review offered to products that meet certain performance or cost criteria, such as the *FDA Innovation Pathway* and *USPTO 's Patents for Humanity.*

• Patent Buyout: An offer to buy out the patent rights to a product that meets specified performance conditions at a set price (price for patent usually marked up over market value; followed by placing of the patent into the public domain to encourage competition for commercialization of the product). One example is the purchase of the patent for the Daguerreotype process by the French government in 1839.

[FR Doc. 2014–00404 Filed 1–10–14; 8:45 am]

**BILLING CODE P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71247; File No. 4–631]**

## Joint Industry Plan; Notice of Filing of the Sixth Amendment to the National Market System Plan To Address Extraordinary Market Volatility by BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., NASDAQ OMX BX, Inc., NASDAQ OMX PHLX LLC, The Nasdaq Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc.

January 7, 2014.

Pursuant to Section 11A of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 608 thereunder [2], notice is hereby given that, on December 3, 2013, The NASDAQ OMX Group, on behalf of NASDAQ OMX BX, Inc. (''BX''), NASDAQ OMX PHLX LLC (''Phlx''), and the Nasdaq Stock Market LLC (''Nasdaq''), and the following parties to the National Market System Plan: BATS Exchange, Inc., BATS Y-Exchange, Inc., Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc., (collectively with BX, Phlx, and Nasdaq, the ''Participants''), filed with the Securities and Exchange Commission (the ''Commission'') a proposal to amend the Plan to Address Extraordinary Market Volatility (''Plan'').[3] The proposal represents the sixth amendment to the Plan (''Sixth Amendment''), and reflects changes unanimously approved by the Participants. The Sixth Amendment to the Plan proposes to make technical changes to the implementation schedule of the Plan. A copy of the Plan, as proposed to be amended, is attached as Exhibit A hereto. The Commission is publishing this notice to solicit comments from interested persons on the Sixth Amendment to the Plan.

### I. Rule 608(a) of Regulation NMS

*A. Purpose of the Plan*

The Participants filed the Plan in order to create a market-wide limit up-limit down mechanism that is intended to address extraordinary market volatility in ''NMS Stocks,'' as defined in Rule 600(b)(47) of Regulation NMS under the Act.[4] The Plan sets forth procedures that provide for market-wide limit up-limit down requirements that would be designed to prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands.[5] These limit up-limit down requirements would be coupled with Trading Pauses, as defined in Section I(Y) of the Plan, to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity).

As set forth in Section V of the Plan, the price bands would consist of a Lower Price Band and an Upper Price Band for each NMS Stock.[6] The price bands would be calculated by the Securities Information Processors (''SIPs'' or ''Processors'') responsible for consolidation of information for an NMS Stock pursuant to Rule 603(b) of

[1] 15 U.S.C. 78k–1.

[2] 17 CFR 242.608.

[3] *See* Letter from Jeffrey S. Davis, Vice President & Deputy General Counsel, The NASDAQ OMX Group, to Elizabeth M. Murphy, Secretary, Commission, dated December 3, 2013 (''Transmittal Letter'').

[4] 17 CFR 242.600(b)(47). *See also* Section I(H) of the Plan.

[5] *See* Section V of the Plan.

[6] Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to such terms in the Plan. *See* Exhibit A, *infra.*

Regulation NMS under the Act.[7] Those price bands would be based on a Reference Price [8] for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period. The price bands for an NMS Stock would be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter [9] below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. Between 9:30 a.m. and 9:45 a.m. ET and 3:35 p.m. and 4:00 p.m. ET, the price bands would be calculated by applying double the Percentage Parameters.

The Processors would also calculate a Pro-Forma Reference Price for each NMS Stock on a continuous basis during Regular Trading Hours. If a Pro-Forma Reference Price did not move by one percent or more from the Reference Price in effect, no new price bands would be disseminated, and the current Reference Price would remain the effective Reference Price. If the Pro-Forma Reference Price moved by one percent or more from the Reference Price in effect, the Pro-Forma Reference Price would become the Reference Price, and the Processors would disseminate new price bands based on the new Reference Price. Each new Reference Price would remain in effect for at least 30 seconds.

When one side of the market for an individual security is outside the applicable price band, the Processors would be required to disseminate such National Best Bid [10] or National Best Offer [11] with an appropriate flag identifying it as non-executable. When the other side of the market reaches the applicable price band, the market for an individual security would enter a Limit State,[12] and the Processors would be required to disseminate such National Best Offer or National Best Bid with an appropriate flag identifying it as a Limit State Quotation.[13] All trading would immediately enter a Limit State if the National Best Offer equals the Lower Limit Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Limit Band and does not cross the National Best Offer. Trading for an NMS Stock would exit a Limit State if, within 15 seconds of entering the Limit State, all Limit State Quotations were executed or canceled in their entirety. If the market did not exit a Limit State within 15 seconds, then the Primary Listing Exchange would declare a five-minute trading pause, which would be applicable to all markets trading the security.

These limit up-limit down requirements would be coupled with trading pauses [14] to accommodate more fundamental price moves (as opposed to erroneous trades or momentary gaps in liquidity). As set forth in more detail in the Plan, all trading centers [15] in NMS Stocks, including both those operated by Participants and those operated by members of Participants, would be required to establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up-limit down and trading pause requirements specified in the Plan.

Under the Plan, all trading centers would be required to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processors would disseminate an offer below the Lower Price Band or bid above the Upper Price Band that nevertheless inadvertently may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; such bid or offer would not be included in National Best Bid or National Best Offer calculations. In addition, all trading centers would be required to develop, maintain, and enforce policies and procedures reasonably designed to prevent trades at prices outside the price bands, with the exception of single-priced opening, reopening, and closing transactions on the Primary Listing Exchange.

As stated by the Participants in the Plan, the limit up-limit down mechanism is intended to reduce the negative impacts of sudden, unanticipated price movements in NMS Stocks,[16] thereby protecting investors and promoting a fair and orderly market.[17] In particular, the Plan is designed to address the type of sudden price movements that the market experienced on the afternoon of May 6, 2010.[18]

The following summarizes the Sixth Amendment to the Plan and the rationale behind those changes:

The Participants propose to amend Section VIII.B of the Plan to establish a new implementation schedule for Phase II of the Plan. The Plan currently provides that eight months after the initial date of Plan operations, the Plan shall fully apply (A) to all NMS Stocks and (B) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close. Because the initial date of Plan operations was April 8, 2013, the Plan currently provides that it shall be fully implemented by December 8, 2013.

The Participants now propose to amend Section VIII.B to provide that Phase II shall be separated into two sub-phases. The first sub-phase (Phase II.A.) would apply the Plan to all NMS Stocks beginning at 9:30 a.m. ET, and ending at 3:45 p.m. ET each trading day, or earlier in the case of an early scheduled close by December 8, 2013 as planned. The second sub-phase (Phase II.B.) would cause the Plan to apply to all NMS Stocks beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close by February 24, 2014. The Participants propose to make this

[7] 17 CFR 242.603(b). The Plan refers to this entity as the Processor.

[8] *See* Section I(T) of the Plan.

[9] As initially proposed by the Participants, the Percentage Parameters for Tier 1 NMS Stocks (*i.e.,* stocks in the S&P 500 Index or Russell 1000 Index and certain ETPs) with a Reference Price of $1.00 or more would be five percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for Tier 2 NMS Stocks (*i.e.,* all NMS Stocks other than those in Tier 1) with a Reference Price of $1.00 or more would be 10 percent and less than $1.00 would be the lesser of (a) $0.15 or (b) 75 percent. The Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP would be the applicable Percentage Parameter set forth above multiplied by the leverage ratio of such product. On May 24, 2012, the Participants amended the Plan to create a 20% price band for Tier 1 and Tier 2 stocks with a Reference Price of $0.75 or more and up to and including $3.00. The Percentage Parameter for stocks with a Reference Price below $0.75 would be the lesser of (a) $0.15 or (b) 75 percent. *See* Letter from Janet M. McGinness, Senior Vice President, Legal and Corporate Secretary, NYSE Euronext, to Elizabeth M. Murphy, Secretary, Commission, dated May 24, 2012 (''First Amendment'').

[10] 17 CFR 242.600(b)(42). *See also* Section I(G) of the Plan.

[11] *Id.*

[12] A stock enters the Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer. *See* Section VI(B) of the Plan.

[13] *See* Section I(D) of the Plan.

[14] The primary listing market would declare a trading pause in an NMS Stock; upon notification by the primary listing market, the Processor would disseminate this information to the public. No trades in that NMS Stock could occur during the trading pause, but all bids and offers may be displayed. *See* Section VII(A) of the Plan.

[15] As defined in Section I(X) of the Plan, a trading center shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Act.

[16] 17 CFR 242.600(b)(47).

[17] *See* Transmittal Letter, *supra* note 3.

[18] The limit up-limit down mechanism set forth in the Plan would replace the existing single-stock circuit breaker pilot. *See e.g.,* Securities Exchange Act Release Nos. 62251 (June 10, 2010), 75 FR 34183 (June 16, 2010) (SR–FINRA–2010–025); 62883 (September 10, 2010), 75 FR 56608 (September 16, 2010) (SR–FINRA–2010–033).

change to accommodate a longer implementation period for Phase II.B. of the Plan, which is currently scheduled to be complete on December 8, 2013.

The Participants believe that this proposed amendment is technical and ministerial in nature because it simply extends the implementation period of the Plan with respect to Phase II.B. of the Plan, and it does not change any substantive elements of the Plan. The Participants note that at least two Participants plan to file proposed changes to their exchange rules to revise the manner by which they will interact with the Plan near the close. Specifically, the Participants will be proposing that if a Trading Pause is declared for an NMS Stock within the last ten minutes of trading, the Primary Listing Exchange will attempt to close the NMS Stock using a modified version of its established closing procedures. The Participants believe that the proposal to extend the implementation period is necessary to provide additional time for the amendment their exchange rules to go through the notice and comment period and approval process.

In addition, the proposed modification to the implementation schedule is in response to requests by the securities industry for additional time for systems testing by Participants and the securities industry, particularly to test with proposed Exchange rule and system modifications around the close.[19] The Participants believe that providing additional time for the Participants and the securities industry to test the manner by which the Plan operates around the close, particularly when there is a trading pause less than five minutes before the scheduled close of trading, is necessary and appropriate in the public interest and for the protection of investors.

The Participants believe it is important to implement all elements of the Plan in a prudent and cautious manner; however this interest is heightened where the Plan impacts the close of trading. A significant volume of trading occurs at the close, including in closing crosses on multiple exchanges. Additionally, the closing prices reached and disseminated by the Exchanges are used to price billions of dollars of mutual funds and other investments held by millions of individual investors and institutions. Accordingly, the need for thorough testing by all Participants and members is critical. The Participants believe that the proposed implementation date of February 24, 2014, for Phase II.B. provides sufficient time to perform this thorough testing.

*B. Governing or Constituent Documents*

The governing documents of the Processor, as defined in Section I(P) of the Plan, will not be affected by the Plan, but once the Plan is implemented, the Processor's obligations will change, as set forth in detail in the Plan.

*C. Implementation of Plan*

The initial date of the Plan operations was April 8, 2013.

*D. Development and Implementation Phases*

The Plan will be implemented as a one-year pilot program in two Phases, consistent with Section VIII of the Plan: Phase I of Plan implementation began on April 8, 2013 and was completed on May 3, 2013. Implementation of Phase II of the Plan began on August 5, 2013. Pursuant to this proposed amendment, Phase II.A. of the implementation, which applies the Plan to all NMS Stocks beginning at 9:30 a.m. ET, and ending at 3:45 p.m. ET each trading day, or earlier in the case of an early scheduled close will be completed by December 8, 2013 as planned. Phase II.B. of the implementation, which causes the Plan to apply to all NMS Stocks beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close, will be completed by February 24, 2014. The Participants are hereby filing to extend the completion date for Phase II.B. to February 24, 2014, at which time the Plan will apply to all NMS Stocks until 4:00 p.m. ET, or earlier in the case of an early scheduled close.

*E. Analysis of Impact on Competition*

The proposed Plan does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Participants do not believe that the proposed Plan introduces terms that are unreasonably discriminatory for the purposes of Section 11A(c)(1)(D) of the Act.[20]

*F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan*

The Participants have no written understandings or agreements relating to interpretation of the Plan. Section II(C) of the Plan sets forth how any entity registered as a national securities exchange or national securities association may become a Participant.

*G. Approval of Amendment of the Plan*

Each of the Plan's Participants has executed a written amended Plan.

*H. Terms and Conditions of Access*

Section II(C) of the Plan provides that any entity registered as a national securities exchange or national securities association under the Act may become a Participant by: (1) Becoming a participant in the applicable Market Data Plans, as defined in Section I(F) of the Plan; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

*I. Method of Determination and Imposition, and Amount of, Fees and Charges*

Not applicable.

*J. Method and Frequency of Processor Evaluation*

Not applicable.

*K. Dispute Resolution*

Section III(C) of the Plan provides for each Participant to designate an individual to represent the Participant as a member of an Operating Committee.[21] No later than the initial date of the Plan, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee. Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the Commission as a request for an amendment to the Plan initiated by the Commission under Rule 608.[22]

On October 13, 2013, the Operating Committee, duly constituted and chaired by Mr. Burke Cook of NASDAQ OMX, met and voted to amend the Plan as set forth herein in accordance with Section III(C) of the Plan.

**II. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Sixth Amendment to the Plan is consistent with the Act. Comments may be

[19] *See* Letter from T.R. Lazo, Managing Director and Associate General Counsel, SIFMA to John Ramsey, Acting Director, Division of Trading and Markets, Securities and Exchange Commission, dated July 10, 2013. The Participants note that SIFMA supports the proposed adjustment to the implementation schedule of Phase II of the Plan.

[20] 15 U.S.C. 78k–1(c)(1)(D).

[21] *See* Section I(J) of the Plan.

[22] 17 CFR 242.608.

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 4–631 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 4–631. 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 Sixth Amendment to the Plan that are filed with the Commission, and all written communications relating to the Sixth Amendment to the Plan 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 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the Participants' principal offices. 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 4–631 and should be submitted on or before February 3, 2014.

By the Commission.

**Kevin M. O'Neill,**

*Deputy Secretary.*

**Exhibit A**

Proposed new language is *italicized;* proposed deletions are in [brackets].

**Plan To Address Extraordinary Market Volatility Submitted to the Securities and Exchange Commission Pursuant to Rule 608 of Regulation NMS Under the Securities Exchange Act of 1934**

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Preamble

The Participants submit to the SEC this Plan establishing procedures to address extraordinary volatility in NMS Stocks. The procedures provide for market-wide limit up-limit down requirements that prevent trades in individual NMS Stocks from occurring outside of the specified Price Bands. These limit up-limit down requirements are coupled with Trading Pauses to accommodate more fundamental price moves. The Plan procedures are designed, among other things, to protect investors and promote fair and orderly markets. The Participants developed this Plan pursuant to Rule 608(a)(3) of Regulation NMS under the Exchange Act, which authorizes the Participants to act jointly in preparing, filing, and implementing national market system plans.

I. Definitions

(A) ''Eligible Reported Transactions'' shall have the meaning prescribed by the Operating Committee and shall generally mean transactions that are eligible to update the last sale price of an NMS Stock.

(B) ''Exchange Act'' means the Securities Exchange Act of 1934, as amended.

(C) ''Limit State'' shall have the meaning provided in Section VI of the Plan.

(D) ''Limit State Quotation'' shall have the meaning provided in Section VI of the Plan.

(E) ''Lower Price Band'' shall have the meaning provided in Section V of the Plan.

(F) ''Market Data Plans'' shall mean the effective national market system plans through which the Participants act jointly to disseminate consolidated information in compliance with Rule 603(b) of Regulation NMS under the Exchange Act.

(G) ''National Best Bid'' and ''National Best Offer'' shall have the meaning provided in Rule 600(b)(42) of Regulation NMS under the Exchange Act.

(H) ''NMS Stock'' shall have the meaning provided in Rule 600(b)(47) of Regulation NMS under the Exchange Act.

(I) ''Opening Price'' shall mean the price of a transaction that opens trading on the Primary Listing Exchange, or, if the Primary Listing Exchange opens with quotations, the midpoint of those quotations.

(J) ''Operating Committee'' shall have the meaning provided in Section III(C) of the Plan.

(K) ''Participant'' means a party to the Plan.

(L) ''Plan'' means the plan set forth in this instrument, as amended from time to time in accordance with its provisions.

(M) ''Percentage Parameter'' shall mean the percentages for each tier of NMS Stocks set forth in Appendix A of the Plan.

(N) ''Price Bands'' shall have the meaning provided in Section V of the Plan.

(O) ''Primary Listing Exchange'' shall mean the Participant on which an NMS Stock is listed. If an NMS Stock is listed on more than one Participant, the Participant on which the NMS Stock has been listed the longest shall be the Primary Listing Exchange.

(P) ''Processor'' shall mean the single plan processor responsible for the consolidation of information for an NMS Stock pursuant to Rule 603(b) of Regulation NMS under the Exchange Act.

(Q) ''Pro-Forma Reference Price'' shall have the meaning provided in Section V(A)(2) of the Plan.

(R) ''Regular Trading Hours'' shall have the meaning provided in Rule 600(b)(64) of Regulation NMS under the Exchange Act. For purposes of the Plan, Regular Trading Hours can end earlier than 4:00 p.m. ET in the case of an early scheduled close.

(S) ''Regulatory Halt'' shall have the meaning specified in the Market Data Plans.

(T) ''Reference Price'' shall have the meaning provided in Section V of the Plan.

(U) ''Reopening Price'' shall mean the price of a transaction that reopens trading on the Primary Listing Exchange following a Trading Pause or a Regulatory Halt, or, if the Primary

Listing Exchange reopens with quotations, the midpoint of those quotations.

(V) ''SEC'' shall mean the United States Securities and Exchange Commission.

(W) ''Straddle State'' shall have the meaning provided in Section VII(A)(2) of the Plan.

(X) ''Trading center'' shall have the meaning provided in Rule 600(b)(78) of Regulation NMS under the Exchange Act.

(Y) ''Trading Pause'' shall have the meaning provided in Section VII of the Plan.

(Z) ''Upper Price Band'' shall have the meaning provided in Section V of the Plan.

II. Parties

(A) List of Parties

The parties to the Plan are as follows:

(1) BATS Exchange, Inc., 8050 Marshall Drive, Lenexa, Kansas 66214
(2) BATS Y-Exchange, Inc., 8050 Marshall Drive, Lenexa, Kansas 66214
(3) Chicago Board Options Exchange, Incorporated, 400 South LaSalle Street, Chicago, Illinois 60605
(4) Chicago Stock Exchange, Inc., 440 South LaSalle Street, Chicago, Illinois 60605
(5) EDGA Exchange, Inc., 545 Washington Boulevard, Sixth Floor Jersey City, NJ 07310
(6) EDGX Exchange, Inc., 545 Washington Boulevard, Sixth Floor Jersey City, NJ 07310
(7) Financial Industry Regulatory Authority, Inc., 1735 K Street NW., Washington, DC 20006
(8) NASDAQ OMX BX, Inc., One Liberty Plaza, New York, New York 10006
(9) NASDAQ OMX PHLX LLC, 1900 Market Street, Philadelphia, Pennsylvania 19103
(10) The Nasdaq Stock Market LLC, 1 Liberty Plaza, 165 Broadway,New York, NY 10006
(11) National Stock Exchange, Inc., 101 Hudson, Suite 1200, Jersey City, NJ 07302
(12) New York Stock Exchange LLC, 11 Wall Street, New York, New York 10005
(13) NYSE MKT LLC, 20 Broad Street, New York, New York 10005
(14) NYSE Arca, Inc., 100 South Wacker Drive, Suite 1800, Chicago, IL 60606

(B) Compliance Undertaking

By subscribing to and submitting the Plan for approval by the SEC, each Participant agrees to comply with and to enforce compliance, as required by Rule 608(c) of Regulation NMS under the Exchange Act, by its members with the provisions of the Plan. To this end, each Participant shall adopt a rule requiring compliance by its members with the provisions of the Plan, and each Participant shall take such actions as are necessary and appropriate as a participant of the Market Data Plans to cause and enable the Processor for each NMS Stock to fulfill the functions set forth in this Plan.

(C) New Participants

The Participants agree that any entity registered as a national securities exchange or national securities association under the Exchange Act may become a Participant by: (1) becoming a participant in the applicable Market Data Plans; (2) executing a copy of the Plan, as then in effect; (3) providing each then-current Participant with a copy of such executed Plan; and (4) effecting an amendment to the Plan as specified in Section III(B) of the Plan.

(D) Advisory Committee

(1) *Formation.* Notwithstanding other provisions of this Plan, an Advisory Committee to the Plan shall be formed and shall function in accordance with the provisions set forth in this section.

(2) *Composition.* Members of the Advisory Committee shall be selected for two-year terms as follows:

(A) *Advisory Committee Selections.* By affirmative vote of a majority of the Participants, the Participants shall select at least one representatives from each of the following categories to be members of the Advisory Committee: (1) a broker-dealer with a substantial retail investor customer base; (2) a broker-dealer with a substantial institutional investor customer base; (3) an alternative trading system; (4) a broker-dealer that primarily engages in trading for its own account; and (5) an investor.

(3) *Function.* Members of the Advisory Committee shall have the right to submit their views to the Operating Committee on Plan matters, prior to a decision by the Operating Committee on such matters. Such matters shall include, but not be limited to, proposed material amendments to the Plan.

(4) *Meetings and Information.* Members of the Advisory Committee shall have the right to attend meetings of the Operating Committee and to receive any information concerning Plan matters; provided, however, that the Operating Committee may meet in executive session if, by affirmative vote of a majority of the Participants, the Operating Committee determines that an item of Plan business requires confidential treatment.

III. Amendments to Plan

(A) General Amendments

Except with respect to the addition of new Participants to the Plan, any proposed change in, addition to, or deletion from the Plan shall be effected by means of a written amendment to the Plan that: (1) sets forth the change, addition, or deletion; (2) is executed on behalf of each Participant; and, (3) is approved by the SEC pursuant to Rule 608 of Regulation NMS under the Exchange Act, or otherwise becomes effective under Rule 608 of Regulation NMS under the Exchange Act.

(B) New Participants

With respect to new Participants, an amendment to the Plan may be effected by the new national securities exchange or national securities association executing a copy of the Plan, as then in effect (with the only changes being the addition of the new Participant's name in Section II(A) of the Plan) and submitting such executed Plan to the SEC for approval. The amendment shall be effective when it is approved by the SEC in accordance with Rule 608 of Regulation NMS under the Exchange Act or otherwise becomes effective pursuant to Rule 608 of Regulation NMS under the Exchange Act.

(C) Operating Committee

(1) Each Participant shall select from its staff one individual to represent the Participant as a member of an Operating Committee, together with a substitute for such individual. The substitute may participate in deliberations of the Operating Committee and shall be considered a voting member thereof only in the absence of the primary representative. Each Participant shall have one vote on all matters considered by the Operating Committee. No later than the initial date of Plan operations, the Operating Committee shall designate one member of the Operating Committee to act as the Chair of the Operating Committee.

(2) The Operating Committee shall monitor the procedures established pursuant to this Plan and advise the Participants with respect to any deficiencies, problems, or recommendations as the Operating Committee may deem appropriate. The Operating Committee shall establish specifications and procedures for the implementation and operation of the Plan that are consistent with the provisions of this Plan and the Appendixes thereto. With respect to matters in this paragraph, Operating Committee decisions shall be approved by a simple majority vote.

(3) Any recommendation for an amendment to the Plan from the Operating Committee that receives an affirmative vote of at least two-thirds of the Participants, but is less than unanimous, shall be submitted to the SEC as a request for an amendment to the Plan initiated by the Commission under Rule 608 of Regulation NMS.

IV. Trading Center Policies and Procedures

All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to comply with the limit up—limit down requirements specified in Sections VI of the Plan, and to comply with the Trading Pauses specified in Section VII of the Plan.

V. Price Bands

(A) Calculation and Dissemination of Price Bands

(1) The Processor for each NMS stock shall calculate and disseminate to the public a Lower Price Band and an Upper Price Band during Regular Trading Hours for such NMS Stock. The Price Bands shall be based on a Reference Price for each NMS Stock that equals the arithmetic mean price of Eligible Reported Transactions for the NMS stock over the immediately preceding five-minute period (except for periods following openings and reopenings, which are addressed below). If no Eligible Reported Transactions for the NMS Stock have occurred over the immediately preceding five-minute period, the previous Reference Price shall remain in effect. The Price Bands for an NMS Stock shall be calculated by applying the Percentage Parameter for such NMS Stock to the Reference Price, with the Lower Price Band being a Percentage Parameter below the Reference Price, and the Upper Price Band being a Percentage Parameter above the Reference Price. The Price Bands shall be calculated during Regular Trading Hours. Between 9:30 a.m. and 9:45 a.m. ET, and 3:35 p.m. and 4:00 p.m. ET, or in the case of an early scheduled close, during the last 25 minutes of trading before the early scheduled close, the Price Bands shall be calculated by applying double the Percentage Parameters set forth in Appendix A. If a Reopening Price does not occur within ten minutes after the beginning of a Trading Pause, the Price Band, for the first 30 seconds following the reopening after that Trading Pause, shall be calculated by applying triple the Percentage Parameters set forth in Appendix A.

(2) The Processor shall calculate a Pro-Forma Reference Price on a continuous basis during Regular Trading Hours, as specified in Section V(A)(1) of the Plan. If a Pro-Forma Reference Price has not moved by 1% or more from the Reference Price currently in effect, no new Price Bands shall be disseminated, and the current Reference Price shall remain the effective Reference Price. When the Pro-Forma Reference Price has moved by 1% or more from the Reference Price currently in effect, the Pro-Forma Reference Price shall become the Reference Price, and the Processor shall disseminate new Price Bands based on the new Reference Price; provided, however, that each new Reference Price shall remain in effect for at least 30 seconds.

(B) Openings

(1) Except when a Regulatory Halt is in effect at the start of Regular Trading Hours, the first Reference Price for a trading day shall be the Opening Price on the Primary Listing Exchange in an NMS Stock if such Opening Price occurs less than five minutes after the start of Regular Trading Hours. During the period less than five minutes after the Opening Price, a Pro-Forma Reference Price shall be updated on a continuous basis to be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock during the period following the Opening Price (including the Opening Price), and if it differs from the current Reference Price by 1% or more shall become the new Reference Price, except that a new Reference Price shall remain in effect for at least 30 seconds. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) If the Opening Price on the Primary Listing Exchange in an NMS Stock does not occur within five minutes after the start of Regular Trading Hours, the first Reference Price for a trading day shall be the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(C) Reopenings

(1) Following a Trading Pause in an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the next Reference Price shall be the Reopening Price on the Primary Listing Exchange if such Reopening Price occurs within ten minutes after the beginning of the Trading Pause, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Reopening Price does not occur within ten minutes after the beginning of the Trading Pause, the first Reference Price following the Trading Pause shall be equal to the last effective Reference Price before the Trading Pause. Subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

(2) Following a Regulatory Halt, the next Reference Price shall be the Opening or Reopening Price on the Primary Listing Exchange if such Opening or Reopening Price occurs within five minutes after the end of the Regulatory Halt, and subsequent Reference Prices shall be determined in the manner prescribed for normal openings, as specified in Section V(B)(1) of the Plan. If such Opening or Reopening Price has not occurred within five minutes after the end of the Regulatory Halt, the Reference Price shall be equal to the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the preceding five minute time period, and subsequent Reference Prices shall be calculated as specified in Section V(A) of the Plan.

VI. Limit Up-Limit Down Requirements

(A) Limitations on Trades and Quotations Outside of Price Bands

(1) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent trades at prices that are below the Lower Price Band or above the Upper Price Band for an NMS Stock. Single-priced opening, reopening, and closing transactions on the Primary Listing Exchange, however, shall be excluded from this limitation. In addition, any transaction that both (i) does not update the last sale price (except if solely because the transaction was reported late or because the transaction was an odd-lot sized transaction), and (ii) is excepted or exempt from Rule 611 under Regulation NMS shall be excluded from this limitation.

(2) When a National Best Bid is below the Lower Price Band or a National Best Offer is above the Upper Price Band for an NMS Stock, the Processor shall disseminate such National Best Bid or National Best Offer with an appropriate flag identifying it as non-executable. When a National Best Offer is equal to the Lower Price Band or a National Best

Bid is equal to the Upper Price Band for an NMS Stock, the Processor shall distribute such National Best Bid or National Best Offer with an appropriate flag identifying it as a ''Limit State Quotation''.

(3) All trading centers in NMS Stocks, including both those operated by Participants and those operated by members of Participants, shall establish, maintain, and enforce written policies and procedures that are reasonably designed to prevent the display of offers below the Lower Price Band and bids above the Upper Price Band for an NMS Stock. The Processor shall disseminate an offer below the Lower Price Band or bid above the Upper Price Band that may be submitted despite such reasonable policies and procedures, but with an appropriate flag identifying it as non-executable; provided, however, that any such bid or offer shall not be included in National Best Bid or National Best Offer calculations.

(B) Entering and Exiting a Limit State

(1) All trading for an NMS Stock shall immediately enter a Limit State if the National Best Offer equals the Lower Price Band and does not cross the National Best Bid, or the National Best Bid equals the Upper Price Band and does not cross the National Best Offer.

(2) When trading for an NMS Stock enters a Limit State, the Processor shall disseminate this information by identifying the relevant quotation (*i.e.,* a National Best Offer that equals the Lower Price Band or a National Best Bid that equals the Upper Price Band) as a Limit State Quotation. At this point, the Processor shall cease calculating and disseminating updated Reference Prices and Price Bands for the NMS Stock until either trading exits the Limit State or trading resumes with an opening or re-opening as provided in Section V.

(3) Trading for an NMS Stock shall exit a Limit State if, within 15 seconds of entering the Limit State, the entire size of all Limit State Quotations are executed or cancelled.

(4) If trading for an NMS Stock exits a Limit State within 15 seconds of entry, the Processor shall immediately calculate and disseminate updated Price Bands based on a Reference Price that equals the arithmetic mean price of Eligible Reported Transactions for the NMS Stock over the immediately preceding five-minute period (including the period of the Limit State).

(5) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry, the Limit State will terminate when the Primary Listing Exchange declares a Trading Pause pursuant to Section VII of the Plan or at the end of Regular Trading Hours.

VII. Trading Pauses

(A) Declaration of Trading Pauses

(1) If trading for an NMS Stock does not exit a Limit State within 15 seconds of entry during Regular Trading Hours, then the Primary Listing Exchange shall declare a Trading Pause for such NMS Stock and shall notify the Processor.

(2) The Primary Listing Exchange may also declare a Trading Pause for an NMS Stock when an NMS Stock is in a Straddle State, which is when National Best Bid (Offer) is below (above) the Lower (Upper) Price Band and the NMS Stock is not in a Limit State, and trading in that NMS Stock deviates from normal trading characteristics such that declaring a Trading Pause would support the Plan's goal to address extraordinary market volatility. The Primary Listing Exchange shall develop policies and procedures for determining when it would declare a Trading Pause in such circumstances. If a Trading Pause is declared for an NMS Stock under this provision, the Primary Listing Exchange shall notify the Processor.

(3) The Processor shall disseminate Trading Pause information to the public. No trades in an NMS Stock shall occur during a Trading Pause, but all bids and offers may be displayed.

(B) Reopening of Trading During Regular Trading Hours

(1) Five minutes after declaring a Trading Pause for an NMS Stock, and if the Primary Listing Exchange has not declared a Regulatory Halt, the Primary Listing Exchange shall attempt to reopen trading using its established reopening procedures. The Trading Pause shall end when the Primary Listing Exchange reports a Reopening Price.

(2) The Primary Listing Exchange shall notify the Processor if it is unable to reopen trading in an NMS Stock for any reason other than a significant order imbalance and if it has not declared a Regulatory Halt. The Processor shall disseminate this information to the public, and all trading centers may begin trading the NMS Stock at this time.

(3) If the Primary Listing Exchange does not report a Reopening Price within ten minutes after the declaration of a Trading Pause in an NMS Stock, and has not declared a Regulatory Halt, all trading centers may begin trading the NMS Stock.

(4) When trading begins after a Trading Pause, the Processor shall update the Price Bands as set forth in Section V(C)(1) of the Plan.

(C) Trading Pauses Within Ten Minutes of the End of Regular Trading Hours

(1) If a Trading Pause for an NMS Stock is declared in the last ten minutes of trading before the end of Regular Trading Hours, the Primary Listing Exchange shall not reopen trading and shall attempt to execute a closing transaction using its established closing procedures. All trading centers may begin trading the NMS Stock when the Primary Listing Exchange executes a closing transaction.

(2) If the Primary Listing Exchange does not execute a closing transaction within five minutes after the end of Regular Trading Hours, all trading centers may begin trading the NMS Stock.

VIII. Implementation

The initial date of Plan operations shall be April 8, 2013.

(A) Phase I

(1) On the initial date of Plan operations, Phase I of Plan implementation shall begin in select symbols from the Tier 1 NMS Stocks identified in Appendix A of the Plan.

(2) Three months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply to all Tier 1 NMS Stocks identified in Appendix A of the Plan.

(3) During Phase I, the first Price Bands for a trading day shall be calculated and disseminated 15 minutes after the start of Regular Trading Hours as specified in Section (V)(A) of the Plan. No Price Bands shall be calculated and disseminated and therefore trading shall not enter a Limit State less than 30 minutes before the end of Regular Trading Hours.

(B) Phase II—Full Implementation

*Phase II.A.:* Eight months after the initial date of Plan operations, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply (i) to all NMS Stocks; and (ii) beginning at 9:30 a.m. ET, and ending at *3:45* [4:00] p.m. ET each trading day, or earlier in the case of an early scheduled close.

*Phase II.B.: By February 24, 2014, or such earlier date as may be announced by the Processor with at least 30 days notice, the Plan shall fully apply (i) to all NMS Stocks; and (ii) beginning at 9:30 a.m. ET, and ending at 4:00 p.m. ET each trading day, or earlier in the case of an early scheduled close.*

(C) Pilot

The Plan shall be implemented on a one-year pilot basis.

IX. Withdrawal from Plan

If a Participant obtains SEC approval to withdraw from the Plan, such Participant may withdraw from the Plan at any time on not less than 30 days' prior written notice to each of the other Participants. At such time, the withdrawing Participant shall have no further rights or obligations under the Plan.

X. Counterparts and Signatures

The Plan may be executed in any number of counterparts, no one of which need contain all signatures of all Participants, and as many of such counterparts as shall together contain all such signatures shall constitute one and the same instrument.

IN WITNESS THEREOF, this Plan has been executed as of the __d day of November 2013 by each of the parties hereto.

BATS EXCHANGE, INC.
BY: _____

BATS Y–EXCHANGE, INC.
BY: _____

CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED
BY: _____

CHICAGO STOCK EXCHANGE, INC.
BY: _____

EDGA EXCHANGE, INC.
BY: _____

EDGA EXCHANGE, INC.
BY: _____

FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC.
BY: _____

NASDAQ OMX BX, INC.
BY: _____

NASDAQ OMX PHLX LLC
BY: _____

THE NASDAQ STOCK MARKET LLC
BY: _____

NATIONAL STOCK EXCHANGE, INC.
BY: _____

NEW YORK STOCK EXCHANGE LLC
BY: _____

NYSE MKT LLC
BY: _____

NYSE ARCA, INC.
BY: _____

**Appendix A—Percentage Parameters**

**I. Tier 1 NMS Stocks**

(1) Tier 1 NMS Stocks shall include all NMS Stocks included in the S&P 500 Index, the Russell 1000 Index, and the exchange-traded products (''ETP'') listed on Schedule 1 to this Appendix. Schedule 1 to the Appendix will be reviewed and updated semi-annually based on the fiscal year by the Primary Listing Exchange to add ETPs that meet the criteria, or delete ETPs that are no longer eligible. To determine eligibility for an ETP to be included as a Tier 1 NMS Stock, all ETPs across multiple asset classes and issuers, including domestic equity, international equity, fixed income, currency, and commodities and futures will be identified. Leveraged ETPs will be excluded and the list will be sorted by notional consolidated average daily volume (''CADV''). The period used to measure CADV will be from the first day of the previous fiscal half year up until one week before the beginning of the next fiscal half year. Daily volumes will be multiplied by closing prices and then averaged over the period. ETPs, including inverse ETPs, that trade over $2,000,000 CADV will be eligible to be included as a Tier 1 NMS Stock. The semi-annual updates to Schedule 1 do not require an amendment to the Plan. The Primary Listing Exchanges will maintain the updated Schedule 1 on their respective Web sites.

(2) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price more than $3.00 shall be 5%.

(3) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00 shall be 20%.

(4) The Percentage Parameters for Tier 1 NMS Stocks with a Reference Price less than $0.75 shall be the lesser of (a) $0.15 or (b) 75%.

(5) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

**II. Tier 2 NMS Stocks**

(1) Tier 2 NMS Stocks shall include all NMS Stocks other than those in Tier 1, provided, however, that all rights and warrants are excluded from the Plan.

(2) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price more than $3.00 shall be 10%.

(3) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price equal to $0.75 and up to and including $3.00 shall be 20%.

(4) The Percentage Parameters for Tier 2 NMS Stocks with a Reference Price less than $0.75 shall be the lesser of (a) $0.15 or (b) 75%.

(5) Notwithstanding the foregoing, the Percentage Parameters for a Tier 2 NMS Stock that is a leveraged ETP shall be the applicable Percentage Parameter set forth in clauses (2), (3), or (4) above, multiplied by the leverage ratio of such product.

(6) The Reference Price used for determining which Percentage Parameter shall be applicable during a trading day shall be based on the closing price of the NMS Stock on the Primary Listing Exchange on the previous trading day, or if no closing price exists, the last sale on the Primary Listing Exchange reported by the Processor.

**Appendix A—Schedule 1**

| Ticker | Name | Primary exchange |
|---|---|---|
| AAXJ | iShares MSCI All Country Asia ex Japan Index Fund | NASDAQ GM. |
| ACWI | iShares MSCI ACWI Index Fund | NASDAQ GM. |
| ACWV | iShares MSCI All Country World Minimum Volatility Index Fund | NYSE Arca. |
| ACWX | iShares MSCI ACWI ex US Index Fund | NASDAQ GM. |
| AGG | iShares Core Total US Bond Market ETF | NYSE Arca. |
| AGOL | ETFS Asian Gold Trust | NYSE Arca. |
| AGZ | iShares Barclays Agency Bond Fund | NYSE Arca. |
| ALD | WisdomTree Asia Local Debt Fund | NYSE Arca. |
| AMJ | JPMorgan Alerian MLP Index ETN | NYSE Arca. |
| AMLP | Alerian MLP ETF | NYSE Arca. |
| AMU | ETRACS Alerian MLP Index ETN | NYSE Arca. |
| BAB | PowerShares Build America Bond Portfolio | NYSE Arca. |
| BAL | iPath Dow Jones-UBS Cotton Subindex Total Return Callable ETN | NYSE Arca. |
| BBH | Market Vectors Biotech ETF | NYSE Arca. |
| BDG | PowerShares DB Base Metals Long ETN | NYSE Arca. |
| BFOR | Barron's 400 ETF | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| BIK | SPDR S&P BRIC 40 ETF | NYSE Arca. |
| BIL | SPDR Barclays 1–3 Month T-Bill | NYSE Arca. |
| BIV | Vanguard Intermediate-Term Bond ETF | NYSE Arca. |
| BKF | iShares MSCI BRIC Index Fund | NYSE Arca. |
| BKLN | PowerShares Senior Loan Portfolio | NYSE Arca. |
| BLV | Vanguard Long-Term Bond ETF | NYSE Arca. |
| BND | Vanguard Total Bond Market ETF | NYSE Arca. |
| BNDX | Vanguard Total International Bond ETF | NASDAQ GM. |
| BNO | United States Brent Oil Fund LP | NYSE Arca. |
| BOND | Pimco Total Return ETF | NYSE Arca. |
| BOS | PowerShares DB Base Metals Short ETN | NYSE Arca. |
| BRF | Market Vectors Brazil Small-Cap ETF | NYSE Arca. |
| BSJE | Guggenheim BulletShares 2014 High Yield Corporate Bond ETF | NYSE Arca. |
| BSJF | Guggenheim BulletShares 2015 High Yield Corporate Bond ETF | NYSE Arca. |
| BSV | Vanguard Short-Term Bond ETF | NYSE Arca. |
| BWV | iPath CBOE S&P 500 BuyWrite Index ETN | NYSE Arca. |
| BWX | SPDR Barclays International Treasury Bond ETF | NYSE Arca. |
| CEW | WisdomTree Emerging Currency Fund | NYSE Arca. |
| CFT | iShares Barclays Credit Bond Fund | NYSE Arca. |
| CHIQ | Global X China Consumer ETF | NYSE Arca. |
| CIU | iShares Barclays Intermediate Credit Bond Fund | NYSE Arca. |
| CLY | iShares 10+ Year Credit Bond Fund | NYSE Arca. |
| CMF | iShares S&P California AMT-Free Municipal Bond Fund | NYSE Arca. |
| CORN | Teucrium Corn Fund | NYSE Arca. |
| CSD | Guggenheim Spin-Off ETF | NYSE Arca. |
| CSJ | iShares Barclays 1–3 Year Credit Bond Fund | NYSE Arca. |
| CUT | Guggenheim Timber ETF | NYSE Arca. |
| CVY | Guggenheim Multi-Asset Income ETF | NYSE Arca. |
| CWB | SPDR Barclays Convertible Securities ETF | NYSE Arca. |
| CWI | SPDR MSCI ACWI ex-US ETF | NYSE Arca. |
| DBA | PowerShares DB Agriculture Fund | NYSE Arca. |
| DBB | PowerShares DB Base Metals Fund | NYSE Arca. |
| DBC | PowerShares DB Commodity Index Tracking Fund | NYSE Arca. |
| DBE | PowerShares DB Energy Fund | NYSE Arca. |
| DBJP | db X-trackers MSCI Japan Hedged Equity Fund | NYSE Arca. |
| DBO | PowerShares DB Oil Fund | NYSE Arca. |
| DBP | PowerShares DB Precious Metals Fund | NYSE Arca. |
| DBV | PowerShares DB G10 Currency Harvest Fund | NYSE Arca. |
| DEM | WisdomTree Emerging Markets Equity Income Fund | NYSE Arca. |
| DES | WisdomTree SmallCap Dividend Fund | NYSE Arca. |
| DFJ | WisdomTree Japan SmallCap Dividend Fund | NYSE Arca. |
| DGL | PowerShares DB Gold Fund | NYSE Arca. |
| DGS | WisdomTree Emerging Markets SmallCap Dividend Fund | NYSE Arca. |
| DGZ | PowerShares DB Gold Short ETN | NYSE Arca. |
| DHS | WisdomTree Equity Income Fund | NYSE Arca. |
| DIA | SPDR Dow Jones Industrial Average ETF Trust | NYSE Arca. |
| DJCI | ETRACS DJ–UBS Commodity Index Total Return ETN | NYSE Arca. |
| DJP | iPath Dow Jones-UBS Commodity Index Total Return ETN | NYSE Arca. |
| DLN | WisdomTree LargeCap Dividend Fund | NYSE Arca. |
| DLS | WisdomTree International SmallCap Dividend Fund | NYSE Arca. |
| DOG | ProShares Short Dow30 | NYSE Arca. |
| DON | WisdomTree MidCap Dividend Fund | NYSE Arca. |
| DTN | WisdomTree Dividend Ex-Financials Fund | NYSE Arca. |
| DVY | iShares Dow Jones Select Dividend Index Fund | NYSE Arca. |
| DWX | SPDR S&P International Dividend ETF | NYSE Arca. |
| DXJ | WisdomTree Japan Hedged Equity Fund | NYSE Arca. |
| EBND | SPDR Barclays Emerging Markets Local Bond ETF | NYSE Arca. |
| ECH | iShares MSCI Chile Capped Investable Market Index Fund | NYSE Arca. |
| ECON | EGShares Emerging Markets Consumer ETF | NYSE Arca. |
| EDIV | SPDR S&P Emerging Markets Dividend ETF | NYSE Arca. |
| EDV | Vanguard Extended Duration Treasury ETF | NYSE Arca. |
| EEM | iShares MSCI Emerging Markets Index Fund | NYSE Arca. |
| EEMA | iShares MSCI Emerging Markets Asia Index | NASDAQ GM. |
| EEMV | iShares MSCI Emerging Markets Minimum Volatility Index Fund | NYSE Arca. |
| EFA | iShares MSCI EAFE Index Fund | NYSE Arca. |
| EFAV | iShares MSCI EAFE Minimum Volatility Index Fund | NYSE Arca. |
| EFG | iShares MSCI EAFE Growth Index | NYSE Arca. |
| EFV | iShares MSCI EAFE Value Index | NYSE Arca. |
| EFZ | ProShares Short MSCI EAFE | NYSE Arca. |
| EIDO | iSHARES MSCI Indonesia Investable Market Index Fund | NYSE Arca. |
| ELD | WisdomTree Emerging Markets Local Debt Fund | NYSE Arca. |
| ELR | SPDR Dow Jones Large Cap ETF | NYSE Arca. |
| EMB | iShares JPMorgan USD Emerging Markets Bond Fund | NYSE Arca. |
| EMLC | Market Vectors Emerging Markets Local Currency Bond ETF | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| EMM | SPDR Dow Jones Mid Cap ETF | NYSE Arca. |
| ENZL | iShares MSCI New Zealand Capped Investable Market Index Fund | NYSE Arca. |
| EPHE | iShares MSCI Philippines Investable Market Index Fund | NYSE Arca. |
| EPI | WisdomTree India Earnings Fund | NYSE Arca. |
| EPOL | iShares MSCI Poland Capped Investable Market Index Fund | NYSE Arca. |
| EPP | iShares MSCI Pacific ex-Japan Index Fund | NYSE Arca. |
| EPU | iShares MSCI All Peru Capped Index Fund | NYSE Arca. |
| ERUS | iShares MSCI Russia Capped Index Fund | NYSE Arca. |
| EUM | ProShares Short MSCI Emerging Markets | NYSE Arca. |
| EWA | iShares MSCI Australia Index Fund | NYSE Arca. |
| EWC | iShares MSCI Canada Index Fund | NYSE Arca. |
| EWD | iShares MSCI Sweden Index Fund | NYSE Arca. |
| EWG | iShares MSCI Germany Index Fund | NYSE Arca. |
| EWH | iShares MSCI Hong Kong Index Fund | NYSE Arca. |
| EWI | iShares MSCI Italy Capped Index Fund | NYSE Arca. |
| EWJ | iShares MSCI Japan Index Fund | NYSE Arca. |
| EWL | iShares MSCI Switzerland Capped Index Fund | NYSE Arca. |
| EWM | iShares MSCI Malaysia Index Fund | NYSE Arca. |
| EWN | iShares MSCI Netherlands Investable Market Index Fund | NYSE Arca. |
| EWO | iShares MSCI Austria Capped Investable Market Index Fund | NYSE Arca. |
| EWP | iShares MSCI Spain Capped Index Fund | NYSE Arca. |
| EWQ | iShares MSCI France Index Fund | NYSE Arca. |
| EWS | iShares MSCI Singapore Index Fund | NYSE Arca. |
| EWT | iShares MSCI Taiwan Index Fund | NYSE Arca. |
| EWU | iShares MSCI United Kingdom Index Fund | NYSE Arca. |
| EWW | iShares MSCI Mexico Capped Investable Market Index Fund | NYSE Arca. |
| EWX | SPDR S&P Emerging Markets SmallCap ETF | NYSE Arca. |
| EWY | iShares MSCI South Korea Capped Index Fund | NYSE Arca. |
| EWZ | iShares MSCI Brazil Capped Index Fund | NYSE Arca. |
| EXI | iShares S&P Global Industrials Sector Index Fund | NYSE Arca. |
| EZA | iShares MSCI South Africa Index Fund | NYSE Arca. |
| EZU | iShares MSCI EMU Index Fund | NYSE Arca. |
| FBT | First Trust NYSE Arca Biotechnology Index Fund | NYSE Arca. |
| FCG | First Trust ISE-Revere Natural Gas Index Fund | NYSE Arca. |
| FDL | First Trust Morningstar Dividend Leaders Index | NYSE Arca. |
| FDN | First Trust Dow Jones Internet Index Fund | NYSE Arca. |
| FEM | First Trust Emerging Markets AlphaDEX Fund | NYSE Arca. |
| FEX | First Trust Large Cap Core AlphaDEX Fund | NYSE Arca. |
| FEZ | SPDR EURO STOXX 50 ETF | NYSE Arca. |
| FGD | First Trust DJ Global Select Dividend Index Fund | NYSE Arca. |
| FLOT | iShares Floating Rate Note Fund | NYSE Arca. |
| FLRN | SPDR Barclays Investment Grade Floating Rate ETF | NYSE Arca. |
| FM | iShares MSCI Frontier 100 ETF | NYSE Arca. |
| FNX | First Trust Mid Cap Core AlphaDEX Fund | NYSE Arca. |
| FRI | First Trust S&P REIT Index Fund | NYSE Arca. |
| FTA | First Trust Large Cap Value AlphaDEX Fund | NYSE Arca. |
| FVD | First Trust Value Line Dividend Index Fund | NYSE Arca. |
| FXA | CurrencyShares Australian Dollar Trust | NYSE Arca. |
| FXB | CurrencyShares British Pound Sterling Trust | NYSE Arca. |
| FXC | CurrencyShares Canadian Dollar Trust | NYSE Arca. |
| FXD | First Trust Consumer Discretionary AlphaDEX Fund | NYSE Arca. |
| FXE | CurrencyShares Euro Trust | NYSE Arca. |
| FXF | CurrencyShares Swiss Franc Trust | NYSE Arca. |
| FXG | First Trust Consumer Staples AlphaDEX Fund | NYSE Arca. |
| FXH | First Trust Health Care AlphaDEX Fund | NYSE Arca. |
| FXI | iShares FTSE China 25 Index Fund | NYSE Arca. |
| FXL | First Trust Technology AlphaDEX Fund | NYSE Arca. |
| FXO | First Trust Financial AlphaDEX Fund | NYSE Arca. |
| FXY | CurrencyShares Japanese Yen Trust | NYSE Arca. |
| FXZ | First Trust Materials AlphaDEX Fund | NYSE Arca. |
| GCC | GreenHaven Continuous Commodity Index Fund | NYSE Arca. |
| GDX | Market Vectors Gold Miners ETF | NYSE Arca. |
| GDXJ | Market Vectors Junior Gold Miners ETF | NYSE Arca. |
| GII | SPDR S&P Global Infrastructure ETF | NYSE Arca. |
| GIY | Guggenheim Enhanced Core Bond ETF | NYSE Arca. |
| GLD | SPDR Gold Shares | NYSE Arca. |
| GMF | SPDR S&P Emerging Asia Pacific ETF | NYSE Arca. |
| GMM | SPDR S&P Emerging Markets ETF | NYSE Arca. |
| GMTB | Columbia Core Bond ETF | NYSE Arca. |
| GNR | SPDR S&P Global Natural Resources ETF | NYSE Arca. |
| GOVT | iShares Barclays U.S. Treasury Bond Fund | NYSE Arca. |
| GSG | iShares S&P GSCI Commodity Indexed Trust | NYSE Arca. |
| GSP | iPath GSCI Total Return Index ETN | NYSE Arca. |
| GSY | Guggenheim Enhanced Short Duration Bond ETF | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| GUNR | FlexShares Global Upstream Natural Resources Index Fund | NYSE Arca. |
| GVI | iShares Barclays Intermediate Government/Credit Bond Fund | NYSE Arca. |
| GWL | SPDR S&P World ex-US ETF | NYSE Arca. |
| GWX | SPDR S&P International Small Cap ETF | NYSE Arca. |
| GXC | SPDR S&P China ETF | NYSE Arca. |
| GXG | Global X FTSE Colombia 20 ETF | NYSE Arca. |
| HAO | Guggenheim China Small Cap ETF | NYSE Arca. |
| HDGE | Ranger Equity Bear ETF | NYSE Arca. |
| HDV | iShares High Dividend Equity Fund | NYSE Arca. |
| HEDJ | WisdomTree Europe Hedged Equity Fund | NYSE Arca. |
| HUSE | Huntington US Equity Rotation Strategy ETF | NYSE Arca. |
| HYD | Market Vectors High Yield Municipal Index ETF | NYSE Arca. |
| HYG | iShares iBoxx $ High Yield Corporate Bond Fund | NYSE Arca. |
| HYLD | Peritus High Yield ETF | NYSE Arca. |
| HYMB | SPDR Nuveen S&P High Yield Municipal Bond ETF | NYSE Arca. |
| HYS | PIMCO 0–5 Year High Yield Corporate Bond Index Exchange-Traded Fund | NYSE Arca. |
| IAI | iShares Dow Jones US Broker Dealers Index Fund | NYSE Arca. |
| IAT | iShares Dow Jones US Regional Banks Index Fund | NYSE Arca. |
| IAU | iShares Gold Trust | NYSE Arca. |
| IBB | iShares Nasdaq Biotechnology Index Fund | NASDAQ GM. |
| IBND | SPDR Barclays International Corporate Bond ETF | NYSE Arca. |
| ICF | iShares Cohen & Steers Realty Majors Index Fund | NYSE Arca. |
| IDU | iShares Dow Jones US Utilities Sector Index Fund | NYSE Arca. |
| IDV | iShares Dow Jones International Select Dividend Index Fund | NYSE Arca. |
| IDX | Market Vectors Indonesia Index ETF | NYSE Arca. |
| IEF | iShares Barclays 7–10 Year Treasury Bond Fund | NYSE Arca. |
| IEFA | iShares Core MSCI EAFE ETF | NYSE Arca. |
| IEI | iShares Barclays 3–7 Year Treasury Bond Fund | NYSE Arca. |
| IELG | iShares Enhanced U.S. Large-Cap ETF | NYSE Arca. |
| IEMG | iShares Core MSCI Emerging Markets ETF | NYSE Arca. |
| IEO | iShares Dow Jones US Oil & Gas Exploration & Production Index Fund | NYSE Arca. |
| IESM | iShares Enhanced U.S. Small-Cap ETF | NYSE Arca. |
| IEV | iShares S&P Europe 350 Index Fund | NYSE Arca. |
| IEZ | iShares Dow Jones US Oil Equipment & Services Index Fund | NYSE Arca. |
| IFGL | iShares FTSE EPRA/NAREIT Developed Real Estate ex-US Index Fund | NASDAQ GM. |
| IGE | iShares S&P North American Natural Resources Sector Index Fund | NYSE Arca. |
| IGF | iShares S&P Global Infrastructure Index Fund | NYSE Arca. |
| IGM | iShares S&P North American Technology Sector Index Fund | NYSE Arca. |
| IGN | iShares S&P North American Technology-Multimedia Networking Index Fund | NYSE Arca. |
| IGOV | iShares S&P/Citigroup International Treasury Bond Fund | NASDAQ GM. |
| IGS | ProShares Short Investment Grade Corporate | NYSE Arca. |
| IGV | iShares S&P North American Technology-Software Index Fund | NYSE Arca. |
| IHE | iShares Dow Jones US Pharmaceuticals Index Fund | NYSE Arca. |
| IHF | iShares Dow Jones US Healthcare Providers Index Fund | NYSE Arca. |
| IHI | iShares Dow Jones US Medical Devices Index Fund | NYSE Arca. |
| IHY | Market Vectors International High Yield Bond ETF | NYSE Arca. |
| IJH | iShares Core S&P Mid-Cap ETF | NYSE Arca. |
| IJJ | iShares S&P MidCap 400/BARRA Value Index Fund | NYSE Arca. |
| IJK | iShares S&P MidCap 400 Growth Index Fund | NYSE Arca. |
| IJR | iShares Core S&P Small-Cap ETF | NYSE Arca. |
| IJS | iShares S&P SmallCap 600 Value Index Fund | NYSE Arca. |
| IJT | iShares S&P SmallCap 600/BARRA Growth Index Fund | NYSE Arca. |
| ILF | iShares S&P Latin America 40 Index Fund | NYSE Arca. |
| ILTB | iShares Core Long-Term US Bond ETF | NYSE Arca. |
| INDA | iShares MSCI India Index Fund | BATS. |
| INDY | iShares India 50 ETF | NASDAQ GM. |
| INP | iPath MSCI India Index ETN | NYSE Arca. |
| IOO | iShares S&P Global 100 Index Fund | NYSE Arca. |
| IPE | SPDR Barclays TIPS ETF | NYSE Arca. |
| ISHG | iShares S&P/Citigroup 1–3 Year International Treasury Bond Fund | NASDAQ GM. |
| ITB | iShares Dow Jones US Home Construction Index Fund | NYSE Arca. |
| ITM | Market Vectors Intermediate Municipal ETF | NYSE Arca. |
| ITOT | iShares Core S&P Total US Stock Market ETF | NYSE Arca. |
| ITR | SPDR Barclays Intermediate Term Corporate Bond ETF | NYSE Arca. |
| IVE | iShares S&P 500 Value Index Fund | NYSE Arca. |
| IVOO | Vanguard S&P Mid-Cap 400 ETF | NYSE Arca. |
| IVV | iShares Core S&P 500 ETF | NYSE Arca. |
| IVW | iShares S&P 500 Growth Index Fund | NYSE Arca. |
| IWB | iShares Russell 1000 Index Fund | NYSE Arca. |
| IWC | iShares Russell Microcap Index Fund | NYSE Arca. |
| IWD | iShares Russell 1000 Value Index Fund | NYSE Arca. |
| IWF | iShares Russell 1000 Growth Index Fund | NYSE Arca. |
| IWM | iShares Russell 2000 Index Fund | NYSE Arca. |
| IWN | iShares Russell 2000 Value Index Fund | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| IWO | iShares Russell 2000 Growth Index Fund | NYSE Arca. |
| IWP | iShares Russell Midcap Growth Index Fund | NYSE Arca. |
| IWR | iShares Russell Midcap Index Fund | NYSE Arca. |
| IWS | iShares Russell Midcap Value Index Fund | NYSE Arca. |
| IWV | iShares Russell 3000 Index Fund | NYSE Arca. |
| IXC | iShares S&P Global Energy Sector Index Fund | NYSE Arca. |
| IXG | iShares S&P Global Financials Sector Index Fund | NYSE Arca. |
| IXJ | iShares S&P Global Healthcare Sector Index Fund | NYSE Arca. |
| IXN | iShares S&P Global Technology Sector Index Fund | NYSE Arca. |
| IXP | iShares S&P Global Telecommunications Sector Index Fund | NYSE Arca. |
| IYC | iShares Dow Jones US Consumer Services Sector Index Fund | NYSE Arca. |
| IYE | iShares Dow Jones US Energy Sector Index Fund | NYSE Arca. |
| IYF | iShares Dow Jones US Financial Sector Index Fund | NYSE Arca. |
| IYG | iShares Dow Jones US Financial Services Index Fund | NYSE Arca. |
| IYH | iShares Dow Jones US Healthcare Sector Index Fund | NYSE Arca. |
| IYJ | iShares Dow Jones US Industrial Sector Index Fund | NYSE Arca. |
| IYK | iShares Dow Jones US Consumer Goods Sector Index Fund | NYSE Arca. |
| IYM | iShares Dow Jones US Basic Materials Sector Index Fund | NYSE Arca. |
| IYR | iShares Dow Jones US Real Estate Index Fund | NYSE Arca. |
| IYT | iShares Dow Jones Transportation Average Index Fund | NYSE Arca. |
| IYW | iShares Dow Jones US Technology Sector Index Fund | NYSE Arca. |
| IYY | iShares Dow Jones US Index Fund | NYSE Arca. |
| IYZ | iShares Dow Jones US Telecommunications Sector Index Fund | NYSE Arca. |
| JJC | iPath Dow Jones-UBS Copper Subindex Total Return ETN | NYSE Arca. |
| JJG | iPath Dow Jones-UBS Grains Subindex Total Return ETN | NYSE Arca. |
| JKF | iShares Morningstar Large Value Index Fund | NYSE Arca. |
| JKL | iShares Morningstar Small Value Index Fund | NYSE Arca. |
| JNK | SPDR Barclays High Yield Bond ETF | NYSE Arca. |
| JO | iPath Dow Jones-UBS Coffee Subindex Total Return ETN | NYSE Arca. |
| JXI | iShares S&P Global Utilities Sector Index Fund | NYSE Arca. |
| KBE | SPDR S&P Bank ETF | NYSE Arca. |
| KBWB | PowerShares KBW Bank Portfolio | NYSE Arca. |
| KBWD | PowerShares KBW High Dividend Yield Financial Portfolio | NYSE Arca. |
| KIE | SPDR S&P Insurance ETF | NYSE Arca. |
| KOL | Market Vectors Coal ETF | NYSE Arca. |
| KRE | SPDR S&P Regional Banking ETF | NYSE Arca. |
| KXI | iShares S&P Global Consumer Staples Sector Index Fund | NYSE Arca. |
| LAG | SPDR Barclays Aggregate Bond ETF | NYSE Arca. |
| LEMB | iShares Emerging Markets Local Currency Bond Fund | NYSE Arca. |
| LQD | iShares iBoxx Investment Grade Corporate Bond Fund | NYSE Arca. |
| LTPZ | PIMCO 15+ Year U.S. TIPS Index Exchange-Traded Fund | NYSE Arca. |
| LWC | SPDR Barclays Long Term Corporate Bond ETF | NYSE Arca. |
| MBB | iShares Barclays MBS Bond Fund | NYSE Arca. |
| MBG | SPDR Barclays Mortgage Backed Bond ETF | NYSE Arca. |
| MCHI | iShares MSCI China Index Fund | NYSE Arca. |
| MDIV | First Trust NASDAQ US Multi-Asset Diversified Income Index Fun | NASDAQ GM. |
| MDY | SPDR S&P MidCap 400 ETF Trust | NYSE Arca. |
| MGC | Vanguard Mega Cap ETF | NYSE Arca. |
| MGK | Vanguard Mega Cap Growth ETF | NYSE Arca. |
| MGV | Vanguard Mega Cap Value ETF | NYSE Arca. |
| MINT | PIMCO Enhanced Short Maturity Exchange-Traded Fund | NYSE Arca. |
| MLPI | ETRACS Alerian MLP Infrastructure Index ETN | NYSE Arca. |
| MLPN | Credit Suisse Cushing 30 MLP Index ETN | NYSE Arca. |
| MOO | Market Vectors Agribusiness ETF | NYSE Arca. |
| MUB | iShares S&P National Municipal Bond Fund | NYSE Arca. |
| MXI | iShares S&P Global Materials Sector Index Fund | NYSE Arca. |
| MYY | ProShares Short MidCap 400 | NYSE Arca. |
| NKY | MAXIS Nikkei 225 Index Fund ETF | NYSE Arca. |
| OEF | iShares S&P 100 Index Fund | NYSE Arca. |
| OIH | Market Vectors Oil Service ETF | NYSE Arca. |
| OIL | iPath Goldman Sachs Crude Oil Total Return Index ETN | NYSE Arca. |
| PALL | ETFS Physical Palladium Shares | NYSE Arca. |
| PBJ | Powershares Dynamic Food & Beverage Portfolio | NYSE Arca. |
| PBP | PowerShares S&P 500 BuyWrite Portfolio | NYSE Arca. |
| PBS | Powershares Dynamic Media Portfolio | NYSE Arca. |
| PCEF | PowerShares CEF Income Composite Portfolio | NYSE Arca. |
| PCY | PowerShares Emerging Markets Sovereign Debt Portfolio | NYSE Arca. |
| PDP | Powershares DWA Technical Leaders Portfolio | NYSE Arca. |
| PFF | iShares S&P US Preferred Stock Index Fund | NYSE Arca. |
| PGF | PowerShares Financial Preferred Portfolio | NYSE Arca. |
| PGX | PowerShares Preferred Portfolio | NYSE Arca. |
| PHB | PowerShares Fundamental High Yield Corporate Bond Portfolio | NYSE Arca. |
| PHDG | PS S&P Downside Hdgd | NYSE Arca. |
| PHO | PowerShares Water Resources Portfolio | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| PHYS | Sprott Physical Gold Trust | NYSE Arca. |
| PID | PowerShares International Dividend Achievers Portfolio | NYSE Arca. |
| PIE | PowerShares DWA Emerging Markets Technical Leaders Portfolio | NYSE Arca. |
| PIN | PowerShares India Portfolio | NYSE Arca. |
| PIZ | PowerShares DWA Developed Markets Technical Leaders Portfolio | NYSE Arca. |
| PJP | Powershares Dynamic Pharmaceuticals Portfolio | NYSE Arca. |
| PKW | PowerShares Buyback Achievers Portfolio | NYSE Arca. |
| PPH | Market Vectors Pharmaceutical ETF | NYSE Arca. |
| PPLT | ETFS Platinum Trust | NYSE Arca. |
| PRF | Powershares FTSE RAFI US 1000 Portfolio | NYSE Arca. |
| PRFZ | PowerShares FTSE RAFI US 1500 Small-Mid Portfolio | NASDAQ GM. |
| PSK | SPDR Wells Fargo Preferred Stock ETF | NYSE Arca. |
| PSLV | Sprott Physical Silver Trust | NYSE Arca. |
| PSP | PowerShares Global Listed Private Equity Portfolio | NYSE Arca. |
| PSQ | ProShares Short QQQ | NYSE Arca. |
| PWV | PowerShares Dynamic Large Cap Value Portfolio | NYSE Arca. |
| PXF | PowerShares FTSE RAFI Developed Markets ex-U.S. Portfolio | NYSE Arca. |
| PXH | PowerShares FTSE RAFI Emerging Markets Portfolio | NYSE Arca. |
| PZA | PowerShares Insured National Municipal Bond Portfolio | NYSE Arca. |
| QAI | IndexIQ ETF Trust—IQ Hedge Multi-Strategy Tracker ETF | NYSE Arca. |
| QQQ | Powershares QQQ Trust Series 1 | NASDAQ GM. |
| REM | iShares FTSE NAREIT Mortgage Plus Capped Index Fund | NYSE Arca. |
| REZ | iShares FTSE NAREIT Residential Plus Capped Index Fund | NYSE Arca. |
| RFG | Guggenheim S&P Midcap 400 Pure Growth ETF | NYSE Arca. |
| RJA | ELEMENTS Linked to the Rogers International Commodity Index—Agri Tot Return | NYSE Arca. |
| RJI | ELEMENTS Linked to the Rogers International Commodity Index—Total Return | NYSE Arca. |
| RPG | Guggenheim S&P 500 Pure Growth ETF | NYSE Arca. |
| RPV | Guggenheim S&P 500 Pure Value ETF | NYSE Arca. |
| RSP | Guggenheim S&P 500 Equal Weight ETF | NYSE Arca. |
| RSX | Market Vectors Russia ETF | NYSE Arca. |
| RTH | Market Vectors Retail ETF | NYSE Arca. |
| RWM | ProShares Short Russell2000 | NYSE Arca. |
| RWO | SPDR Dow Jones Global Real Estate ETF | NYSE Arca. |
| RWR | SPDR Dow Jones REIT ETF | NYSE Arca. |
| RWX | SPDR Dow Jones International Real Estate ETF | NYSE Arca. |
| RXI | iShares S&P Global Consumer Discretionary Sector Index Fund | NYSE Arca. |
| SAGG | Direxion Daily Total Bond Market Bear 1x Shares | NYSE Arca. |
| SBB | ProShares Short SmallCap600 | NYSE Arca. |
| SCHA | Schwab US Small-Cap ETF | NYSE Arca. |
| SCHB | Schwab US Broad Market ETF | NYSE Arca. |
| SCHD | Schwab US Dividend Equity ETF | NYSE Arca. |
| SCHE | Schwab Emerging Markets Equity ETF | NYSE Arca. |
| SCHF | Schwab International Equity ETF | NYSE Arca. |
| SCHG | Schwab U.S. Large-Cap Growth ETF | NYSE Arca. |
| SCHH | Schwab U.S. REIT ETF | NYSE Arca. |
| SCHM | Schwab U.S. Mid-Cap ETF | NYSE Arca. |
| SCHO | Schwab Short-Term U.S. Treasury ETF | NYSE Arca. |
| SCHP | Schwab U.S. TIPs ETF | NYSE Arca. |
| SCHR | Schwab Intermediate-Term U.S. Treasury ETF | NYSE Arca. |
| SCHV | Schwab U.S. Large-Cap Value ETF | NYSE Arca. |
| SCHX | Schwab US Large-Cap ETF | NYSE Arca. |
| SCHZ | Schwab U.S. Aggregate Bond ETF | NYSE Arca. |
| SCIF | Market Vectors India Small-Cap Index ETF | NYSE Arca. |
| SCPB | SPDR Barclays Short Term Corporate Bond ETF | NYSE Arca. |
| SCZ | iShares MSCI EAFE Small Cap Index Fund | NYSE Arca. |
| SDIV | Global X SuperDividend ETF | NYSE Arca. |
| SDY | SPDR S&P Dividend ETF | NYSE Arca. |
| SGOL | ETFS Gold Trust | NYSE Arca. |
| SH | ProShares Short S&P500 | NYSE Arca. |
| SHM | SPDR Nuveen Barclays Short Term Municipal Bond ETF | NYSE Arca. |
| SHV | iShares Barclays Short Treasury Bond Fund | NYSE Arca. |
| SHY | iShares Barclays 1–3 Year Treasury Bond Fund | NYSE Arca. |
| SIL | Global X Silver Miners ETF | NYSE Arca. |
| SIVR | ETFS Physical Silver Shares | NYSE Arca. |
| SJB | ProShares Short High Yield | NYSE Arca. |
| SJNK | SPDR Barclays Short Term High Yield Bond ETF | NYSE Arca. |
| SLV | iShares Silver Trust | NYSE Arca. |
| SLX | Market Vectors Steel Index Fund | NYSE Arca. |
| SLY | SPDR S&P 600 Small CapETF | NYSE Arca. |
| SMH | Market Vectors Semiconductor ETF | NYSE Arca. |
| SNLN | Highland/iBoxx Senior Loan ETF | NYSE Arca. |
| SOXX | iShares PHLX SOX Semiconductor Sector Index Fund | NASDAQ GM. |
| SPHB | PowerShares S&P 500 High Beta Port ETF | NYSE Arca. |
| SPHD | PowerShares S&P 500 High Dividend Portfolio | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| SPLV | PowerShares S&P 500 Low Volatility Portfolio | NYSE Arca. |
| SPPP | Sprott Physical Platinum & Palladium Trust | NYSE Arca. |
| SPY | SPDR S&P 500 ETF Trust | NYSE Arca. |
| SPYG | SPDR S&P 500 Growth ETF | NYSE Arca. |
| SPYV | SPDR S&P 500 Value ETF | NYSE Arca. |
| SRLN | SPDR Blackstone/GSO Senior Loan ETF | NYSE Arca. |
| STIP | iShares Barclays 0–5 Year TIPS Bond Fund | NYSE Arca. |
| STPZ | PIMCO 1–5 Year U.S. TIPS Index Exchange-Traded Fund | NYSE Arca. |
| SUB | iShares S&P Short Term National AMT-Free Municipal Bond Fund | NYSE Arca. |
| SVXY | ProShares Short VIX Short-Term Futures ETF | NYSE Arca. |
| SYLD | Cambria Shareholder Yield ETF | NYSE Arca. |
| TAN | Guggenheim Solar ETF | NYSE Arca. |
| TAO | Guggenheim China Real Estate ETF | NYSE Arca. |
| TBF | ProShares Short 20+ Year Treasury | NYSE Arca. |
| TBX | ProShares Short 7–10 Treasury | NYSE Arca. |
| TDTT | FlexShares iBoxx 3-Year Target Duration TIPS Index Fund | NYSE Arca. |
| TFI | SPDR Nuveen Barclays Municipal Bond ETF | NYSE Arca. |
| THD | iShares MSCI Thailand Capped Investable Market Index Fund | NYSE Arca. |
| TIP | iShares Barclays TIPS Bond Fund | NYSE Arca. |
| TLH | iShares Barclays 10–20 Year Treasury Bond Fund | NYSE Arca. |
| TLT | iShares Barclays 20+ Year Treasury Bond Fund | NYSE Arca. |
| TUR | iShares MSCI Turkey Index Fund | NYSE Arca. |
| UNG | United States Natural Gas Fund LP | NYSE Arca. |
| USCI | United States Commodity Index Fund | NYSE Arca. |
| USMV | iShares MSCI USA Minimum Volatility Index Fund | NYSE Arca. |
| USO | United States Oil Fund LP | NYSE Arca. |
| UUP | PowerShares DB US Dollar Index Bullish Fund | NYSE Arca. |
| VAW | Vanguard Materials ETF | NYSE Arca. |
| VB | Vanguard Small-Cap ETF | NYSE Arca. |
| VBK | Vanguard Small-Cap Growth ETF | NYSE Arca. |
| VBR | Vanguard Small-Cap Value ETF | NYSE Arca. |
| VCIT | Vanguard Intermediate-Term Corporate Bond ETF | NASDAQ GM. |
| VCLT | Vanguard Long-Term Corporate Bond ETF | NASDAQ GM. |
| VCR | Vanguard Consumer Discretionary ETF | NYSE Arca. |
| VCSH | Vanguard Short-Term Corporate Bond ETF | NASDAQ GM. |
| VDC | Vanguard Consumer Staples ETF | NYSE Arca. |
| VDE | Vanguard Energy ETF | NYSE Arca. |
| VEA | Vanguard FTSE Developed Markets ETF | NYSE Arca. |
| VEU | Vanguard FTSE All-World ex-US ETF | NYSE Arca. |
| VFH | Vanguard Financials ETF | NYSE Arca. |
| VGIT | Vanguard Intermediate-Term Government Bond ETF | NASDAQ GM. |
| VGK | Vanguard FTSE Europe ETF | NYSE Arca. |
| VGLT | Vanguard Long-Term Government Bond ETF | NASDAQ GM. |
| VGSH | Vanguard Short-Term Government Bond ETF | NASDAQ GM. |
| VGT | Vanguard Information Technology ETF | NYSE Arca. |
| VHT | Vanguard Health Care ETF | NYSE Arca. |
| VIG | Vanguard Dividend Appreciation ETF | NYSE Arca. |
| VIIX | VelocityShares VIX Short Term ETN | NYSE Arca. |
| VIIZ | VelocityShares VIX Medium Term ETN | NYSE Arca. |
| VIOO | Vanguard S&P Small-Cap 600 ETF | NYSE Arca. |
| VIS | Vanguard Industrials ETF | NYSE Arca. |
| VIXM | ProShares VIX Mid-Term Futures ETF | NYSE Arca. |
| VIXY | ProShares VIX Short-Term Futures ETF | NYSE Arca. |
| VMBS | Vanguard Mortgage-Backed Securities ETF | NASDAQ GM. |
| VNM | Market Vectors Vietnam ETF | NYSE Arca. |
| VNQ | Vanguard REIT ETF | NYSE Arca. |
| VNQI | Vanguard Global ex-U.S. Real Estate ETF | NASDAQ GM. |
| VO | Vanguard Mid-Cap ETF | NYSE Arca. |
| VOE | Vanguard Mid-Cap Value ETF | NYSE Arca. |
| VONE | Vanguard Russell 1000 | NASDAQ GM. |
| VONG | Vanguard Russell 1000 Growth ETF | NASDAQ GM. |
| VONV | Vanguard Russell 1000 Value | NASDAQ GM. |
| VOO | Vanguard S&P 500 ETF | NYSE Arca. |
| VOOG | Vanguard S&P 500 Growth ETF | NYSE Arca. |
| VOOV | Vanguard S&P 500 Value ETF | NYSE Arca. |
| VOT | Vanguard Mid-Cap Growth ETF | NYSE Arca. |
| VOX | Vanguard Telecommunication Services ETF | NYSE Arca. |
| VPL | Vanguard FTSE Pacific ETF | NYSE Arca. |
| VPU | Vanguard Utilities ETF | NYSE Arca. |
| VQT | Barclays ETN+ ETNs Linked to the S&P 500 Dynamic VEQTORTM TotaL Return Index | NYSE Arca. |
| VSS | Vanguard FTSE All World ex-US Small-Cap ETF | NYSE Arca. |
| VT | Vanguard Total World Stock ETF | NYSE Arca. |
| VTHR | Vanguard Russell 3000 | NASDAQ GM. |
| VTI | Vanguard Total Stock Market ETF | NYSE Arca. |

| Ticker | Name | Primary exchange |
|---|---|---|
| VTIP | Vanguard Short-Term Inflation-Protected Securities ETF | NASDAQ GM. |
| VTV | Vanguard Value ETF | NYSE Arca. |
| VTWG | Vanguard Russell 2000 Growth | NASDAQ GM. |
| VTWO | Vanguard Russell 2000 | NASDAQ GM. |
| VTWV | Vanguard Russell 2000 Value | NASDAQ GM. |
| VUG | Vanguard Growth ETF | NYSE Arca. |
| VV | Vanguard Large-Cap ETF | NYSE Arca. |
| VWO | Vanguard FTSE Emerging Markets ETF | NYSE Arca. |
| VWOB | Vanguard Emerging Markets Government Bond ETF | NASDAQ GM. |
| VXF | Vanguard Extended Market ETF | NYSE Arca. |
| VXUS | Vanguard Total International Stock ETF | NASDAQ GM. |
| VXX | iPATH S&P 500 VIX Short-Term Futures ETN | NYSE Arca. |
| VXZ | iPATH S&P 500 VIX Mid-Term Futures ETN | NYSE Arca. |
| VYM | Vanguard High Dividend Yield ETF | NYSE Arca. |
| WIP | SPDR DB International Government Inflation-Protected Bond ETF | NYSE Arca. |
| WOOD | iShares S&P Global Timber & Forestry Index Fund | NASDAQ GM. |
| XBI | SPDR S&P Biotech ETF | NYSE Arca. |
| XES | SPDR S&P Oil & Gas Equipment & Services ETF | NYSE Arca. |
| XHB | SPDR S&P Homebuilders ETF | NYSE Arca. |
| XIV | VelocityShares Daily Inverse VIX Short Term ETN | NYSE Arca. |
| XLB | Materials Select Sector SPDR Fund | NYSE Arca. |
| XLE | Energy Select Sector SPDR Fund | NYSE Arca. |
| XLF | Financial Select Sector SPDR Fund | NYSE Arca. |
| XLG | Guggenheim Russell Top 50 Mega Cap ETF | NYSE Arca. |
| XLI | Industrial Select Sector SPDR Fund | NYSE Arca. |
| XLK | Technology Select Sector SPDR Fund | NYSE Arca. |
| XLP | Consumer Staples Select Sector SPDR Fund | NYSE Arca. |
| XLU | Utilities Select Sector SPDR Fund | NYSE Arca. |
| XLV | Health Care Select Sector SPDR Fund | NYSE Arca. |
| XLY | Consumer Discretionary Select Sector SPDR Fund | NYSE Arca. |
| XME | SPDR S&P Metals & Mining ETF | NYSE Arca. |
| XOP | SPDR S&P Oil & Gas Exploration & Production ETF | NYSE Arca. |
| XPH | SPDR S&P Pharmaceuticals ETF | NYSE Arca. |
| XRT | SPDR S&P Retail ETF | NYSE Arca. |
| XSD | SPDR S&P Semiconductor ETF | NYSE Arca. |
| XVZ | iPath S&P 500 Dynamic VIX ETN | NYSE Arca. |
| YMLP | Yorkville High Income MLP | NYSE Arca. |
| ZIV | VelocityShares Daily Inverse VIX Medium Term ETN | NYSE Arca. |
| ZROZ | PIMCO 25+ Year Zero Coupon U.S. Treasury Index Exchange-Traded Fund | NYSE Arca. |

**Appendix B—Data**

Unless otherwise specified, the following data shall be collected and transmitted to the SEC in an agreed-upon format on a monthly basis, to be provided 30 calendar days following month end. Unless otherwise specified, the Primary Listing Exchanges shall be responsible for collecting and transmitting the data to the SEC. Data collected in connection with Sections II(E)—(G) below shall be transmitted to the SEC with a request for confidential treatment under the Freedom of Information Act. 5 U.S.C. 552, and the SEC's rules and regulations thereunder.

**I. Summary Statistics**

A. Frequency with which NMS Stocks enter a Limit State. Such summary data shall be broken down as follows:

1. Partition stocks by category
   a. Tier 1 non-ETP issues > $3.00
   b. Tier 1 non-ETP issues >= $0.75 and <= $3.00
   c. Tier 1 non-ETP issues < $0.75
   d. Tier 1 non-leveraged ETPs in each of above categories
   e. Tier 1 leveraged ETPs in each of above categories
   f. Tier 2 non-ETPs in each of above categories
   g. Tier 2 non-leveraged ETPs in each of above categories
   h. Tier 2 leveraged ETPs in each of above categories
2. Partition by time of day
   a. Opening (prior to 9:45 a.m. ET)
   b. Regular (between 9:45 a.m. ET and 3:35 p.m. ET)
   c. Closing (after 3:35 p.m. ET)
   d. Within five minutes of a Trading Pause re-open or IPO open
3. Track reasons for entering a Limit State, such as:
   a. Liquidity gap—price reverts from a Limit State Quotation and returns to trading within the Price Bands
   b. Broken trades
   c. Primary Listing Exchange manually declares a Trading Pause pursuant to Section (VII)(2) of the Plan
   d. Other

B. Determine (1), (2) and (3) for when a Trading Pause has been declared for an NMS Stock pursuant to the Plan.

**II. Raw Data *(All Participants, Except A–E, Which Are for the Primary Listing Exchanges Only)***

A. Record of every Straddle State.

1. Ticker, date, time entered, time exited, flag for ending with Limit State, flag for ending with manual override.
2. Pipe delimited with field names as first record.

B. Record of every Price Band.

1. Ticker, date, time at beginning of Price Band, Upper Price Band, Lower Price Band.
2. Pipe delimited with field names as first record

C. Record of every Limit State.

1. Ticker, date, time entered, time exited, flag for halt
2. Pipe delimited with field names as first record

D. Record of every Trading Pause or halt.

1. Ticker, date, time entered, time exited, type of halt (i.e., regulatory halt, non-regulatory halt, Trading Pause pursuant to the Plan, other)

2. Pipe delimited with field names as first record

E. Data set or orders entered into reopening auctions during halts or Trading Pauses.

1. Arrivals, Changes, Cancels, # shares, limit/market, side, Limit State side
2. Pipe delimited with field name as first record

F. Data set of order events received during Limit States.

G. Summary data on order flow of arrivals and cancellations for each 15-second period for discrete time periods and sample stocks to be determined by the SEC in subsequent data requests. Must indicate side(s) of Limit State.

1. Market/marketable sell orders arrivals and executions
   a. Count
   b. Shares
   c. Shares executed
2. Market/marketable buy orders arrivals and executions
   a. Count
   b. Shares
   c. Shares executed
3. Count arriving, volume arriving and shares executing in limit sell orders above NBBO mid-point
4. Count arriving, volume arriving and shares executing in limit sell orders at or below NBBO mid-point (non-marketable)
5. Count arriving, volume arriving and shares executing in limit buy orders at or above NBBO mid-point (non-marketable)
6. Count arriving, volume arriving and shares executing in limit buy orders below NBBO mid-point
7. Count and volume arriving of limit sell orders priced at or above NBBO mid-point plus $0.05
8. Count and volume arriving of limit buy orders priced at or below NBBO mid-point minus $0.05
9. Count and volume of (3–8) for cancels
10. Include: ticker, date, time at start, time of Limit State, all data item fields in 1, last sale prior to 15-second period (null if no trades today), range during 15-second period, last trade during 15-second period

**III. At Least Two Months Prior to the End of the Pilot Period, All Participants Shall Provide to the SEC Assessments Relating to the Impact of the Plan and Calibration of the Percentage Parameters as Follows**

A. Assess the statistical and economic impact on liquidity of approaching Price Bands.

B. Assess the statistical and economic impact of the Price Bands on erroneous trades.

C. Assess the statistical and economic impact of the appropriateness of the Percentage Parameters used for the Price Bands.

D. Assess whether the Limit State is the appropriate length to allow for liquidity replenishment when a Limit State is reached because of a temporary liquidity gap.

E. Evaluate concerns from the options markets regarding the statistical and economic impact of Limit States on liquidity and market quality in the options markets. (Participants that operate options exchange should also prepare such assessment reports.)

F. Assess whether the process for entering a Limit State should be adjusted and whether Straddle States are problematic.

G. Assess whether the process for exiting a Limit State should be adjusted.

H. Assess whether the Trading Pauses are too long or short and whether the reopening procedures should be adjusted.

[FR Doc. 2014–00346 Filed 1–10–14; 8:45 am]

BILLING CODE 8011–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71253; File No. SR–NYSEArca–2013–148]**

## Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Options Rule 6.40 To Expand the Scope of the Existing Risk Limitation Mechanism To Address Multiple, Successive Triggers of the Risk Limitation Mechanism

January 7, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 26, 2013, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend NYSE Arca Options Rule 6.40 to expand the scope of the existing Risk Limitation Mechanism to address multiple, successive triggers of the Risk Limitation Mechanism. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend NYSE Arca Options Rule 6.40 to expand the scope of the existing Risk Limitation Mechanism to address multiple, successive triggers of the Risk Limitation Mechanism.

Overview

The Exchange has in place a risk-limitation system that is designed to help Market Makers and non-Market Maker OTP Firms and OTP Holders (collectively, referred to herein as ''dealers'') better manage risk during periods of increased and significant trading activity. The three existing Risk Limitation Mechanisms (described below) are designed to mitigate the potential risks of multiple executions against a dealer's trading interest that, in today's highly automated and electronic trading environment, can occur simultaneously across multiple series and multiple option classes. In operation, under current Rule 6.40, when a dealer has triggered a Risk Limitation Mechanism in a given option class (by breaching preset thresholds), the Exchange will cancel all resting quotes and/or certain orders and will reject all subsequent quotes and/or

certain orders in the affected option class (underlying symbol) until the dealer submits a message to the Exchange requesting to re-enable the entry of quotes or certain orders. This temporary suspension from the market in the affected option classes (specifically as relates to quoting or certain orders) is meant to operate as a safety valve that forces dealers to re-evaluate their positions before requesting to re-enter the market. As discussed below, the Exchange believes that the majority of dealers that avail themselves of the Risk Limitation Mechanism utilize automated, system-generated messages to request that the Exchange re-enable the entry of their quotes or certain orders after triggering the Risk Limitation Mechanism. Provided the dealer does not experience multiple triggers of the Risk Limitation Mechanism in rapid succession, the Exchange believes the automated re-enable message is sufficient.

The goal of the current proposal is to address circumstances where a dealer experiences multiple, successive triggers of the Risk Limitation Mechanism, which the Exchange believes would be indicative of the dealer experiencing a bona fide problem (i.e., a potential system error). Thus, when a dealer experiences multiple, successive triggers of the Risk Limitation Mechanism, the Exchange proposes a two-pronged remedial response. First, the Exchange would cancel all of the dealer's quotes or Applicable Orders (defined below)—as opposed to cancelling only those quotes or certain orders in the option class (underlying symbol) in which the dealer triggered the Risk Limitation Mechanisms. Second, the Exchange would require that the dealer make non-automated contact with the Exchange to re-enable the submission of the dealer's quotes or Applicable Orders.[4]

The Exchange believes that the proposed enhancement to current Rule 6.40 would help maintain a fair and orderly market because it would suspend all of the dealers' quoting or trading in certain orders following multiple, successive triggers of the Risk Limitation Mechanism and would require non-automated contact with the Exchange before this suspension is lifted. The proposed modifications would therefore encourage increased attention by dealers to their risk tolerance and related controls. The Exchange is also proposing these modifications in response to requests from its clients and believes the changes will assist these clients in better managing their risks.

Existing Risk Limitation Mechanism

The Exchange first adopted a risk-limitation system, as embodied in Rule 6.40, to manage risk during periods of increased and significant trading activity.[5] The prior version of the Rule provided only a Transaction-Based Risk Limitation Mechanism that applied solely to Market Maker quotes.

In 2012, in response to an increasingly automated and electronic trading environment, the Exchange adopted the risk protections afforded under current Rule 6.40 (Risk Limitation Mechanism).[6] Current Rule 6.40 expanded upon the earlier version by extending the transaction-based limitation mechanism to orders from Market Makers as well as to orders from non-Market Maker OTP Firms and OTP Holders (together, ''non-Market Makers'')[7] and providing for two additional risk limitation mechanisms—a volume-based mechanism and a percentage-based mechanism (collectively, the ''Risk Limitation Mechanisms''). In addition to applying to all Market Maker quotes, the existing Risk Limitation Mechanisms apply to dealers' orders submitted via ArcaDirect and those designated as one of three ''post no preference'' order types—specifically, PNP, PNP-Blind and PNP-Light, or as Liquidity Adding Orders (''ALO''), which account for upwards of ninety-five percent of order flow to the Exchange (collectively, the ''Applicable Orders'').[8] Each Risk Limitation Mechanism is designed to measure a dealer's risk exposure within a time period specified by the Exchange, based on either the number of trades executed by the dealer (the ''Transaction-Based Risk Limitation Mechanism''); the number of contacts entered by the dealer (the ''Volume-Based Transaction-Based Risk Limitation Mechanism''); or the percentage of a dealer's quoted size that gets traded (the ''Percentage-Based Risk Limitation Mechanism'').

Per current Rule 6.40(a), the Exchange utilizes Trade Counters, based on trading permit identification (or ''TPID''), to determine when a Risk Limitation Mechanism has been triggered. The dealer selects from within a range specified by the Exchange individual risk parameters that, if breached, will trigger the selected Risk Limitation Mechanism.[9]

Per Commentary .08 to the Rule, while the existing Risk Limitation Mechanisms apply to quotes and Applicable Orders from Market Makers and non-Market Makers, use of this risk-limitation feature is mandated only for Market Makers' quotes.[10] Thus, Market Makers are required to activate one of the three Risk Limitation Mechanisms at all times for their quotes for each class in their appointment. However, the existing Risk Limitation Mechanisms are entirely voluntary for Applicable Orders submitted by Market Makers and non-Market Makers. With respect to the Applicable Orders, Market Makers and non-Market Makers have the option of availing themselves of one of the three Risk Limitation Mechanisms for some or all of the option classes in which they trade/provide quotes.[11] A Market Maker

[4] The Exchange will include as part of a Trader Update appropriate contact information to be used by dealers when requesting to re-enable the entry of quotes and orders.

[5] *See* Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR–NYSEArca–2006–13).

[6] *See* Securities Exchange Act Release No. 34–67714 (August 22, 2012), 77 FR 167 (August 28, 2012) (SR–NYSEArca–2012–87). The Risk Limitation Mechanisms as set forth in current Rule 6.40 (and the proposal described herein) are only applicable to electronic trading on the Exchange.

[7] The Exchange specified within Rule 6.40(a) that non-Market Maker OTP Firms and OTP Holders would be referred to as ''non-Market Makers'' for purposes of Rule 6.40.

[8] *See* paragraphs (p), (u), (v) and (t) of NYSE Arca Options Rule 6.62 (Certain Types of Orders Defined), respectively. The Exchange notes that the rule is currently silent as to the source and order types that are subject to the Risk Limitation Mechanisms. The Exchange therefore proposes to modify Commentary .07 to Rule 6.40 to identify the source and the order types to which the existing (and modified) Risk Limitation Mechanisms apply and would announce via Trader Update any changes to these source(s) or order types. Similarly, for the sake of clarity, the Exchange proposes to replace ''order'' with ''Applicable Order'' in existing paragraphs (b), (c), (d) and (e) to Rule 6.40, and elsewhere in the rule as necessary.

[9] Per current Commentary .03 to Rule 6.40, the Exchange will not (i) specify a minimum setting of less than one or a maximum setting of more than 100 for the Transaction-Based Risk Limitation Mechanism; (ii) specify a minimum setting of less than 20 or a maximum setting of more than 5,000 for the Volume-Based Risk Limitation Mechanism; or (iii) specify a minimum setting of less than 100 or a maximum setting of more than 2,000 for the Percentage-Based Risk Limitation Mechanism. The Exchange proposes to amend Commentary .03 to Rule 6.40 to reflect that any changes to these settings would be announced to dealers via Trader Update, rather than Regulatory Bulletin.

[10] When first implemented, Rule 6.40 was entitled ''Market Maker Risk Limitation Mechanism— OX'', and applied solely to—and was mandated for—Market Maker quotes. However, when the rule was revised in 2012, and the risk-limitation functionality was expanded to cover Applicable Orders as well as quotes, the changes to the title of the rule and the accompanying rule text did not make entirely clear that the Risk Limitation Mechanism is required for all Market Maker quotes. Thus, as proposed, new Commentary .04 will state that use of the Risk Limitation Mechanism is mandated only for Market Maker quotes and is otherwise optional.

[11] With respect to Applicable Orders submitted by dealers, the Exchange has included in current Rule 6.40 the concept of a ''specified class'' to indicate the option class for which a Risk Limitation Mechanism is activated; if a dealer does not identify

may activate one Risk Limitation Mechanism for its quotes and a different Risk Limitation Mechanism for its Applicable Orders, even if both are activated for the same class.

Per current Rule 6.40(e), and Commentary .01 to the Rule, once a dealer's specified risk exposure is exceeded within the time period specified by the Exchange (as tracked by the Trade Counter), the Risk Limitation Mechanism is triggered and the NYSE Arca System (''System'') automatically cancels electronic Applicable Orders or quotes by generating a ''bulk cancel'' message.[12] Per Commentary .01, the bulk cancel message is processed in time priority with any other quote, order or other message received by the System.[13] Thus, any quotes or orders that match with a Market Maker's quote or with a dealers' [sic] Applicable Orders that were received by the System prior to the receipt of the bulk cancel message would be automatically executed. Similarly, quotes or orders received by the System after receipt of the bulk cancel message would not be executed against the cancelled quotes or Applicable Orders. In this regard, Rule 6.40—in its current form and as proposed—would not relieve dealers of their ''firm quote'' obligations under Rule 602 of Regulation NMS [14] or NYSE Arca Options Rule 6.86. Furthermore, the proposed rule change would not relieve Market Makers of their quoting obligations under the Exchange's Rules.[15]

A dealer that has been suspended from quoting or submitting Applicable Orders in the affected class, pursuant to current Rule 6.40(e), may only re-enter the market by submitting a message to the Exchange requesting re-entry and, until such message is submitted, any subsequent quotes or Applicable Orders will be rejected by the Exchange.[16] The intended purpose of this forced suspension from quoting and from certain trading in the affected class is to afford the dealer an opportunity to evaluate its positions before opting to re-enter the market. In practice, the Exchange has received responses to bulk cancel messages from dealers requesting to re-enter the market within as few as two milliseconds. This rapid response time leads the Exchange to conclude that the messages being submitted in response to the bulk cancel messages are automated, system-generated messages. The effect of this apparent automation is that dealers that are effectively kicked out of the market (for their quotes or Applicable Orders) in the affected class for triggering the Risk Limitation Mechanism can re-enter the market within milliseconds. The Exchange believes that an automated response is sufficient, provided the dealer does not experience multiple triggers of the Risk Limitation Mechanism in rapid succession.

Under current Rule 6.40 there is no mechanism for addressing multiple, successive triggers of the Risk Limitation Mechanisms within a time period specified by the Exchange, which could be particularly problematic for dealers if the markets turns in an unexpected direction.

Proposed Changes to Risk Limitation Mechanism

The Exchange proposes to modify Rule 6.40 to address circumstances where a dealer experiences multiple, successive triggers of the Risk Limitation Mechanism. The Exchange proposes a two-pronged remedial response. First, the Exchange would cancel all of the dealer's quotes or Applicable Orders (defined below)—as opposed to cancelling only those quotes or certain orders in the option class (underlying symbol) in which the dealer triggered the Risk Limitation Mechanism. Second, the Exchange would require that the dealer make non-automated contact with the Exchange to re-enable the submission of the dealer's quotes or certain orders.

Proposed Rule 6.40(a)(2) would provide for a ''trigger counter'' that (similar to the Trade Counter, which serves as the basis for determining whether a Risk Limitation Mechanism has been triggered) would track the number of times that a dealer has triggered any of the Risk Limitation Mechanisms pursuant to current Rule 6.40(b), (c), or (d).[17]

Proposed Rule 6.40(f) outlines the actions that the System would take if the trigger counter indicates that any of the Risk Limitation Mechanisms have been triggered in excess of the number of times specified by the dealer (within a parameter set by the Exchange, as noted below) within the time period specified by the Exchange. In short, once a dealer has exceeded the number of triggers of the Risk Limitation Mechanisms, pursuant to paragraph (f) of Rule 6.40, all Applicable Orders or quotes by a Market Maker or all Applicable Orders by a non-Maker Maker would be cancelled.

Specifically, per proposed Rule 6.40(f)(1), if the Risk Limitation Mechanism is triggered pursuant to paragraph (b)(1), (c)(1) or (d)(1) to this Rule, the System would automatically cancel all of the non-Market Maker's Applicable Orders, regardless of which specified class caused the underlying trigger of the Risk Limitation Mechanism. Per proposed Rule 6.40(f)(2), if the Risk Limitation Mechanism is triggered pursuant to paragraph (b)(2), (c)(2) or (d)(2) to this Rule, the System would automatically cancel all of the Market Maker's Applicable Orders, regardless of which specified class caused the underlying trigger of the Risk Limitation Mechanism. And, per proposed Rule 6.40(f)(3), if the Risk Limitation Mechanism is triggered pursuant to paragraph (b)(3), (c)(3) or (d)(3) to this Rule, the System would automatically cancel all of the Market Maker's quotes, regardless of which appointed class caused the underlying trigger of the Risk Limitation Mechanism.

The difference between the existing Risk Limitation Mechanism versus the proposed enhancement is the cancellation of all of a dealer's Applicable Orders or quotes upon breach of proposed paragraph (f) to Rule 6.40. Thus, if a dealer triggers a Risk Limitation Mechanism, pursuant to paragraph (e) of current Rule 6.40, only the dealer's quotes or Applicable Orders in the option class that triggered the Risk Limitation Mechanism would be cancelled by the Exchange; whereas if a dealer breaches proposed paragraph (f) of Rule 6.40, by engaging in multiple triggers of the Risk Limitation Mechanism in a time period specified by the Exchange, all of that dealer's Applicable Orders or quotes in any option class(es) submitted that day would be cancelled—not just the Applicable Orders or quotes in the option class(es) that led to the most recent trigger of the Risk Limitation Mechanism.[18] The Exchange believes

any ''specified class,'' none of the Risk Limitation Mechanisms will be activated.

[12] *See* NYSE Arca Options Rule 6.40(b)(1)–(3); (c)(1)–(3); and (d)(1)–(3).

[13] As previously noted, for the sake of clarity, the Exchange proposes to revise the rule text to utilize ''Applicable Order'' rather than ''order'' where necessary.

[14] 17 CFR 242.602.

[15] *See, e.g.,* NYSE Arca Options Rule 6.37B.

[16] *See* NYSE Arca Options Rule 6.40(e), and Commentary .01.

[17] This proposed addition would require that current Rule 6.40(a) be renamed from ''Trade Counter'' to ''Counters,'' and renumbered such that ''Trade Counter'' would be numbered as proposed Rule 6.40(a)(1). The Exchange also proposes to amend paragraph (a) to refer to ''Applicable Orders,'' as referenced in Commentary .07 to the Rule (instead of ''orders'') to make clear which orders are subject to the Risk Limitation Mechanisms.

[18] The cancellation will only apply to those quotes or Applicable Orders submitted by the dealer that trading day. With respect to the

Continued

that this modification—to temporarily suspend quoting or Applicable Orders in all classes actively traded by the dealer—would strengthen the efficacy of the existing Risk Limitation Mechanisms by providing dealers with increased sensitivity in setting risk tolerance and controls.

Pursuant to proposed Commentary .01 to Rule 6.40, upon breaching proposed paragraph (f) of Rule 6.40, the System would automatically cancel electronic Applicable Orders or quotes by generating a ''bulk cancel'' message—just as the system currently does in the event of a breach of the Risk Limitation Mechanism (i.e., current paragraph (e) of Rule 6.40).[19] In addition to the bulk cancel message, the System would generate an alert message providing notice that the dealer has exceeded the number of triggers of the Risk Limitation Mechanisms, pursuant to paragraph (f) of Rule 6.40.

The Exchange also proposes to amend current Commentary .02 to Rule 6.40 to reflect that the Exchange would (and does) accept automated messages from dealers requesting the re-enabling of quotes or Applicable Orders, following a breach of paragraph (e). The Exchange believes that this proposed change would add transparency to the functioning of the Exchange and the types of messages it would accept when a Risk Limitation Mechanism is triggered pursuant to paragraph (e) of the Rule.

The Exchange proposes to further amend current Commentary .02 to Rule 6.40 to require that, upon a dealer's breach of proposed paragraph (f) to current Rule 6.40, the dealer would have to make non-automated contact with the Exchange to enable the entry of all new Applicable Orders or quotes, which had been cancelled pursuant to proposed paragraph (f).[20] The Exchange believes that requiring this additional, non-automated contact will strengthen the efficacy of the existing Risk Limitation Mechanisms by providing dealers with increased sensitivity in setting risk tolerance and controls.

Pursuant to proposed Commentary .03 to Rule 6.40, the Exchange would specify via Trader Update the applicable range within which dealers could select the number of times the Risk Limitation Mechanism could be triggered before breaching proposed paragraph (f) to Rule 6.40, but this setting would not be less than a minimum of one and a maximum of 100. The Exchange believes that setting the parameters within this broad range would provide dealers with ample flexibility in setting their tolerance for risk. Those dealers with a lower risk tolerance or those that may be prone to multiple, successive triggers of the Risk Limitation Mechanisms in shorter periods of time, may opt to select a number of triggers on the lower end of the range, thereby optimizing the protection afforded by this proposed rule change, while those dealers with a higher risk tolerance or that are less likely to experience multiple, successive triggers of the Risk Limitation Mechanism, may select the maximum allowable triggers to decrease the protections afforded by the proposed rule change. Moreover, while the Exchange retains discretion with respect to the levels at which it could adjust these settings, the Exchange would not be permitted to adjust the settings below the minimum or maximum proposed, which, the Exchange believes would reasonably ensure that the settings are at all times within a reasonable range.

Consistent with current Commentary .03 to Rule 6.40, the applicable time period within which dealers would select the number of triggers before breaching proposed paragraph (f) to Rule 6.40 would not be less 100 milliseconds, unless otherwise announced by the Exchange. The Exchange believes that specifying the applicable minimum, maximum and/or default settings via Trader Update, including any changes thereto in the future designed to ensure that the mechanisms work as intended, would be consistent with the manner in which the Exchange has communicated any changes to the existing Risk Limitation Mechanism settings and is consistent with the manner in which the Commission currently permits option exchanges to communicate settings or parameters for various exchange mechanisms to their members other than through the rule filing process, i.e., via notices, bulletins or circulars.[21]

The Exchange also proposes at this time to make a procedural change for making announcements regarding functionality associated with the Risk Limitation Mechanism. Presently the Exchange issues Regulatory Bulletins when making such announcements. Going forward, the Exchange proposes to issue a Trader Update in lieu of a Regulatory Bulletin. Regulatory Bulletins generally contain information regarding legal and regulatory matters while Trader Updates deal with issues such as trading, systems changes and real-time market announcements. The Exchange believes that it is more appropriate to make announcements regarding the Risk Limitation Mechanism via Trader Update. Trader Updates, like Regulatory Bulletins, are electronically distributed to all OTP Holders and OTP Firms and are posted on the Exchange's Web site. Accordingly, the Exchange proposes amended current Commentaries .03 and .07 to Rule 6.40 by replacing references to ''Regulatory Bulletin'' with ''Trader Update.'' Should the Exchange make a change to the Risk Limitation Mechanism settings, for example to accommodate changes in market conditions or the technology needs and considerations of dealers, the Exchange would issue a Trader Update at least one trading day in advance of the settings becoming effective, which would give dealers notice and

cancellation of all Applicable Orders, pursuant to proposed paragraph (f) to Rule 6.40, this would include a cancellation of Applicable Orders in option classes for which the dealer may not have opted to utilize a Risk Limitation Mechanism. Thus, even though dealers are not required to subject all option classes traded to this risk-limitation feature, a breach of proposed paragraph 6.40(f) would affect all Applicable Orders in all option classes traded that day.

[19] Relatedly, the Exchange also proposes to amend Commentary .08 to Rule 6.40 regarding the cancellation of Applicable Orders to make it pertinent to paragraph (f), in addition to its current application to paragraph (e) to Rule 6.40.

[20] Specifically, proposed Commentary .03 to Rule 6.40 provides that ''[i]f any of the Risk Limitation Mechanisms are triggered pursuant to paragraphs (f)(1) or (f)(2) of Rule 6.40, any Applicable Orders sent by the non-Market Maker or Market Maker, respectively, in any class, shall be rejected until the non-Market Maker or Market Maker makes non-automated contact with the Exchange to enable the entry of new Applicable Orders. If any of the Risk Limitation Mechanisms are triggered pursuant to Rule 6.40(f)(3), any quotes sent by the Market Maker, in any class, shall be rejected until the Market Maker makes non-automated contact with the Exchange to enable the entry of new quotes.''

[21] *See, e.g.,* Securities Exchange Act Release No. 34–70038 (July 25, 2013), 78 FR 147 (July 31, 2013) (SR–NYSEArca–2013–72) (NYSE Arca Rule 6.60, which applies a trade collar mechanism to prevent the immediate execution of certain incoming orders outside of a specified parameter (referred to as a ''Trading Collar'') and provides that changes to the Trading Collar may be announced by Trader Update. *See also* BOX Options Exchange LLC (''BOX'') Rule 8140, which provides that, related to BOX's Quote Removal Mechanism Upon Technical Disconnect, BOX Market Makers will be notified of the value that ''n'' seconds represents via Regulatory Circular. *See also* Securities Exchange Act Release No. 58140 (July 10, 2008), 73 FR 41384 (July 18, 2008) (SR–BSE–2008–40), in which the Commission noted that ''n'' seconds would be configurable by BOX and any subsequent re-configurations will be announced to Market Makers via Regulatory Circular. *See also* Interpretation and Policy .05 to Chicago Board Options Exchange (''CBOE'') Rule 6.74A, which provides that any determinations made by CBOE regarding CBOE's Automated Improvement Mechanism, such as eligible classes, order size parameters and the minimum price increment for certain responses, shall be communicated in a Regulatory Circular. *See also* CBOE Rule 6.13(b)(i)(C)(2)(a), which provides that CBOE may establish certain maximum order size eligibility requirements with respect to automatic executions and announce such determinations via Regulatory Circular.

opportunity to make any necessary adjustments to their risk settings.

Pursuant to proposed Commentary .04 to Rule 6.40, those dealers that utilize any of the Risk Limitation Mechanisms would be automatically subject to proposed paragraph (f) to Rule 6.40. Thus, while the Risk Limitation Mechanism is optional for each dealer's Applicable Orders, once a dealer avails itself of the Risk Limitation Mechanism for some of the option classes in which it trades, all of the option classes in which that dealer trades would be subject to the proposed rule change.[22]

Pursuant to proposed Commentary .06 to Rule 6.40, absent a breach pursuant to Rule 6.40(f), the trigger counter (which would serve as the basis for determining a breach of proposed paragraph (f)) would be automatically reset and would commence a new count for dealers (1) when a time period specified by the Exchange elapses; or (2) following any intraday update to configurable thresholds, as provided in Commentary .03 to this Rule 6.40. Per proposed Commentary .06 to Rule 6.40, in the event of a breach pursuant to proposed Rule 6.40(f), the trigger counter would be reset and would commence a new count when the affected dealer makes non-automated contact with the Exchange to enable the entry of new Applicable Orders or quotes, as provided in proposed Commentary .02 to Rule 6.40.

The Exchange believes that the proposed change to current Rule 6.40 will enhance the existing Risk Limitation Mechanisms and enable the Exchange to aid in mitigating the potential risks of multiple executions against a dealer's trading interest that, in today's highly automated and electronic trading environment, can occur simultaneously across multiple series and multiple option classes.

Implementation

The Exchange will announce the implementation date of the proposed rule change by Trader Update to be published no later than 60 days following the effective date of this filing. The implementation date will be no later than 60 days following the issuance of the Trader Update.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[23] which requires the rules of an exchange to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market by providing dealers with greater control and flexibility over setting their risk tolerance and more protection over risk exposure, if the market moves in an unexpected direction.

Specifically, the Exchange believes that cancelling all quotes or Applicable Orders and requiring dealers to make non-automated contact with the Exchange following multiple, successive triggers of the Risk Limitation Mechanism allows dealers to be sensitive to the rapid trading that occurs in today's highly automated and electronic trading environment. This increased sensitivity will enable dealers to avoid transacting against their interests and will help to ensure that executions will not occur at erroneous prices, thereby removing impediments to and promoting a fair and orderly market.

Moreover, the Exchange believes that the proposal is consistent with the protection of investors and the public interests because it will permit dealers to better manage the potential risks of multiple executions against a dealer's proprietary interest that, in today's highly automated and electronic trading environment, can occur simultaneously across multiple series and multiple option classes. Consistent with the ability to better manage risk, the Exchange anticipates that the proposed enhancement to the existing Risk Limitation Mechanism could likewise enhance the Exchange's overall market quality as a result of narrowed quote widths and increased liquidity for series traded on the Exchange, which would benefit investors and the public interest. As with the intent of the existing Risk Limitation Mechanism, the Exchange believes that the proposed modifications to Rule 6.40 would further assist dealers in providing aggressive quotes and increased liquidity, thus improving overall market quality on the Exchange for the benefit of all investors and the public.

*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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is proposing a market enhancement that would provide dealers with greater control and flexibility over setting their risk tolerance and more protection over risk exposure, if the market moves in an unexpected direction. The Exchange believes the proposal would provide market participants with additional protection from erroneous executions. The proposal is structured to offer the same enhancement to all dealers, regardless of size, and would not impose a competitive burden on any participant. The Exchange does not believe that the proposed enhancement to the existing risk limitation mechanism would impose a burden on competing options exchanges. Rather, the availability of this mechanism may foster more competition. Specifically, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. When an exchange offers enhanced functionality that distinguishes it from the competition and participants find it useful, it has been the Exchange's experience that competing exchanges will move to adopt similar functionality. Thus, the Exchange believes that this type of competition amongst exchanges is beneficial to the market place as a whole as it can result in enhanced processes, functionality, and technologies.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[24] and Rule 19b–4(f)(6) thereunder.[25] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the

[22] Market Makers are required to utilize the Risk Limitation Mechanism for all of their quotes and therefore all quotes would be subject to the proposed change.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6).

Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2013–148 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–148. 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–NYSEArca–2013–148 and should be submitted on or before February 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00334 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71252; File No. SR–NYSEMKT–2013–106]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 928NY To Expand the Scope of the Existing Risk Limitation Mechanism To Address Multiple, Successive Triggers of the Risk Limitation Mechanism

January 7, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 26, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

## I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 928NY to expand the scope of the existing Risk Limitation Mechanism to address multiple, successive triggers of the Risk Limitation Mechanism. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend NYSE Rule 928NY to expand the scope of the existing Risk Limitation Mechanism to address multiple, successive triggers of the Risk Limitation Mechanism.

Overview

The Exchange has in place a risk-limitation system that is designed to help Market Makers and non-Market Maker ATP Holders (collectively, referred to herein as ''dealers'') better manage risk during periods of increased and significant trading activity. The three existing Risk Limitation Mechanisms (described below) are designed to mitigate the potential risks of multiple executions against a dealer's trading interest that, in today's highly automated and electronic trading environment, can occur simultaneously across multiple series and multiple option classes. In operation, under current Rule 928NY, when a dealer has triggered a Risk Limitation Mechanism in a given option class (by breaching preset thresholds), the Exchange will cancel all resting quotes and/or certain orders and will reject all subsequent quotes and/or certain orders in the affected option class (underlying symbol) until the dealer submits a message to the Exchange requesting to re-enable the entry of quotes or certain orders. This temporary suspension from

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the market in the affected option classes (specifically as relates to quoting or certain orders) is meant to operate as a safety valve that forces dealers to re-evaluate their positions before requesting to re-enter the market.

As discussed below, the Exchange believes that the majority of dealers that avail themselves of the Risk Limitation Mechanism utilize automated, system-generated messages to request that the Exchange re-enable the entry of their quotes or certain orders after triggering the Risk Limitation Mechanism. Provided the dealer does not experience multiple triggers of the Risk Limitation Mechanism in rapid succession, the Exchange believes the automated re-enable message is sufficient.

The goal of the current proposal is to address circumstances where a dealer experiences multiple, successive triggers of the Risk Limitation Mechanism, which the Exchange believes would be indicative of the dealer experiencing a bona fide problem (i.e., a potential system error). Thus, when a dealer experiences multiple, successive triggers of the Risk Limitation Mechanism, the Exchange proposes a two-pronged remedial response. First, the Exchange would cancel all of the dealer's quotes or Applicable Orders (defined below)—as opposed to cancelling only those quotes or certain orders in the option class (underlying symbol) in which the dealer triggered the Risk Limitation Mechanisms. Second, the Exchange would require that the dealer make non-automated contact with the Exchange to re-enable the submission of the dealer's quotes or Applicable Orders.[4]

The Exchange believes that the proposed enhancement to current Rule 928NY would help maintain a fair and orderly market because it would suspend all of the dealers' quoting or trading in certain orders following multiple, successive triggers of the Risk Limitation Mechanism and would require non-automated contact with the Exchange before this suspension is lifted. The proposed modifications would therefore encourage increased attention by dealers to their risk tolerance and related controls. The Exchange is also proposing these modifications in response to requests from its clients and believes the changes will assist these clients in better managing their risks.

[4] The Exchange will include as part of a Trader Update appropriate contact information to be used by dealers when requesting to re-enable the entry of quotes and orders.

Existing Risk Limitation Mechanism

The Exchange first adopted a risk-limitation system, as embodied in Rule 928NY, to manage risk during periods of increased and significant trading activity.[5] The prior version of the Rule provided only a Transaction-Based Risk Limitation Mechanism that applied solely to Market Maker quotes.

In 2012, in response to an increasingly automated and electronic trading environment, the Exchange adopted the risk protections afforded under current Rule 928NY (Risk Limitation Mechanism).[6] Current Rule 928NY expanded upon the earlier version by extending the transaction-based limitation mechanism to orders from Market Makers as well as to orders from non-Market Maker ATP Holders (''non-Market Makers'')[7] and providing for two additional risk limitation mechanisms—a volume-based mechanism and a percentage-based mechanism (collectively, the ''Risk Limitation Mechanisms''). In addition to applying to all Market Maker quotes, the existing Risk Limitation Mechanisms apply to dealers' orders submitted via ArcaDirect and those designated as one of two ''post no preference'' order types—specifically, PNP and PNP-Blind, which account for upwards of ninety-five percent of order flow to the Exchange (collectively, the ''Applicable Orders'').[8] Each Risk Limitation Mechanism is designed to measure a dealer's risk exposure within a time period specified by the Exchange, based on either the number of trades executed by the dealer (the ''Transaction-Based Risk Limitation Mechanism''); the number of contacts entered by the dealer (the ''Volume-Based Transaction-Based Risk Limitation Mechanism''); or the percentage of a dealer's quoted size that gets traded (the ''Percentage-Based Risk Limitation Mechanism'').

Per current Rule 928NY(a), the Exchange utilizes Trade Counters, based on trading permit identification (or ''TPID''), to determine when a Risk Limitation Mechanism has been triggered. The dealer selects from within a range specified by the Exchange individual risk parameters that, if breached, will trigger the selected Risk Limitation Mechanism.[9]

Per Commentary .08 to the Rule, while the existing Risk Limitation Mechanisms apply to quotes and Applicable Orders from Market Makers and non-Market Makers, use of this risk-limitation feature is mandated only for Market Makers' quotes.[10] Thus, Market Makers are required to activate one of the three Risk Limitation Mechanisms at all times for their quotes for each class in their appointment. However, the existing Risk Limitation Mechanisms are entirely voluntary for Applicable Orders submitted by Market Makers and non-Market Makers. With respect to the Applicable Orders, Market Makers and non-Market Makers have the option of availing themselves of one of the three Risk Limitation Mechanisms for some or all of the option classes in which they trade/provide quotes.[11] A Market Maker may activate one Risk Limitation Mechanism for its quotes and a different Risk Limitation Mechanism for its

[5] *See* Securities Exchange Act Release No. 59472 (February 27, 2009), 74 FR 9843 (March 6, 2009) (SRNYSEALTR–2008–14).

[6] *See* Securities Exchange Act Release No. 34–67713 (August 22, 2012), 77 FR 167 (August 28, 2012) (SR–NYSEMKT–2012–39). The Risk Limitation Mechanisms as set forth in current Rule 928NY (and the proposal described herein) are only applicable to electronic trading on the Exchange.

[7] The Exchange specified within Rule 928NY(a) that non-Market Maker ATP Holders would be referred to as ''non-Market Makers'' for purposes of Rule 928NY.

[8] *See* paragraphs (p) and (x) of Rule 900.3 (Orders Defined), respectively. The Exchange notes that the rule is currently silent as to the source and order types that are subject to the Risk Limitation Mechanisms. The Exchange therefore proposes to modify Commentary .07 to Rule 928NY to identify the source and the order types to which the existing (and modified) Risk Limitation Mechanisms apply and would announce via Trader Update any changes to these source(s) or order types. Similarly, for the sake of clarity, the Exchange proposes to replace ''order'' with ''Applicable Order'' in existing paragraphs (b), (c), (d) and (e) to Rule 928NY, and elsewhere in the rule as necessary.

[9] Per current Commentary .03 to Rule 928NY, the Exchange will not (i) specify a minimum setting of less than one or a maximum setting of more than 100 for the Transaction-Based Risk Limitation Mechanism; (ii) specify a minimum setting of less than 20 or a maximum setting of more than 5,000 for the Volume-Based Risk Limitation Mechanism; or (iii) specify a minimum setting of less than 100 or a maximum setting of more than 2,000 for the Percentage-Based Risk Limitation Mechanism. The Exchange proposes to amend Commentary .03 to Rule 928NY to reflect that any changes to these settings would be announced to dealers via Trader Update, rather than Regulatory Bulletin.

[10] When first implemented, Rule 928NY was entitled ''Market Maker Risk Limitation Mechanism–OX'', and applied solely to—and was mandated for—Market Maker quotes. However, when the rule was revised in 2012, and the risk-limitation functionality was expanded to cover Applicable Orders as well as quotes, the changes to the title of the rule and the accompanying rule text did not make entirely clear that the Risk Limitation Mechanism is required for all Market Maker quotes. Thus, as proposed, new Commentary .04 will state that use of the Risk Limitation Mechanism is mandated only for Market Maker quotes and is otherwise optional.

[11] With respect to Applicable Orders submitted by dealers, the Exchange has included in current Rule 928NY the concept of a ''specified class'' to indicate the option class(es) for which a Risk Limitation Mechanism is activated; if a dealer does not identify any ''specified class,'' none of the Risk Limitation Mechanisms will be activated.

Applicable Orders, even if both are activated for the same class.

Per current Rule 928NY (e), and Commentary .01 to the Rule, once a dealer's specified risk exposure is exceeded within the time period specified by the Exchange (as tracked by the Trade Counter), the Risk Limitation Mechanism is triggered and the System automatically cancels electronic Applicable Orders or quotes by generating a ''bulk cancel'' message.[12] Per Commentary .01, the bulk cancel message is processed in time priority with any other quote, order or other message received by the System.[13] Thus, any quotes or orders that match with a Market Maker's quote or with a dealers' [sic] Applicable Orders that were received by the System prior to the receipt of the bulk cancel message would be automatically executed. Similarly, quotes or orders received by the System after receipt of the bulk cancel message would not be executed against the cancelled quotes or Applicable Orders. In this regard, Rule 6.40—in its current form and as proposed—would not relieve dealers of their ''firm quote'' obligations under Rule 602 of Regulation NMS [14] or Rule 970NY. Furthermore, the proposed rule change would not relieve Market Makers of their quoting obligations under the Exchange's Rules.[15]

A dealer that has been suspended from quoting or submitting Applicable Orders in the affected class, pursuant to current Rule 928NY(e), may only re-enter the market by submitting a message to the Exchange requesting re-entry and, until such message is submitted, any subsequent quotes or Applicable Orders will be rejected by the Exchange.[16] The intended purpose of this forced suspension from quoting and from certain trading in the affected class is to afford the dealer an opportunity to evaluate its positions before opting to re-enter the market.

In practice, the Exchange has received responses to bulk cancel messages from dealers requesting to re-enter the market within as few as two milliseconds. This rapid response time leads the Exchange to conclude that the messages being submitted in response to the bulk cancel messages are automated, system-generated messages. The effect of this apparent automation is that dealers that are effectively kicked out of the market (for their quotes or Applicable Orders) in the affected class for triggering the Risk Limitation Mechanism can re-enter the market within milliseconds. The Exchange believes that an automated response is sufficient, provided the dealer does not experience multiple triggers of the Risk Limitation Mechanism in rapid succession.

Under current Rule 928NY there is no mechanism for addressing multiple, successive triggers of the Risk Limitation Mechanisms within a time period specified by the Exchange, which could be particularly problematic for dealers if the markets turns in an unexpected direction.

*Proposed Changes to Risk Limitation Mechanism*

The Exchange proposes to modify Rule 928NY to address circumstances where a dealer experiences multiple, successive triggers of the Risk Limitation Mechanism. The Exchange proposes a two-pronged remedial response. First, the Exchange would cancel all of the dealer's quotes or Applicable Orders (defined below)—as opposed to cancelling only those quotes or certain orders in the option class (underlying symbol) in which the dealer triggered the Risk Limitation Mechanism. Second, the Exchange would require that the dealer make non-automated contact with the Exchange to re-enable the submission of the dealer's quotes or certain orders

Proposed Rule 928NY(a)(2) would provide for a ''trigger counter'' that (similar to the Trade Counter, which serves as the basis for determining whether a Risk Limitation Mechanism has been triggered) would track the number of times that a dealer has triggered any of the Risk Limitation Mechanisms pursuant to current Rule 928NY(b), (c), or (d).[17]

Proposed Rule 928NY(f) outlines the actions that the System would take if the trigger counter indicates that any of the Risk Limitation Mechanisms have been triggered in excess of the number of times specified by the dealer (within a parameter set by the Exchange, as noted below) within the time period specified by the Exchange. In short, once a dealer has exceeded the number of triggers of the Risk Limitation Mechanisms, pursuant to paragraph (f) of Rule 928NY, all Applicable Orders or quotes by a Market Maker or all Applicable Orders by a non-Maker Maker would be cancelled.

Specifically, per proposed Rule 928NY(f)(1), if the Risk Limitation Mechanism is triggered pursuant to paragraph (b)(1), (c)(1) or (d)(1) to this Rule, the System would automatically cancel all of the non-Market Maker's Applicable Orders, regardless of which specified class caused the underlying trigger of the Risk Limitation Mechanism. Per proposed Rule 928NY(f)(2), if the Risk Limitation Mechanism is triggered pursuant to paragraph (b)(2), (c)(2) or (d)(2) to this Rule, the System would automatically cancel all of the Market Maker's Applicable Orders, regardless of which specified class caused the underlying trigger of the Risk Limitation Mechanism. And, per proposed Rule 928NY(f)(3), if the Risk Limitation Mechanism is triggered pursuant to paragraph (b)(3), (c)(3) or (d)(3) to this Rule, the System would automatically cancel all of the Market Maker's quotes, regardless of which appointed class caused the underlying trigger of the Risk Limitation Mechanism.

The difference between the existing Risk Limitation Mechanism versus the proposed enhancement is the cancellation of all of a dealer's Applicable Orders or quotes upon breach of proposed paragraph (f) to Rule 928NY. Thus, if a dealer triggers a Risk Limitation Mechanism, pursuant to paragraph (e) of current Rule 928NY, only the dealer's quotes or Applicable Orders in the option class that triggered the Risk Limitation Mechanism would be cancelled by the Exchange; whereas if a dealer breaches proposed paragraph (f) of Rule 928NY, by engaging in multiple triggers of the Risk Limitation Mechanism in a time period specified by the Exchange, all of that dealer's Applicable Orders or quotes in any option class(es) submitted that day would be cancelled—not just the Applicable Orders or quotes in the option class(es) that led to the most recent trigger of the Risk Limitation Mechanism.[18] The Exchange believes

[12] *See* Rule 928NY(b)(1)–(3); (c) (1)–(3); and (d) (1)–(3).

[13] As previously noted, for the sake of clarity, the Exchange proposes to revise the rule text to utilize ''Applicable Order'' rather than ''order'' where necessary.

[14] 17 CFR 242.602.

[15] *See, e.g.,* Rule 925NY.

[16] *See* Rule 928NY(e), and Commentary .01.

[17] This proposed addition would require that current Rule 929NY (a) be renamed from ''Trade Counter'' to ''Counters,'' and renumbered such that ''Trade Counter'' would be numbered as proposed Rule 928NY(a)(1). The Exchange also proposes to amend paragraph (a) to refer to ''Applicable Orders,'' as referenced in Commentary .07 to the Rule (instead of ''orders'') to make clear which orders are subject to the Risk Limitation Mechanisms.

[18] The cancellation will only apply to those quotes or Applicable Orders submitted by the dealer that trading day. With respect to the cancellation of all Applicable Orders, pursuant to proposed paragraph (f) to Rule 928NY, this would include a cancellation of Applicable Orders in option classes for which the dealer may not have opted to utilize a Risk Limitation Mechanism. Thus, even though dealers are not required to subject all option classes traded to this risk-limitation feature, a breach of proposed paragraph 928NY(f) would affect all Applicable Orders in all option classes traded that day.

that this modification—to temporarily suspend quoting or Applicable Orders in all classes actively traded by the dealer—would strengthen the efficacy of the existing Risk Limitation Mechanisms by providing dealers with increased sensitivity in setting risk tolerance and controls.

Pursuant to proposed Commentary .01 to Rule 928NY, upon breaching proposed paragraph (f) of Rule 928NY, the System would automatically cancel electronic Applicable Orders or quotes by generating a ''bulk cancel'' message—just as the system currently does in the event of a breach of the Risk Limitation Mechanism (i.e., current paragraph (e) of Rule 928NY).[19] In addition to the bulk cancel message, the System would generate an alert message providing notice that the dealer has exceeded the number of triggers of the Risk Limitation Mechanisms, pursuant to paragraph (f) of Rule 928NY.

The Exchange also proposes to amend current Commentary .02 to Rule 928NY to reflect that the Exchange would (and does) accept automated messages from dealers requesting the re-enabling of quotes or Applicable Orders, following a breach of paragraph (e). The Exchange believes that this proposed change would add transparency to the functioning of the Exchange and the types of messages it would accept when a Risk Limitation Mechanism is triggered pursuant to paragraph (e) of the Rule.

The Exchange proposes to further amend current Commentary .02 to Rule 928NY to require that, upon a dealer's breach of proposed paragraph (f) to current Rule 928NY, the dealer would have to make non-automated contact with the Exchange to enable the entry of all new Applicable Orders or quotes, which had been cancelled pursuant to proposed paragraph (f).[20] The Exchange believes that requiring this additional, non-automated contact will strengthen the efficacy of the existing Risk Limitation Mechanisms by providing dealers with increased sensitivity in setting risk tolerance and controls.

Pursuant to proposed Commentary .03 to Rule 928NY, the Exchange would specify via Trader Update the applicable range within which dealers could select the number of times the Risk Limitation Mechanism could be triggered before breaching proposed paragraph (f) to Rule 928NY, but this setting would not be less than a minimum of one and a maximum of 100. The Exchange believes that setting the parameters within this broad range would provide dealers with ample flexibility in setting their tolerance for risk. Those dealers with a lower risk tolerance or those that may be prone to multiple, successive triggers of the Risk Limitation Mechanisms in shorter periods of time, may opt to select a number of triggers on the lower end of the range, thereby optimizing the protection afforded by this proposed rule change, while those dealers with a higher risk tolerance or that are less likely to experience multiple, successive triggers of the Risk Limitation Mechanism, may select the maximum allowable triggers to decrease the protections afforded by the proposed rule change. Moreover, while the Exchange retains discretion with respect to the levels at which it could adjust these settings, the Exchange would not be permitted to adjust the settings below the minimum or maximum proposed, which, the Exchange believes would reasonably ensure that the settings are at all times within a reasonable range.

Consistent with current Commentary .03 to Rule 928NY, the applicable time period within which dealers would select the number of triggers before breaching proposed paragraph (f) to Rule 928NY would not be less 100 milliseconds, unless otherwise announced by the Exchange. The Exchange believes that specifying the applicable minimum, maximum and/or default settings via Trader Update, including any changes thereto in the future designed to ensure that the mechanisms work as intended, would be consistent with the manner in which the Exchange has communicated any changes to the existing Risk Limitation Mechanism settings and is consistent with the manner in which the Commission currently permits option exchanges to communicate settings or parameters for various exchange mechanisms to their members other than through the rule filing process, i.e., via notices, bulletins or circulars.[21]

The Exchange also proposes at this time to make a procedural change for making announcements regarding functionality associated with the Risk Limitation Mechanism. Presently the Exchange issues Regulatory Bulletins when making such announcements. Going forward, the Exchange proposes to issue a Trader Update in lieu of a Regulatory Bulletin. Regulatory Bulletins generally contain information regarding legal and regulatory matters while Trader Updates deal with issues such as trading, systems changes and real-time market announcements. The Exchange believes that it is more appropriate to make announcements regarding the Risk Limitation Mechanism via Trader Update. Trader Updates, like Regulatory Bulletins, are electronically distributed to all ATP Holders and are posted on the Exchange's Web site. Accordingly, the Exchange proposes amended current Commentaries .03 and .07 to Rule 928NY by replacing references to ''Regulatory Bulletin'' with ''Trader Update.'' Should the Exchange make a change to the Risk Limitation Mechanism settings, for example to accommodate changes in market conditions or the technology needs and considerations of dealers, the Exchange would issue a Trader Update at least one trading day in advance of the settings becoming effective, which would give dealers notice and opportunity to make any necessary adjustments to their risk settings.

Pursuant to proposed Commentary .04 to Rule 928NY, those dealers that utilize any of the Risk Limitation Mechanisms would be automatically subject to proposed paragraph (f) to Rule 928NY. Thus, while the Risk Limitation

[19] Relatedly, the Exchange also proposes to amend Commentary .08 to Rule 928NY regarding the cancellation of Applicable Orders to make it pertinent to paragraph (f), in addition to its current application to paragraph (e) to Rule 928NY.

[20] Specifically, proposed Commentary .03 to Rule 928NY provides that ''[i]f any of the Risk Limitation Mechanisms are triggered pursuant to paragraphs (f)(1) or (f)(2) of Rule 928NY, any Applicable Orders sent by the non-Market Maker or Market Maker, respectively, in any class, shall be rejected until the non-Market Maker or Market Maker makes non-automated contact with the Exchange to enable the entry of new Applicable Orders. If any of the Risk Limitation Mechanisms are triggered pursuant to Rule 928NY(f)(3), any quotes sent by the Market Maker, in any class, shall be rejected until the Market Maker makes non-automated contact with the Exchange to enable the entry of new quotes.''

[21] *See, e.g.,* Securities Exchange Act Release No. 34–70037 (July 25, 2013); 78 FR 147 (July 31, 2013) (SR–NYSEMKT–2013–62) (Rule 967NY, which applies a trade collar mechanism to prevent the immediate execution of certain incoming orders outside of a specified parameter (referred to as a ''Trading Collar'') and provides that changes to the Trading Collar may be announced by Trader Update. *See also* BOX Options Exchange LLC (''BOX'') Rule 8140, which provides that, related to BOX's Quote Removal Mechanism Upon Technical Disconnect, BOX Market Makers will be notified of the value that ''n'' seconds represents via Regulatory Circular. *See also* Securities Exchange Act Release No. 58140 (July 10, 2008), 73 FR 41384 (July 18, 2008) (SR–BSE–2008–40), in which the Commission noted that ''n'' seconds would be configurable by BOX and any subsequent re-configurations will be announced to Market Makers via Regulatory Circular. *See also* Interpretation and Policy .05 to Chicago Board Options Exchange (''CBOE'') Rule 6.74A, which provides that any determinations made by CBOE regarding CBOE's Automated Improvement Mechanism, such as eligible classes, order size parameters and the minimum price increment for certain responses, shall be communicated in a Regulatory Circular. *See also* CBOE Rule 6.13(b)(i)(C)(2)(a), which provides that CBOE may establish certain maximum order size eligibility requirements with respect to automatic executions and announce such determinations via Regulatory Circular.

Mechanism is optional for each dealer's Applicable Orders, once a dealer avails itself of the Risk Limitation Mechanism for some of the option classes in which it trades, all of the option classes in which that dealer trades would be subject to the proposed rule change.[22]

Pursuant to proposed Commentary .06 to Rule 928NY, absent a breach pursuant to Rule 928NY(f), the trigger counter (which would serve as the basis for determining a breach of proposed paragraph (f)) would be automatically reset and would commence a new count for dealers (1) when a time period specified by the Exchange elapses; or (2) following any intraday update to configurable thresholds, as provided in Commentary .03 to this Rule 928NY. Per proposed Commentary .06 to Rule 928NY, in the event of a breach pursuant to proposed Rule 928NY(f), the trigger counter would be reset and would commence a new count when the affected dealer makes non-automated contact with the Exchange to enable the entry of new Applicable Orders or quotes, as provided in proposed Commentary .02 to Rule 928NY.

The Exchange believes that the proposed change to current Rule 928NY will enhance the existing Risk Limitation Mechanisms and enable the Exchange to aid in mitigating the potential risks of multiple executions against a dealer's trading interest that, in today's highly automated and electronic trading environment, can occur simultaneously across multiple series and multiple option classes.

Implementation

The Exchange will announce the implementation date of the proposed rule change by Trader Update to be published no later than 60 days following the effective date of this filing. The implementation date will be no later than 60 days following the issuance of the Trader Update.

2. Statutory Basis

The statutory basis for the proposed rule change is Section 6(b)(5) of the Securities Exchange Act of 1934 (the ''Act''), in general, and furthers the objectives of Section 6(b)(5)[23] which requires the rules of an exchange to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market by providing dealers with greater control and flexibility over setting their risk tolerance and more protection over risk exposure, if the market moves in an unexpected direction.

Specifically, the Exchange believes that cancelling all quotes or Applicable Orders and requiring dealers to make non-automated contact with the Exchange following multiple, successive triggers of the Risk Limitation Mechanism allows dealers to be sensitive to the rapid trading that occurs in today's highly automated and electronic trading environment. This increased sensitivity will enable dealers to avoid transacting against their interests and will help to ensure that executions will not occur at erroneous prices, thereby removing impediments to and promoting a fair and orderly market.

Moreover, the Exchange believes that the proposal is consistent with the protection of investors and the public interests because it will permit dealers to better manage the potential risks of multiple executions against a dealer's proprietary interest that, in today's highly automated and electronic trading environment, can occur simultaneously across multiple series and multiple option classes. Consistent with the ability to better manage risk, the Exchange anticipates that the proposed enhancement to the existing Risk Limitation Mechanism could likewise enhance the Exchange's overall market quality as a result of narrowed quote widths and increased liquidity for series traded on the Exchange, which would benefit investors and the public interest. As with the intent of the existing Risk Limitation Mechanism, the Exchange believes that the proposed modifications to Rule 928NY would further assist dealers in providing aggressive quotes and increased liquidity, thus improving overall market quality on the Exchange for the benefit of all investors and the public.

*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 that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange is proposing a market enhancement that would provide dealers with greater control and flexibility over setting their risk tolerance and more protection over risk exposure, if the market moves in an unexpected direction. The Exchange believes the proposal would provide market participants with additional protection from erroneous executions. The proposal is structured to offer the same enhancement to all dealers, regardless of size, and would not impose a competitive burden on any participant. The Exchange does not believe that the proposed enhancement to the existing risk limitation mechanism would impose a burden on competing options exchanges. Rather, the availability of this mechanism may foster more competition. Specifically, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. When an exchange offers enhanced functionality that distinguishes it from the competition and participants find it useful, it has been the Exchange's experience that competing exchanges will move to adopt similar functionality. Thus, the Exchange believes that this type of competition amongst exchanges is beneficial to the market place as a whole as it can result in enhanced processes, functionality, and technologies.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[24] and Rule 19b–4(f)(6) thereunder.[25] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if

[22] Market Makers are required to utilize the Risk Limitation Mechanism for all of their quotes and therefore all quotes would be subject to the proposed change.

[23] 15 U.S.C. 78f(b)(5).

[24] 15 U.S.C. 78s(b)(3)(A)(iii).

[25] 17 CFR 240.19b–4(f)(6).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [26] of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2013–106 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–106. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–106 and should be submitted on or before February 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00337 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

[26] 15 U.S.C. 78s(b)(2)(B).

[27] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71249; File No. SR–BYX–2014–001]**

## Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Extend the Pilot Period for the Retail Price Improvement Program

January 7, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 3, 2014, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change**

The Exchange filed a proposal extend the pilot period for the Exchange's Retail Price Improvement (''RPI'') Program (the ''Program''), which is currently set to expire on January 11, 2014, for slightly more than 12 months, to expire on January 31, 2015.

The text of the proposed rule change is available at the Exchange's Web site at *http://www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change 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 parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Background

In November 2012, the Commission approved the RPI Program on a pilot basis.[5] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, all Exchange Users [6] are permitted to provide potential price improvement for Retail Orders [7] in the form of non-displayed interest that is better than the national best bid that is a Protected Quotation (''Protected NBB'') or the national best offer that is a Protected Quotation (''Protected NBO'', and together with the Protected NBB, the ''Protected NBBO'').[8]

[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)(6)(iii).

[5] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (''RPI Approval Order'') (SR–BYX–2012–019).

[6] A ''User'' is defined in BYX Rule 1.5(cc) as any member or sponsored participant of the Exchange who is authorized to obtain access to the System.

[7] A ''Retail Order'' is defined in Rule 11.24(a)(2) as an agency order that originates from a natural person and is submitted to the Exchange by a RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any computerized methodology. *See* Rule 11.24(a)(2).

[8] The term Protected Quotation is defined in BYX Rule 1.5(t) and has the same meaning as is set forth in Regulation NMS Rule 600(b)(58). The terms Protected NBB and Protected NBO are defined in BYX Rule 1.5(s). The Protected NBB is the best-priced protected bid and the Protected NBO is the best-priced protected offer. Generally, the Protected NBB and Protected NBO and the national best bid (''NBB'') and national best offer (''NBO'', together

Continued

The Program was approved by the Commission on a pilot basis running one-year from the date of implementation.[9] The Commission approved the Program on November 27, 2012.[10] The Exchange implemented the Program on January 11, 2013. Thus, the pilot period for the Program is scheduled to end on January 11, 2014.

Proposal To Extend the Operation of the Program

The Exchange established the RPI Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit Retail Price Improvement Orders (''RPI Orders'') [11] to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[12] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[13] Through this filing, the Exchange seeks to extend the current pilot period of the Program until January 31, 2015. The Exchange notes that it has proposed to extend the Program slightly more than one year in order to operate the Program until the end of a calendar month for purposes of the data set.

with the NBB, the ''NBBO'') will be the same. However, a market center is not required to route to the NBB or NBO if that market center is subject to an exception under Regulation NMS Rule 611(b)(1) or if such NBB or NBO is otherwise not available for an automatic execution. In such case, the Protected NBB or Protected NBO would be the best-priced protected bid or offer to which a market center must route interest pursuant to Regulation NMS Rule 611.

[9] *See* RPI Approval Order, *supra* note 5 at 71652.

[10] *Id.*

[11] A ''Retail Price Improvement Order'' is defined in Rule 11.24(a)(3) as an order that consists of non-displayed interest on the Exchange that is priced better than the Protected NBB or Protected NBO by at least $0.001 and that is identified as such. *See* Rule 11.24(a)(3).

[12] *See* RPI Approval Order, *supra* note 5 at 71655.

[13] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the RPI orders in sub-penny increments. *See* Letter from Eric Swanson, SVP, General Counsel, BATS Global Markets, Inc. to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission dated January 3, 2014.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[14] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[15] 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, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange believes that extending the pilot period for the RPI Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

*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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change extends an established pilot program for slightly more than 12 months, thus allowing the RPI Program to enhance competition for retail order flow and contribute to the public price discovery process.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) [17] thereunder. Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and subparagraph (f)(6) of Rule 19b–4 thereunder.[19]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing.[20] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[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 Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot program to continue uninterrupted. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal 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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.[23] If the Commission takes such action, the Commission shall institute proceedings

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *Id.*

[22] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78s(b)(3)(C).

to determine whether the proposed rule change should be approved or disapproved.[24]

**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–BYX–2014–001 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–BYX–2014–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BYX–2014–001, and should be submitted on or before February 3, 2014.

[24] *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00342 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71246; File No. SR–NYSE–2013–84]**

## Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Rule 123C(7)(b) To Provide That G Orders With a Price Equal to the Closing Price Are the Last Interest Eligible To Be Used To Offset a Closing Imbalance

January 7, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 26, 2013, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''SEC'' or the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend NYSE Rule 123C(7)(b) to provide that G orders with a price equal to the closing price are the last interest eligible to be used to offset a closing imbalance. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend NYSE Rule 123C(7)(b) to modify the hierarchy of pending interests that may be used to offset a closing imbalance, specifically by switching the priority in the execution of CO orders with G orders with a price equal to the closing price.

Background

NYSE Rule 123C sets forth the closing procedures for trading in stock on the NYSE. NYSE Rule 123C(7) sets forth the order of execution of pending interest on the close. NYSE Rule 123C(7)(a) lists the pending interest that must be executed or cancelled as part of the closing transaction. NYSE Rule 123C(7)(b) sets forth the execution hierarchy of the pending interest that may be used to offset a closing imbalance. Currently, NYSE Rule 123C(7)(b) provides that the following order of execution for pending interest may be used to offset a closing imbalance:

(i) Limit orders represented in the Display Book with a price equal to the closing price and DMM interest;

(ii) LOC orders with a price equal to the closing price;

(iii) MOC orders that have tick restrictions that limit the execution of the MOC to the price of the closing transaction;

(iv) LOC orders that have tick restrictions that are capable of being executed based on the closing price and the price of such limit order is equal to the price of the closing transaction;

(v) G orders with a price equal to the closing price; and

(vi) CO orders.

A ''G order'' is an order entered for a member's own account or an account in which the member has an interest, as permitted under Section 11(a)(1)(G) of the Act.[4] A ''CO order'' is a conditional-instruction limit-type order that is eligible to participate in the closing transaction only when there is an imbalance of orders to be executed on

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78k(a)(1)(G). *See also* NYSE Rule 13 (defining a ''G order'' as an order entered pursuant to Subsection (G) of Section 11(a)(1) of the Act).

the opposite side of the market from the CO order. A CO order may be used in the closing transaction only to offset an imbalance and may not add to or flip an imbalance. The CO order is defined in NYSE Rule 13. The creation of the CO order was approved by the SEC in 2009.[5] An ''LOC order'' is a limit at-the-close order, and an ''MOC order'' is a market at-the-close order.

Exchange's Approval Request

The current execution hierarchy of pending interest that may be used to offset a closing imbalance was approved by the SEC in 2009.[6] In November 2009, the Exchange filed proposed amendments with the SEC to modify its closing procedures as well as to make conforming changes to other rules.[7] In the filing, the Exchange proposed, among other things, to add subsection (b)(vi) to Rule 123C(7) that would include a new type of customer order, called a CO order, to the list of orders that may be executed when there is an imbalance at the close of the market.[8] In proposed Rule 123C(7)(b), CO orders were listed as the final order type in the sequence of transactions that may be executed to offset an imbalance.[9] G orders were expressly identified as taking priority over CO orders in the closing rotation.[10]

The proposal described in detail the mechanics of how the CO order type would operate.[11] It proposed that CO orders would be contingent on an imbalance on the opposite side of the market when the market closed.[12] If no imbalance existed, these orders would not be activated and would be cancelled.[13] The Exchange further stated that the execution of CO orders would never add to, or result in, a flip of the imbalance to the other side of the market.[14] Rather, if the aggregate number of shares comprising outstanding CO orders was larger than the number of shares required to offset the imbalance, only the amount of shares necessary to correct any actual imbalance in full would be triggered and executed.[15]

Significantly, the Exchange explained that, until all other orders have been considered and until an imbalance can be calculated, CO orders are not active orders.[16] Because of the contingent nature of the order type, CO orders were to be executed after all other types of orders have been executed, including G orders.[17] The CO orders were meant to supplement, not supplant, any existing orders on the book to provide additional liquidity in the event of an imbalance.[18] As the Exchange explicitly stated in it proposal:

> The CO order will not be guaranteed to participate in the closing transaction. CO orders will be eligible to participate in the closing transaction when there is an imbalance of orders to be executed on the opposite side of the market from the CO order and there is no other interest remaining to trade at the closing price. *This order type must yield to all other eligible interest* (emphasis added).[19]

The Exchange proposal also detailed the benefits of this new order type. The proposal explained how the addition of CO orders would provide an added opportunity for investors to take advantage of closing prices and would encourage greater customer participation in the market.[20] Specifically, the Exchange noted that CO orders:

> [W]ill add greater efficiency to the closing process by providing an additional source of liquidity to offset an imbalance going into the closing transaction. The proposed modifications will provide investors with a more accurate depiction of the market interest prior to the closing transaction thereby allowing them to make better informed trading decisions.[21]

SEC's Approval Order

In December 2009, the SEC issued an order approving amended Rule 123C(7)(b) in the form proposed by the Exchange.[22] In its approval order, the SEC reiterated the mechanics of CO orders as described by the Exchange in its proposal.[23] More significantly, however, the SEC explicitly acknowledged and approved the timing and priority of execution of CO orders.[24] The SEC explicitly stated that CO orders would be executed after all other orders, including G orders.[25] The SEC approval order stated:

> The Exchange further proposes to create a CO order type, which would provide all market participants an additional method to offset an order imbalance at the close. The CO order would not be guaranteed to participate in the closing transaction. CO orders would only be eligible to participate in the closing transaction when there is an imbalance of orders to be executed on the opposite side of the market from the CO order and there is no other interest remaining to trade at the closing price. *CO orders must yield to all other eligible interest* (emphasis added).[26]

The SEC approval order further stated:

> If there is an imbalance at the close and the price of the closing transaction is at or within the limit of the CO order, the CO order would be eligible to participate in the closing transaction, subject to strict time priority of receipt in Exchange systems among such eligible CO orders and *after yielding to all other interest in the closing execution,* including MOCs, marketable LOCs, *''G'' orders,* DMM interest, and at-priced LOCs (emphasis added).[27]

The SEC endorsed the Exchange's assertion that CO orders are beneficial to investors and to the marketplace.[28] The SEC stated in the approval order, ''[t]he creation of the CO order provides an additional source of liquidity to offset an imbalance going into the closing transaction, and thus should increase the greater efficiency of the closing process.'' [29]

The SEC found the amendments to Rule 123C, including the addition of CO orders and the execution priority, to be ''consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.'' [30] In support of this determination, the Commission stated that it:

> [B]elieves that these proposed modifications are consistent with the Act because, taken as a whole, they should enhance the efficiency and transparency of the closing transaction and provide customers with a more accurate depiction of market conditions prior to the closing transaction, and therefore allow them to make better-informed trading decisions.[31]

Subsequently, the SEC staff questioned whether the priority of execution of orders at the close was consistent with Section 11(a) of the Act and the rules promulgated thereunder.

[5] *See* Securities Exchange Act Release No. 61233 (Dec. 23, 2009), 74 FR 69169 (Dec. 30, 2009) (File No. SR–NYSE–2009–111).

[6] *See id.*

[7] *See* Securities Exchange Act Release No. 60974 (Nov. 9, 2009), 74 FR 59299 (Nov. 17, 2009) (File No. SR–NYSE–2009–111).

[8] *See id.*

[9] *See id.* at 59304–59305.

[10] *See id.* at 59304–59305.

[11] *See id.* at 59304–59305.

[12] *See id.* at 59304.

[13] *See id.* at 59304–59305.

[14] *See id.* at 59305.

[15] *See id.* at 59305.

[16] *See id.* at 59304–59305.

[17] *See id.* at 59305.

[18] *See id.* at 59304–59305.

[19] *Id.* at 59304.

[20] *See id.* at 59307.

[21] *Id.*

[22] *See* Securities Exchange Act Release No. 61233 (Dec. 23, 2009), 74 FR 69169 (Dec. 30, 2009) (File No. SR–NYSE–2009–111).

[23] *See id.* at 69170–69171.

[24] *See id.* at 69170–69172.

[25] *See id.* at 69170.

[26] *Id.* at 69170.

[27] *Id.* at 69170.

[28] *See id.* at 69172.

[29] *Id.*

[30] *See id.* at 69171.

[31] *Id.* at 69172.

In particular, the SEC staff questioned whether G orders should take priority over CO orders. The Exchange began discussions with the SEC staff regarding a potential exemption from Section 11(a) of the Act or no-action relief for the limited purposes of priority of the CO order type on the close. After significant discussion with the SEC staff, the Exchange determined that rather than seek such an exemption or no-action relief, it would file a proposed rule change to change the order of execution in the closing rotation.

Proposed Rule Change

The Exchange now proposes to modify the hierarchy of interests that may be used to offset a closing imbalance, specifically by switching the positions in the hierarchy of G orders with a price equal to the closing price and CO orders. Accordingly, under the Exchange's proposed amendment to NYSE Rule 123C(7)(b), CO orders will be moved up in the execution hierarchy and G orders would give up execution priority to all other order types. The amended rule would allow execution in the following execution hierarchy to offset a closing imbalance:

(i) Limit orders represented in the Display Book with a price equal to the closing price and DMM interest;

(ii) LOC orders with a price equal to the closing price;

(iii) MOC orders that have tick restrictions that limit the execution of the MOC to the price of the closing transaction;

(iv) LOC orders that have tick restrictions that are capable of being executed based on the closing price and the price of such limit order is equal to the price of the closing transaction;

(v) CO orders; and

(vi) G orders with a price equal to the closing price.

The Exchange believes that NYSE Rule 123C(7)(b), as proposed, would continue to provide Exchange participants with control of and flexibility with respect to the handling of their orders to be executed in the closing transaction. The Exchange also believes that the proposed change to the hierarchy of interest that may be used to offset a closing imbalance would help ensure that G orders yield priority, parity and precedence to CO orders. The Exchange also notes its continued belief that the CO order type provides an important source of liquidity to offset an imbalance going into the closing transaction, and thus increases the efficiency of the closing process. The Exchange believes that the proposed modification to the hierarchy balances the requirement that G orders yield priority, parity and precedence to all non-G orders, with the important goal of preserving the role that CO orders play in increasing the efficiency of the closing process.

Because of the technology changes associated with this proposed rule change, the Exchange will announce by Trader Update when it will implement the proposed change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[32] in general, and furthers the objectives of Section 6(b)(5) of the Act,[33] in particular, in that it is designed to ''prevent fraudulent and manipulative acts and practices,'' ''promote just and equitable principals of trade,'' ''remove impediments to and perfect the mechanism of a free and open market and a national market system'' and ''protect investors and the public interest.''

The Exchange believes that the proposed modification to the execution hierarchy of pending interest that may be used to offset a closing imbalance would continue to advance the efficiency and transparency of the closing transaction and continue to provide customers with information regarding the hierarchy of interest that may be used to offset a closing imbalance, which would continue to allow customers to make better informed decisions. In addition, the Exchange believes that the proposed reordering is consistent with the Act as it would help ensure that G orders yield priority, parity and precedence in execution to CO orders, consistent with Section 11(a)(1)(G) of the Act.[34]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal to modify the hierarchy of interest that may be used to offset a closing imbalance would help ensure that G orders yield priority, parity and precedence in execution to CO orders, consistent with Section 11(a)(1)(G) of the Act.[35] At the same time, the proposal would preserve the important benefits that CO orders provide as an additional source of liquidity to offset an imbalance going into the closing transaction.

[32] 15 U.S.C. 78f(b).

[33] 15 U.S.C. 78f(b)(5).

[34] 15 U.S.C. 78k(a)(1)(G).

[35] 15 U.S.C. 78k(a)(1)(G).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [36] and Rule 19b–4(f)(6) [37] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–NYSE–2013–84 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.

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR–NYSE–2013–84. 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–NYSE–2013–84 and should be submitted on or before February 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00345 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71250; File No. SR–BYX–2012–019]**

## Self-Regulatory Organization; BATS Y-Exchange, Inc.; Order Granting an Extension to Limited Exemption From Rule 612(c) of Regulation NMS in Connection With the Exchange's Retail Price Improvement Program

January 7, 2014.

On November 27, 2012, the Securities and Exchange Commission (''Commission'') issued an order pursuant to its authority under Rule 612(c) of Regulation NMS (''Sub-Penny Rule) [1] that granted the BATS Y-Exchange, Inc. (''BYX'' or the ''Exchange'') a limited exemption from the Sub-Penny Rule in connection with the operation of the Exchange's Retail Price Improvement (''RPI'') Program (the ''Program''). The limited exemption was granted concurrently with the Commission's approval of the Exchange's proposal to adopt the Program for a one-year pilot term.[2] The exemption was granted coterminous with the effectiveness of the pilot Program, which is scheduled to expire on January 11, 2014.

The Exchange now seeks to extend to exemption until January 31, 2015.[3] The Exchange's request was made in conjunction with an immediately effective filing that extends the operation of the Program until January 31, 2015.[4] In its request to extend the exemption, the Exchange notes that the Program was implemented gradually over time. Accordingly, the Exchange has asked for additional time to allow itself and the Commission to analyze data concerning the Program, which the Exchange committed to provide to the Commission.[5] For this reason and the reasons stated in the Order originally granting the limited exemption, the Commission finds that extending the exemption, pursuant to its authority under Rule 612(c) of Regulation NMS, is appropriate in the public interest and consistent with the protection of investors.

*Therefore, it is hereby ordered,* that, pursuant to Rule 612(c) of Regulation NMS, the Exchange is granted a limited exemption from Rule 612(c) of Regulation NMS that allows it to accept and rank orders priced equal to or greater than $1.00 per share in increments of $0.001, in connection with the operation of its RPI Program.

The limited and temporary exemption extended by this Order is subject to modification or revocation if at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. Responsibility for compliance with any applicable provisions of the federal securities laws must rest with the persons relying on the exemptions that are the subject of this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Kevin M O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00341 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71245; File No. SR–NYSEMKT–2013–107]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 123C(7)(b)—Equities To Provide That G Orders With a Price Equal to the Closing Price Are the Last Interest Eligible To Be Used to Offset A Closing Imbalance

January 7, 2014.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 26, 2013, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 123C(7)(b)—Equities to provide that G orders with a price equal to the closing price are the last interest eligible to be used to offset a closing imbalance. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of,

[38] 17 CFR 200.30–3(a)(12).

[1] 17 CFR 242.612(c).

[2] *See* Securities Exchange Act Release No. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012) (''RPI Approval Order'') (SR–BXY–2012–019).

[3] *See* letter from Eric Swanson, Senior Vice President and General Counsel, BYX, to Elizabeth M. Murphy, Secretary, Commission, dated January 3, 2014.

[4] *See* SR–BYX–2014–001.

[5] *See* RPI Approval Order, *supra* note 2, at 77 FR at 71657.

[6] 17 CFR 200.30–3(a)(83).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend Rule 123C(7)(b)—Equities to modify the hierarchy of pending interests that may be used to offset a closing imbalance, specifically by switching the priority in the execution of CO orders with G orders with a price equal to the closing price.

Background

Rule 123C—Equities (''Rule 123C'') sets forth the closing procedures for trading in stock on the Exchange. Rule 123C(7) sets forth the order of execution of pending interest on the close. Rule 123C(7)(a) lists the pending interest that must be executed or cancelled as part of the closing transaction. Rule 123C(7)(b) sets forth the execution hierarchy of the pending interest that may be used to offset a closing imbalance. Currently, Rule 123C(7)(b) provides that the following order of execution for pending interest may be used to offset a closing imbalance:

(i) Limit orders represented in the Display Book with a price equal to the closing price and DMM interest;

(ii) LOC orders with a price equal to the closing price;

(iii) MOC orders that have tick restrictions that limit the execution of the MOC to the price of the closing transaction;

(iv) LOC orders that have tick restrictions that are capable of being executed based on the closing price and the price of such limit order is equal to the price of the closing transaction;

(v) G orders with a price equal to the closing price; and

(vi) CO orders.

A ''G order'' is an order entered for a member's own account or an account in which the member has an interest, as permitted under Section 11(a)(1)(G) of the Act.[4] A ''CO order'' is a conditional-instruction limit-type order that is eligible to participate in the closing transaction only when there is an imbalance of orders to be executed on the opposite side of the market from the CO order. A CO order may be used in the closing transaction only to offset an imbalance and may not add to or flip an imbalance. The CO order is defined in Rule 13—Equities. The creation of the CO order was approved by the SEC in 2009.[5] An ''LOC order'' is a limit at-the-close order, and an ''MOC order'' is a market at-the-close order.

Exchange's Approval Request

The current execution hierarchy of pending interest that may be used to offset a closing imbalance was approved by the SEC in 2009.[6] In November 2009, the Exchange filed proposed amendments with the SEC to modify its closing procedures as well as to make conforming changes to other rules.[7] In the filing, the Exchange proposed, among other things, to add subsection (b)(vi) to Rule 123C(7) that would include a new type of customer order, called a CO order, to the list of orders that may be executed when there is an imbalance at the close of the market.[8] In proposed Rule 123C(7)(b), CO orders were listed as the final order type in the sequence of transactions that may be executed to offset an imbalance.[9] G orders were expressly identified as taking priority over CO orders in the closing rotation.[10]

The proposal described in detail the mechanics of how the CO order type would operate.[11] It proposed that CO orders would be contingent on an imbalance on the opposite side of the market when the market closed.[12] If no imbalance existed, these orders would not be activated and would be cancelled.[13] The Exchange further stated that the execution of CO orders would never add to, or result in, a flip of the imbalance to the other side of the market.[14] Rather, if the aggregate number of shares comprising outstanding CO orders was larger than the number of shares required to offset the imbalance, only the amount of shares necessary to correct any actual imbalance in full would be triggered and executed.[15]

Significantly, the Exchange explained that, until all other orders have been considered and until an imbalance can be calculated, CO orders are not active orders.[16] Because of the contingent nature of the order type, CO orders were to be executed after all other types of orders have been executed, including G orders.[17] The CO orders were meant to supplement, not supplant, any existing orders on the book to provide additional liquidity in the event of an imbalance.[18] As the Exchange explicitly stated in it proposal:

> The CO order will not be guaranteed to participate in the closing transaction. CO orders will be eligible to participate in the closing transaction when there is an imbalance of orders to be executed on the opposite side of the market from the CO order and there is no other interest remaining to trade at the closing price. *This order type must yield to all other eligible interest* (emphasis added).[19]

The Exchange proposal also detailed the benefits of this new order type. The proposal explained how the addition of CO orders would provide an added opportunity for investors to take advantage of closing prices and would encourage greater customer participation in the market.[20] Specifically, the Exchange noted that CO orders:

> [W]ill add greater efficiency to the closing process by providing an additional source of liquidity to offset an imbalance going into the closing transaction. The proposed modifications will provide investors with a more accurate depiction of the market interest prior to the closing transaction thereby allowing them to make better informed trading decisions.[21]

SEC's Approval Order

In December 2009, the SEC issued an order approving amended Rule 123C(7)(b) in the form proposed by the Exchange.[22] In its approval order, the SEC reiterated the mechanics of CO orders as described by the Exchange in its proposal.[23] More significantly, however, the SEC explicitly acknowledged and approved the timing and priority of execution of CO orders.[24]

[4] 15 U.S.C. 78k(a)(1)(G). *See also* Rule 13—Equities (defining a ''G order'' as an order entered pursuant to Subsection (G) of Section 11(a)(1) of the Act).

[5] *See* Securities Exchange Act Release No. 61244 (Dec. 28, 2009), 75 FR 479 (January 5, 2010) (File No. SR–NYSEAmex–2009–81).

[6] *See id.*

[7] *See* Securities Exchange Act Release No. 60973 (Nov. 9, 2009), 74 FR 59308 (Nov. 17, 2009) (File No. SR–NYSEAmex–2009–81).

[8] *See id.*

[9] *See id.* at 59314.

[10] *Id.*

[11] *See id.*

[12] *See id.*

[13] *See id.*

[14] *See id.*

[15] *See id.*

[16] *See id.*

[17] *See id.*

[18] *See id.*

[19] *Id.*

[20] *See id.* at 59317.

[21] *Id.*

[22] *See* Securities Exchange Act Release No. 61244 (Dec. 28, 2009), 75 FR 479 (January 5, 2010) (File No. SR–NYSEAmex–2009–81).

[23] *See id.* at 481.

[24] *See id.* at 481–482.

The SEC explicitly stated that CO orders would be executed after all other orders, including G orders.[25] The SEC approval order stated:

> The Exchange further proposes to create a CO order type, which would provide all market participants an additional method to offset an order imbalance at the close. The CO order would not be guaranteed to participate in the closing transaction. CO orders would only be eligible to participate in the closing transaction when there is an imbalance of orders to be executed on the opposite side of the market from the CO order and there is no other interest remaining to trade at the closing price. *CO orders must yield to all other eligible interest* (emphasis added).[26]

The SEC approval order further stated:

> If there is an imbalance at the close and the price of the closing transaction is at or within the limit of the CO order, the CO order would be eligible to participate in the closing transaction, subject to strict time priority of receipt in Exchange systems among such eligible CO orders and *after yielding to all other interest in the closing execution,* including MOCs, marketable LOCs, *''G'' orders,* DMM interest, and at-priced LOCs (emphasis added).[27]

The SEC endorsed the Exchange's assertion that CO orders are beneficial to investors and to the marketplace.[28] The SEC stated in the approval order, ''[t]he creation of the CO order provides an additional source of liquidity to offset an imbalance going into the closing transaction, and thus should increase the greater efficiency of the closing process.'' [29]

The SEC found the amendments to Rule 123C, including the addition of CO orders and the execution priority, to be ''consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.'' [30] In support of this determination, the Commission stated that it:

> [B]elieves that these proposed modifications are consistent with the Act because, taken as a whole, they should enhance the efficiency and transparency of the closing transaction and provide customers with a more accurate depiction of market conditions prior to the closing transaction, and therefore allow them to make better-informed trading decisions.[31]

Subsequently, the SEC staff questioned whether the priority of execution of orders at the close was consistent with Section 11(a) of the Act and the rules promulgated thereunder. In particular, the SEC staff questioned whether G orders should take priority over CO orders. The Exchange began discussions with the SEC staff regarding a potential exemption from Section 11(a) of the Act or no-action relief for the limited purposes of priority of the CO order type on the close. After significant discussion with the SEC staff, the Exchange determined that rather than seek such an exemption or no-action relief, it would file a proposed rule change to change the order of execution in the closing rotation.

*Proposed Rule Change*

The Exchange now proposes to modify the hierarchy of interests that may be used to offset a closing imbalance, specifically by switching the positions in the hierarchy of G orders with a price equal to the closing price and CO orders. Accordingly, under the Exchange's proposed amendment to Rule 123C(7)(b), CO orders will be moved up in the execution hierarchy and G orders would give up execution priority to all other order types. The amended rule would allow execution in the following execution hierarchy to offset a closing imbalance:

(i) Limit orders represented in the Display Book with a price equal to the closing price and DMM interest;

(ii) LOC orders with a price equal to the closing price;

(iii) MOC orders that have tick restrictions that limit the execution of the MOC to the price of the closing transaction;

(iv) LOC orders that have tick restrictions that are capable of being executed based on the closing price and the price of such limit order is equal to the price of the closing transaction;

(v) CO orders; and

(vi) G orders with a price equal to the closing price.

The Exchange believes that Rule 123C(7)(b), as proposed, would continue to provide Exchange participants with control of and flexibility with respect to the handling of their orders to be executed in the closing transaction. The Exchange also believes that the proposed change to the hierarchy of interest that may be used to offset a closing imbalance would help ensure that G orders yield priority, parity and precedence to CO orders. The Exchange also notes its continued belief that the CO order type provides an important source of liquidity to offset an imbalance going into the closing transaction, and thus increases the efficiency of the closing process. The Exchange believes that the proposed modification to the hierarchy balances the requirement that G orders yield priority, parity and precedence to all non-G orders, with the important goal of preserving the role that CO orders play in increasing the efficiency of the closing process.

Because of the technology changes associated with this proposed rule change, the Exchange will announce by Trader Update when it will implement the proposed change.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[32] in general, and furthers the objectives of Section 6(b)(5) of the Act,[33] in particular, in that it is designed to ''prevent fraudulent and manipulative acts and practices,'' ''promote just and equitable principals of trade,'' ''remove impediments to and perfect the mechanism of a free and open market and a national market system'' and ''protect investors and the public interest.''

The Exchange believes that the proposed modification to the execution hierarchy of pending interest that may be used to offset a closing imbalance would continue to advance the efficiency and transparency of the closing transaction and continue to provide customers with information regarding the hierarchy of interest that may be used to offset a closing imbalance, which would continue to allow customers to make better informed decisions. In addition, the Exchange believes that the proposed reordering is consistent with the Act as it would help ensure that G orders yield priority, parity and precedence in execution to CO orders, consistent with Section 11(a)(1)(G) of the Act.[34]

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change would not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act because the proposal to modify the hierarchy of interest that may be used to offset a closing imbalance would help ensure that G orders yield priority, parity and precedence in execution to CO orders, consistent with Section 11(a)(1)(G) of the Act.[35] At the same time, the proposal would preserve the important benefits that CO orders provide as an additional source of liquidity to offset

[25] *See id.* at 481.
[26] *Id.* at 481.
[27] *Id.* at 481.
[28] *See id.* at 482.
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] 15 U.S.C. 78f(b).
[33] 15 U.S.C. 78f(b)(5).
[34] 15 U.S.C. 78k(a)(1)(G).
[35] 15 U.S.C. 78k(a)(1)(G).

an imbalance going into the closing transaction.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [36] and Rule 19b–4(f)(6) [37] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission 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–NYSEMKT–2013–107 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2013–107. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2013–107 and should be submitted on or before February 3, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00344 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

[36] 15 U.S.C. 78s(b)(3)(A).

[37] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[38] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71251; File No. SR–NSCC–2013–11]**

## Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Add a New Service to the National Securities Clearing Corporation's Obligation Warehouse (''OW'') Which Would Pair Off and Close Certain Open Obligations, Reducing the Number of Open Obligations in OW

January 7, 2014.

**I. Introduction**

On November 14, 2013, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–NSCC–2013–11 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The proposed rule change was published for comment in the **Federal Register** on November 29, 2013.[3] The Commission did not receive comments on the proposed rule change. This order approves the proposed rule change.

**II. Description of the Proposal**

NSCC's proposed rule change consisted of amendments to the Rules and Procedures (''Rules'') of NSCC to modify its Rules to add a new service to NSCC's Obligation Warehouse (''OW'') that will daily apply a pair off methodology to open OW Obligations, designated by Members as eligible for the service, based on the quantity of underlying securities, the final money amount, and the settlement dates of the underlying obligations, the (''Pair Off Function''). Upon making those revisions to NSCC's Rules, this approved, new service to OW will pair off and close certain open obligations, thereby reducing the number of open obligations in OW. The effective date of the proposed rule change will be announced via an NSCC Important Notice.

NSCC's OW, implemented in 2011, is a non-guaranteed, automated service that tracks, stores, and maintains unsettled ex-clearing and failed obligations, as well as obligations exited from NSCC's Continuous Net Settlement (''CNS'') system, non-CNS Automated Customer Account Transfer Service

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–70937 (Nov. 25, 2013), 78 FR 71686 (Nov. 29, 2013) (SR–NSCC–2013–11).

(''ACATS'') Receive and Deliver Instructions, Balance Orders, and Special Trades, as defined in NSCC's Rules (collectively ''OW Obligations''). The service provides transparency, serves as a central storage of open (i.e. failed or unsettled) broker-to-broker obligations, and allows users to manage and resolve exceptions in an efficient and timely manner. Simultaneously, OW provides on-going maintenance and servicing of matched obligations that have not been marked by a Member as subject to upcoming delivery, closure, or cancellation. Examples of this on-going maintenance and servicing include: Adjustments for certain corporate actions; daily review for CNS eligibility; and regular processing of the Reconfirmation and Pricing Service (''RECAPS'') in the OW on days announced by Important Notices. During the daily review for CNS eligibility, OW Obligations that are eligible for CNS are exited from the OW and forwarded to CNS. On days when RECAPS is run in the OW, OW Obligations that are eligible for RECAPS [4] are re-netted and, if appropriate, marked to the current market price [5] and provided with an updated settlement date of the next business day. The Pair Off Function will run once a day, immediately following the completion of the review for CNS eligibility.[6]

Today, in order to reduce the number of obligations that remain on their books and records, Members may take actions away from NSCC to close out these open obligations in OW. Those Members would then close the obligations in OW. The Pair Off Function will facilitate the close out of any OW Obligations that Members designate as eligible for the service. By facilitating the close out of these obligations in an automated manner within the OW, the Pair Off Function should add transparency to the life cycle of these obligations that may otherwise be closed out away from NSCC. With respect to obligations that are removed from the OW as a result of the Pair Off Function, Members' administrative costs associated with maintaining these obligations in OW should be reduced.

NSCC Members will have the opportunity to designate certain OW Obligations that are in ''Open'' status in the OW, to which they are a party, to be eligible to be paired off with other OW Obligations in the same CUSIP, and ultimately closed.[7] NSCC may, in its discretion, exclude certain obligations from the Pair Off Function, and will announce by Important Notice which obligations are excluded. Initially, the following obligations will be excluded: (1) OW Obligations in which the underlying security is a mutual fund, a when-issued security,[8] or is part of a syndicate; (2) OW Obligations that are identified in OW as an ACATS Receive and Deliver Instruction; (3) obligations that, as of the time the Pair Off Function runs, are identified in the OW as being subject to a corporate action; and (4) an obligation that is marked in the OW as being in ''Open'' status but has already been sent to The Depository Trust Company's Inventory Management System (IMS) as a pending delivery.

The Pair Off Function will use a matching methodology that will pair off eligible OW Obligations based on the quantity of underlying securities, the final money amount, and the settlement dates of the underlying obligations. The Pair Off Function will only match OW Obligations that have been designated as eligible for pair off by both Members that are party thereto, and that are in the same CUSIP and have the same counterparties, where the counterparties have offsetting long and short obligations. The methodology will pair off eligible OW Obligations in order by first pairing off those obligations that have the most criteria in common. For example, the methodology will first pair off eligible OW Obligations where the quantity of underlying securities, the settlement dates of the obligations, and the final money amounts are identical. The methodology will continue to review eligible OW Obligations subject to certain rules, beginning with eligible OW Obligations with the oldest settlement date, and eligible OW Obligations with the smallest number of underlying securities.

Eligible OW Obligations will be paired off where the quantity of underlying securities, the final money amount, or the settlement dates of the underlying obligations may not be identical, and, in certain cases, one OW Obligation may be paired off against multiple OW Obligations. However, a pair off would never occur if it would result in: (1) A negative quantity of underlying securities in either of the original obligations; (2) a negative final money amount; or (3) at least one of the obligations subject to the pair off to remaining open, with a reduced quantity of underlying securities and a final money amount of zero or less than zero. Additionally, OW Obligations in municipal bonds would only be eligible for pair off where the quantity of the underlying securities in the obligations subject to the pair off is identical and no underlying securities remain.

When the pair off criteria are met, the OW Obligations will either be closed or, when the quantities of underlying securities are not exactly matched between obligations being paired off, the pair off will result in one or more of the obligations being reduced by the quantity of securities that were paired off. Those obligations will remain in ''Open'' status in OW and will be adjusted to reflect the reduced number of underlying securities. Where the underlying final money amounts are not exactly matched between obligations being paired off, the pair off will result in a cash adjustment, which will be reflected in the Members' money settlement with NSCC on the following business day.

## III. Discussion and Commission Finding

Section 19(b)(2)(C) of the Act [9] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act [10] requires that the rules of a clearing agency to be designed to, among other things, ''promote the prompt and accurate clearance and settlement of securities transactions and . . . 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.'' [11] Further, Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, ''perfect the mechanism of a national system for the

[4] Obligations that are matched and have a settlement date of at least two days prior to the date on which the RECAPS process commences will be considered for inclusion in the RECAPS process, and therefore, fail items not already in the OW and eligible for RECAPS processing must be submitted by the Member prior to RECAPS processing.

[5] In the event that the current market price for a security is not available, the obligation's price details will be unchanged from when it was previously matched.

[6] NSCC will announce by Important Notice days on which Pair Off function will not run, which may include days on which the RECAPS process is run in the OW.

[7] Members may either participate in the Pair Off Function on an account level, designating all OW Obligations in an ''Open'' status in the OW to which they are a party as eligible for the Pair Off function and then opt out of the function with respect to certain OW Obligations, or they may designate only certain OW Obligations as eligible for pair off.

[8] A transaction in a ''when issued'' security is made conditionally because the underlying security has been authorized but not yet issued, and will only settle after the security has been issued.

[9] 15 U.S.C. 78s(b)(2)(C).

[10] 12 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1(b)(3)(F).

prompt and accurate clearance and settlement of securities transactions.'' [12] The Commission finds that NSCC's proposed rule change is consistent with these requirements because: the Pair Off Function is designed to provide for greater efficiency and transparency with respect to obligations processed through the OW; and to improve NSCC's current mechanism for the clearance and settlement of securities transactions that are placed in the OW.

**IV. Conclusion**

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act [13] and the rules and regulations thereunder.

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act, that the proposed rule change SR–NSCC–2013–11 be, and it hereby is, *approved.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00332 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–71248; File No. SR–CBOE–2013–113]**

### Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Relating to Multi-Class Spread Orders

January 7, 2014.

On November 18, 2013, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend CBOE 24.19 to revise several provisions governing the trading of Multi-Class Spread Orders. The proposed rule change was published for comment in the **Federal Register** on December 5, 2013.[3] The Commission has received no comment letters on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is January 19, 2014. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 5, 2014, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–CBOE–2013–113).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

**Kevin M. O'Neill,**

*Deputy Secretary.*

[FR Doc. 2014–00343 Filed 1–10–14; 8:45 am]

**BILLING CODE 8011–01–P**

## SMALL BUSINESS ADMINISTRATION

**[License No. 06/06–0326]**

### Main Street Mezzanine Fund, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that Main Street Mezzanine Fund, L.P., 1300 Post Oak Boulevard, Suite 800, Houston TX, 77056, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business Administration (''SBA'') Rules and Regulations (13 CFR 107.730). Main Street Mezzanine Fund, L.P.proposes to provide loan financing to LKCM Distribution Holdings, LLC, 301 Commerce Street, Suite 1600, Fort Worth, Texas 76102 (''LKCM'').

The financing is brought within the purview of § 107.730(a)(l) of the Regulations because a director of Main Street Capital Corporation, the Parent of Main Street Mezzanine Fund, L.P.is also a director of LKCM. The financing is also brought within the purview of § 107.730(a)(4) of the Regulations because LKCM is going to use the proceeds to purchase the assets of Thermal & Mechanical Equipment Company, LLC, 1423 E. Richey Road, Houston, Texas 77073 (''TMEC''). Main Street Mezzanine Fund, L.P., Main Street Capital II, L.P., and Main Street Capital Corporation have outstanding loans to TMEC and Main Street Equity Interests, Inc. and Main Street Capital II Equity Interests hold equity in TMEC, all Associates of Main Street Mezzanine Fund, L.P.The proceeds from the sale of TMEC's assets will be used to discharge the loan obligations and redeem the equity interests. Therefore this transaction is considered a financing constituting a conflict of interest requiring prior SBA approval. ·

Notice is hereby given that any interested person may submit written comments on the transaction, within fifteen days of the date of this publication, to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

**Javier Saade,**

*Associate Administrator, Office of Investment and Innovation.*

[FR Doc. 2014–00297 Filed 1–10–14; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF STATE

**[Public Notice 8591]**

### 60-Day Notice of Proposed Information Collection: Form—DS–1950, Department of State Application for Employment, OMB Control Number 1405–0139

**ACTION:** Notice of request for public comment.

**SUMMARY:** The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this

[12] Id.

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70961 (November 29, 2013), 78 FR 73211.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

notice is to allow 60 days for public comment preceding submission of the collection to OMB.

**DATES:** The Department will accept comments from the public up to March 14, 2014.

**ADDRESSES:**

- *Email: ossadm@state.gov*
- *Mail:* U.S. Department of State—SA–1, HR/REE/REC Room 518H, Attention: Diana M. Ossa, 2401 E. Street NW., Washington, DC 20522.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Diana M. Ossa, Bureau of Human Resources, Recruitment Division, Student Programs, U.S. Department of State, Washington, DC 20522, who may be reached on (202) 261–8931 or at *ossadm@state.gov.*

**SUPPLEMENTARY INFORMATION:**

- *Title of Information Collection:* Department of State Application for Employment
- *OMB Control Number:* 1405–0139
- *Type of Request:* Extension of a currently approved collection
- *Originating Office:* Bureau of Human Resources, Office of Recruitment, Examination, Employment (HR/REE)
- *Form Number:* DS–1950
- *Respondents:* U.S. Citizens seeking entry into certain Department of State Foreign Service positions
- *Estimated Number of Respondents:* 60
- *Estimated Number of Responses:* 60
- *Average Time per Response:* 30 minutes
- *Total Estimated Burden Time:* 30 hours
- *Frequency:* On Occasion
- *Obligation to Respond:* Required to obtain a benefit

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The DS–1950 has been the form used by individuals to apply for certain excepted jobs at the Department of State such as Foreign Service specialist positions. We wish to continue to use this form to clarify interpretation of applicant responses and how applicants become aware of our program opportunities. Section 1104 of title 5, United States Code, authorizes OPM to delegate the authority to collect necessary employment information to other agencies, including the Department of State. With respect to Foreign Service Specialist applicants, authority is given under 22 U.S.C. 3926 and 3941.

Methodology

The DS–1950 form will be used by applicants for certain service jobs at the Department of State, such as Foreign Service Specialist and Generalist positions. We are in the process of transitioning the final programs onto the *USAJobs.gov* platform and expect no more than 60 applicants to utilize the DS–1950 this year. Although we are encouraging all programs to use *USAJobs.gov,* we wish to extend the form to ensure we are not in violation under the Paper Reduction Act (PRA) during the transitioning period. Data, which is extracted from the form, is necessary to determine qualifications, salary, and selections, in accordance with Federal policies.

Dated: December 30, 2013.

**William E. Schaal Jr.,**

*Executive Director, HR/EX, Department of State.*

[FR Doc. 2014–00400 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8592]**

### Culturally Significant Objects Imported for Exhibition Determinations: ''Race to the End of the Earth''

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''Race to the End of the Earth,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Idaho, Idaho Falls, ID, from on or about January 30, 2014, until on or about September 1, 2014, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Julie Simpson, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6467). The mailing address is U.S. Department of State, SA–5, L/PD, Fifth Floor (Suite 5H03), Washington, DC 20522–0505.

Dated: January 7, 2014.

**Evan M. Ryan,**

*Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2014–00402 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8586]**

### In the Matter of the Designation of Ansar al-Shari'a in Tunisia; Also Known as Al-Qayrawan Media Foundation; Also Known as Supporters of Islamic Law; Also Known as Ansar al-Sharia in Tunisia; Also Known as Ansar al-Shari'ah; Also Known as Ansar al-Shari'ah in Tunisia; Also Known as Ansar al-Sharia; as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in

section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Ansar al-Shari'a in Tunisia, also known as Al-Qayrawan Media Foundation, also known as Supporters of Islamic Law, also known as Ansar al-Sharia in Tunisia, also known as Ansar al-Shari'ah, also known as Ansar al-Shari'ah in Tunisia, also known as Ansar al-Sharia.

Therefore, I hereby designate the aforementioned organization and its aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00410 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8584]**

### In the Matter of the Designation of Ansar al-Shari'a in Darnah; Also Known as Supporters of Islamic Law; Also Known as Ansar al-Sharia in Derna; Also Known as Ansar al-Sharia in Libya; Also Known as Ansar al-Sharia; Also Known as Ansar al-Sharia Brigade in Darnah; as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Ansar al-Shari'a in Darnah, also known as Supporters of Islamic Law, also known as Ansar al-Sharia in Derna, also known as Ansar al-Sharia in Libya, also known as Ansar al-Sharia, also known as Ansar al-Sharia Brigade in Darnah.

Therefore, I hereby designate the aforementioned organization and its aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00407 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8582]**

### In the Matter of the Designation of Ansar al-Shari'a in Benghazi; Also Known as Ansar al-Sharia in Libya; Also Known as Ansar al-Shariah Brigade; Also Known as Ansar al-Shari'a Brigade; Also Known as Katibat Ansar al-Sharia in Benghazi; Also Known as Ansar al-Shariah-Benghazi; Also Known as Al-Raya Establishment for Media Production; Also Known as Ansar al-Sharia; Also Known as Soldiers of the Sharia; Also Known as Ansar al-Shariah; Also Known as Supporters of Islamic Law; as a Foreign Terrorist Organization Pursuant to Section 219 of the Immigration and Nationality Act, as Amended

Based upon a review of the Administrative Record assembled in this matter and in consultation with the Attorney General and the Secretary of the Treasury, I conclude that there is a sufficient factual basis to find that the relevant circumstances described in section 219 of the Immigration and Nationality Act, as amended (hereinafter ''INA'') (8 U.S.C. 1189), exist with respect to Ansar al-Shari'a in Benghazi, also known as Ansar al-Sharia in Libya, also known as Ansar al-Shariah Brigade, also known as Ansar al-Shari'a Brigade, also known as Katibat Ansar al-Sharia in Benghazi, also known as Ansar al-Shariah-Benghazi, also known as Al-Raya Establishment for Media Production, also known as Ansar al-Sharia, also known as Soldiers of the Sharia, also known as Ansar al-Shariah, also known as Supporters of Islamic Law.

Therefore, I hereby designate the aforementioned organization and its aliases as a Foreign Terrorist Organization pursuant to section 219 of the INA.

This determination shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00403 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF STATE

**[Public Notice 8589]**

### In the Matter of the Designation of Ahmed Abu Khattalah; Also Known as Ahmad Bukhattalah, as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Ahmed Abu Khattalah, also known as Ahmad Bukhattalah, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00393 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8587]**

### In the Matter of the Designation of Ansar al-Shari'a in Tunisia; Also Known as Al-Qayrawan Media Foundation; Also Known as Supporters of Islamic Law; Also Known as Ansar al-Sharia in Tunisia; Also Known as Ansar al-Shari'ah; Also Known as Ansar al-Shari'ah in Tunisia; Also Known as Ansar al-Sharia; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23,

2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as Ansar al-Shari'a in Tunisia, also known as Al-Qayrawan Media Foundation, also known as Supporters of Islamic Law, also known as Ansar al-Sharia in Tunisia, also known as Ansar al-Shari'ah, also known as Ansar al-Shari'ah in Tunisia, also known as Ansar al-Sharia, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register.**

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00412 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8585]**

### In the Matter of the Designation of Ansar al-Shari'a in Darnah; Also Known as Supporters of Islamic Law; Also Known as Ansar al-Sharia in Derna; Also Known as Ansar al-Sharia in Libya; Also Known as Ansar al-Sharia; Also Known as Ansar al-Sharia Brigade in Darnah; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as Ansar al-Shari'a in Darnah, also known as Supporters of Islamic Law, also known as Ansar al-Sharia in Derna, also known as Ansar al-Sharia in Libya, also known as Ansar al-Sharia, also known as Ansar al-Sharia Brigade in Darnah, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00408 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## DEPARTMENT OF STATE

**[Public Notice 8590]**

### In the Matter of the Designation of Abu Sufian Ibrahim Ahmed Hamuda bin Qumu; Also Known as Sufian bin Qumu; Also Known as Sufian Ben Qhumu; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Abu Sufian Ibrahim Ahmed Hamuda bin Qumu, also known as Sufian bin Qumu, also known as Sufian Ben Qhumu, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00394 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF STATE

**[Public Notice 8588]**

### In the Matter of the Designation of Saifallah Ben Hassine; Also Known as Abou Iyadh; Also Known as Seif Allah Ben Hocine; Also Known as Abou Aayadh; Also Known as Sayf Allah 'Umar bin Hussayn; Also Known as Saifallah Ben Hassine; Also Known as Abu Ayyad al-Tunisi; Also Known as Sayf Allah bin Hussayn; Also Known as Abu Iyyadh al-Tunisi; Also Known as Abou Iyadh el-Tounsi; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the individual known as Saifallah Ben Hassine, also known as Abou Iyadh, also known as Seif Allah Ben Hocine, also known as Abou Aayadh, also known as Sayf Allah 'Umar bin Hussayn, also known as Saifallah Ben Hassine, also known as Abu Ayyad al-Tunisi, also known as Sayf Allah bin Hussayn, also known as Abu Iyyadh al-Tunisi, also known as Abou Iyadh el-Tounsi, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to

be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00413 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–10–P**

## DEPARTMENT OF STATE

**[Public Notice 8583]**

### In the Matter of the Designation of Ansar al-Shari'a in Benghazi; Also Known as Ansar al-Sharia in Libya; Also Known as Ansar al-Shariah Brigade; Also Known as Ansar al-Shari'a Brigade; Also Known as Katibat Ansar al-Sharia in Benghazi; Also Known as Ansar al-Shariah-Benghazi; Also Known as Al-Raya Establishment for Media Production; Also Known as Ansar al-Sharia; Also Known as Soldiers of the Sharia; Also Known as Ansar al-Shariah; Also Known as Supporters of Islamic Law; as a Specially Designated Global Terrorist Pursuant to Section 1(b) of Executive Order 13224, as Amended

Acting under the authority of and in accordance with section 1(b) of Executive Order 13224 of September 23, 2001, as amended by Executive Order 13268 of July 2, 2002, and Executive Order 13284 of January 23, 2003, I hereby determine that the entity known as Ansar al-Shari'a in Benghazi, Also Known as Ansar al-Sharia in Libya, Also Known as Ansar al-Shariah Brigade, Also Known as Ansar al-Shari'a Brigade, Also Known as Katibat Ansar al-Sharia in Benghazi, Also Known as Ansar al-Shariah-Benghazi, Also Known as Al-Raya Establishment for Media Production, Also Known as Ansar al-Sharia, Also Known as Soldiers of the Sharia, Also Known as Ansar al-Shariah, Also Known as Supporters of Islamic Law, committed, or poses a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.

Consistent with the determination in section 10 of Executive Order 13224 that ''prior notice to persons determined to be subject to the Order who might have a constitutional presence in the United States would render ineffectual the blocking and other measures authorized in the Order because of the ability to transfer funds instantaneously,'' I determine that no prior notice needs to be provided to any person subject to this determination who might have a constitutional presence in the United States, because to do so would render ineffectual the measures authorized in the Order.

This notice shall be published in the **Federal Register**.

Dated: December 31, 2013.

**John F. Kerry,**

*Secretary of State.*

[FR Doc. 2014–00405 Filed 1–10–14; 8:45 am]

**BILLING CODE 4710–05–P**

## SUSQUEHANNA RIVER BASIN COMMISSION

### Public Hearing

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** The Susquehanna River Basin Commission will hold a public hearing on February 6, 2014, in Harrisburg, Pennsylvania. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. Such projects are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for March 6, 2014, which will be noticed separately. The public should take note that this public hearing will be the only opportunity to offer oral comment to the Commission for the listed projects. The deadline for the submission of written comments is February 18, 2014.

**DATES:** The public hearing will convene on February 6, 2014, at 2:30 p.m. The public hearing will end at 5 p.m. or at the conclusion of public testimony, whichever is sooner. The deadline for the submission of written comments is February 18, 2014.

**ADDRESSES:** The public hearing will be conducted at the Pennsylvania State Capitol, Room 8E–B, East Wing, Commonwealth Avenue, Harrisburg, Pa.

**FOR FURTHER INFORMATION CONTACT:** Richard A. Cairo, General Counsel, telephone: (717) 238–0423, ext. 1306; fax: (717) 238–2436.

Information concerning the applications for these projects is available at the SRBC Water Resource Portal at *www.srbc.net/wrp.* Materials and supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at *www.srbc.net/pubinfo/docs/2009-02%20Access%20to%20Records%20Policy%209-10-09.PDF.*

**Opportunity To Appear and Comment**

Interested parties may appear at the hearing to offer comments to the Commission on any project listed below. The presiding officer reserves the right to limit oral statements in the interest of time and to otherwise control the course of the hearing. Ground rules will be posted on the Commission's Web site, *www.srbc.net,* prior to the hearing for review. The presiding officer reserves the right to modify or supplement such rules at the hearing.

Written comments on any project listed below may also be mailed to Mr. Richard Cairo, General Counsel, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Comments mailed or electronically submitted must be received by the Commission on or before February 18, 2014, to be considered.

**SUPPLEMENTARY INFORMATION:** The public hearing will cover the following projects:

**Public Hearing—Projects Scheduled for Action**

1. Project Sponsor and Facility: Aqua Infrastructure, LLC (Tioga River), Hamilton Township, Tioga County, Pa. Application for surface water withdrawal of up to 2.500 mgd (peak day).

2. Project Sponsor and Facility: Chesapeake Appalachia, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 0.750 mgd (peak day) (Docket No. 20091201).

3. Project Sponsor and Facility: DS Waters of America, Inc., Clay Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 6 (Docket No. 20000203).

4. Project Sponsor and Facility: Jay Township Water Authority, Jay Township, Elk County, Pa. Application for groundwater withdrawal of up to 0.265 mgd (30-day average) from Brynedale Well #1.

5. Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Lycoming Creek), Lewis Township, Lycoming County, Pa. Modification to low flow protection requirements and authorization of additional water uses of the surface water withdrawal approval (Docket No. 20110616).

6. Project Sponsor and Facility: Manheim Borough Authority, Manheim Borough, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.936 mgd (30-day average) from Well 4 (Docket No. 19830903).

7. Project Sponsor and Facility: Martinsburg Municipal Authority, North Woodbury Township, Blair County, Pa. Application for groundwater withdrawal of up to 0.288 mgd (30-day average) from Wineland Replacement Well 2.

8. Project Sponsor and Facility: Newport Borough Water Authority, Oliver Township, Perry County, Pa. Application for groundwater withdrawal of up to 0.162 mgd (30-day average) from Well 1.

9. Project Sponsor: Old Dominion Electric Cooperative. Project Facility: Rock Springs Expansion, Rising Sun District, Cecil County, Md. Application for consumptive water use of up to 7.900 mgd (peak day).

10. Project Sponsor and Facility: Old Dominion Electric Cooperative (Susquehanna River), Fulton Township, Lancaster County, Pa. Application for surface water withdrawal of up to 8.700 mgd (peak day).

11. Project Sponsor: Pennsylvania Department of Environmental Protection—South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.576 mgd (30-day average) from Stoltzfus Well.

12. Project Sponsor: Pennsylvania Department of Environmental Protection—South-central Regional Office, City of Harrisburg, Dauphin County, Pa. Facility Location: Leacock Township, Lancaster County, Pa. Application for groundwater withdrawal of up to 0.432 mgd (30-day average) from Township Well.

13. Project Sponsor and Facility: Pro-Environmental, LLC (Martins Creek), Lathrop Township, Susquehanna County, Pa. Application for surface water withdrawal of up to 0.999 mgd (peak day).

14. Project Sponsor and Facility: Seneca Resources Corporation (Arnot No. 5 Mine Discharge), Bloss Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.499 mgd (peak day) (Docket No. 20090908).

15. Project Sponsor and Facility: Susquehanna Gas Field Services, LLC (Susquehanna River), Meshoppen Township, Wyoming County, Pa. Application of surface water withdrawal of up to 2.000 mgd (peak day).

16. Project Sponsor and Facility: SWEPI LP (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for renewal of surface water withdrawal of up to 0.850 mgd (peak day) (Docket No. 20091202).

17. Project Sponsor and Facility: Talisman Energy USA Inc. (Fall Brook—C.O.P. Tioga State Forest), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20091204).

18. Project Sponsor and Facility: Talisman Energy USA Inc. (Fellows Creek—C.O.P. Tioga State Forest), Ward Township, Tioga County, Pa. Application for renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20091205).

19. Project Sponsor and Facility: XTO Energy, Inc. (Little Muncy Creek), Moreland Township, Lycoming County, Pa. Application for renewal of surface water withdrawal of up to 0.249 mgd (peak day) (Docket No. 20100313).

**Authority:** Pub. L. 91–575, 84 Stat. 1509 et seq., 18 CFR parts 806–808.

Dated: January 6, 2014.

**Stephanie L. Richardson,**

*Secretary to the Commission.*

[FR Doc. 2014–00366 Filed 1–10–14; 8:45 am]

**BILLING CODE 7040–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2013–57]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before February 3, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2013–0388 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Keira Jones (202) 267–4024 or Nia Daniels (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 7, 2014.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2013–0388.

*Petitioner:* Roy Wiegand, Mike Wilson, Brad Howard.

*Section of 14 CFR Affected:* 14 CFR 91.151.

*Description of Relief Sought:* Roy Wiegand, Mike Wilson, and Brad Howard seek relief to obtain a broad exemption for all small unmanned aircraft systems (sUAS) operators that,

due to their aircraft's physical size are unable to comply with the rule.

[FR Doc. 2014–00335 Filed 1–10–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2013–XX]**

### Petition for Exemption; Summary of Petition Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petition for exemption received.

**SUMMARY:** This notice contains a summary of a petition seeking relief from specified requirements of Title 14 of the Code of Federal Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

**DATES:** Comments on this petition must identify the petition docket number and must be received on or before February 3, 2014.

**ADDRESSES:** You may send comments identified by Docket Number FAA–2013–0883 using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.
- *Fax:* Fax comments to the Docket Management Facility at 202–493–2251.
- *Hand Delivery:* Bring comments to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy:* We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

*Docket:* To read background documents or comments received, go to *http://www.regulations.gov* at any time or to the Docket Management Facility in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sandra Long, ARM–201, Federal Aviation Administration, Office of Rulemaking, 800 Independence Ave. SW., Washington, DC 20591; email *Sandra.Long@faa.gov;* (202) 493–5245.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on January 7, 2014.

**Lirio Liu,**

*Director, Office of Rulemaking.*

### Petition for Exemption

*Docket No.:* FAA–2013–0883.

*Petitioner:* Tatonduk Outfitters, Ltd d/b/a Everts Air Cargo.

*Section of 14 CFR Affected:* 14 CFR 91.801 and Appendix C of part 36.

*Description of Relief Sought:* Petitioner requests relief to operate its McDonnell Douglas DC–9s (recertified with Stage 3 Hushkits) at higher than conforming maximum landing weights, thus making the airplanes non-compliant for Stage 3 noise.

[FR Doc. 2014–00338 Filed 1–10–14; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2012–0154; FMCSA–2012–0332; FMCSA–2013–0121; FMCSA–2013–0122; FMCSA–2013–0123]**

### Qualification of Drivers; Application for Exemptions; Hearing

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

**ACTION:** Notice of final disposition.

**SUMMARY:** FMCSA announces its decision to grant requests from 20 individuals for exemptions from the Agency's physical qualifications standard concerning hearing for interstate drivers. The current regulation prohibits hearing impaired individuals from operating CMVs in interstate commerce. After notice and opportunity for public comment, the Agency concluded that granting exemptions for these commercial driver's license (CDL) holders to operate property-carrying CMVs will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions. The exemptions are valid for a 2-year period and may be renewed, and the exemptions preempt State laws and regulations.

**DATES:** The exemptions are effective January 13, 2014. The exemptions expire on January 13, 2016.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

#### A. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (73 FR 3316, January 17, 2008).

#### B. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the safety regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The current provisions of the FMCSRs concerning hearing state that a person is physically qualified to drive a CMV if that person:

First perceives a forced whispered voice in the better ear at not less than 5 feet with or without the use of a hearing aid or, if tested

by use of an audiometric device, does not have an average hearing loss in the better ear greater than 40 decibels at 500 Hz, 1,000 Hz, and 2,000 Hz with or without a hearing aid when the audiometric device is calibrated to American National Standard (formerly ASA Standard) Z24.5—1951.

49 CFR 391.41(b)(11). This standard was adopted in 1970, with a revision in 1971 to allow drivers to be qualified under this standard while wearing a hearing aid, 35 FR 6458, 6463 (April 22, 1970) and 36 FR 12857 (July 3, 1971).

FMCSA grants 20 CDL holders an exemption from § 391.41(b)(11) concerning hearing to enable them to operate property-carrying CMVs in interstate commerce for a 2-year period. The Agency's decision on these exemption applications is based on the current medical literature and information and the ''Executive Summary on Hearing, Vestibular Function and Commercial Motor Driving Safety'' (the 2008 Evidence Report) presented to FMCSA on August 26, 2008. The evidence report reached two conclusions regarding the matter of hearing loss and CMV driver safety: (1) No studies that examined the relationship between hearing loss and crash risk exclusively among CMV drivers were identified; and (2) evidence from studies of the private driver license holder population does not support the contention that individuals with hearing impairment are at an increased risk for a crash. In addition, the Agency reviewed each applicant's driving record found in the CDLIS,[1] for CDL holders, and inspections recorded in MCMIS.[2] Each applicant's record demonstrated a safe driving history. The Agency believes the drivers covered by the exemptions do not pose a risk to public safety.

**C. Comments**

FMCSA announced the exemption applications and requested public comment for each of the applicants in one of the notices below. For those applicants discussed in a previous notice but who are not mentioned in this notice, the Agency will complete the evaluation of those applications and announce its decision at a later date.

[1] *Commercial Driver License Information System* (CDLIS) is an information system that allows the exchange of commercial driver licensing information among all the States. CDLIS includes the databases of 51 licensing jurisdictions and the CDLIS Central Site, all connected by a telecommunications network.

[2] *Motor Carrier Management Information System* (MCMIS) is an information system that captures data from field offices through SAFETYNET, CAPRI, and other sources. It is a source for FMCSA inspection, crash, compliance review, safety audit, and registration data.

*Docket # FMCSA–2012–0154*

On May 25, 2012, FMCSA published a notice of receipt of exemption applications and requested public comment on 45 individuals. The comment period ended on July 30, 2012. This application was in response to a request from the National Association of the Deaf (NAD). In response to this notice, FMCSA received 570 comments and granted 40 exemptions. The 570 comments were addressed in the Agency's notice published on February 1, 2013 (78 FR 7479).

*Docket # FMCSA–2012–0332*

On July 16, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 27 individuals. The comment period ended on August 15, 2013. In response to the notice, FMCSA received seven comments. All seven commenters support the idea of granting exemptions.

*Docket # FMCSA–2013–0121*

On May 3, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 9 individuals. The comment period ended on June 3, 2013. In response to the notice, FMCSA received three comments. All three commenters support the idea of granting exemptions.

*Docket # FMCSA–2013–0122*

On May 6, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 16 individuals. The comment period ended on June 5, 2013. In response to the notice, FMCSA received four comments. All four commenters support the idea of granting exemptions.

*Docket # FMCSA–2013–0123*

On July 16, 2013, FMCSA published a notice of receipt of exemption applications and requested public comment on 27 individuals. The comment period ended on August 15, 2013. In response to the notice, FMCSA received seven comments. All seven commenters support the idea of granting exemptions.

**D. Exemptions Granted**

Following individualized assessments of the exemption applications, FMCSA grants exemptions from 49 CFR 391.41(b)(11) to 20 individuals. Under current FMCSA regulations, all of the 20 drivers receiving exemptions from 49 CFR 391.41(b)(11) would have been considered physically qualified to drive a CMV in interstate commerce except that they do not meet the hearing requirement. FMCSA has determined that the following applicants should be granted an exemption.

Johsua Arango

Mr. Arango holds a class A CDL from Florida.

Alan T. Brown

Mr. Brown holds a class B CDL from New Jersey.

Mark Canoyer

Mr. Canoyer holds a class A CDL from Minnesota.

Nelson De Leon

Mr. De Leon holds a class A CDL from Florida.

Jerry Ferguson

Mr. Ferguson holds a class A CDL from Texas.

Anthony Gray

Mr. Gray holds a class A CDL from Kentucky.

Sue H. Gregory

Ms. Gregory holds a class A CDL from Utah.

David Hoffman

Mr. Hoffman holds a class A CDL from South Dakota.

Christopher A. Jayne

Mr. Jayne holds a class A CDL from Missouri.

Valerie Johnson

Ms. Johnson holds a class B CDL from California.

William Wallace Larson

Mr. Larson holds a class A CDL from North Carolina.

Roy Lloyd, Sr.

Mr. Lloyd holds a class A CDL from Virginia.

Ray Norris

Mr. Norris holds a class A CDL from Texas.

Gilbert Partida

Mr. Partida holds a class A CDL from Texas.

Johnny Pierson

Mr. Pierson holds a class A CDL from Alabama.

James Queen

Mr. Queen holds a class A CDL from Florida.

Noel A. Rodriguez

Mr. Rodriguez holds a class A CDL from New Hampshire.

James Schubin

Mr. Schubin holds a class A CDL from California.

Benton Scott

Mr. Scott holds a class A CDL from Mississippi.

Morris W. Townsend

Mr. Townsend holds a class A CDL from North Carolina.

**E. Basis for Exemption**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the hearing standard in 49 CFR 391.41(b)(11) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. With the exemption, applicants can drive in interstate commerce. Thus, the Agency's analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce. Based on its review of each driver's record, the Agency has concluded that allowing these applicants to drive in interstate commerce will achieve an equal level of safety. Each driver must comply with the terms and conditions of the exemption. This includes reporting any crashes or accidents as defined in 49 CFR 390.5 and reporting all citations and convictions for disqualifying offenses under 49 CFR part 383 and 49 CFR 391.

*Conclusion*

The Agency is granting exemptions from the hearing standard, 49 CFR 391.41(b)(11), to 20 individuals based on a thorough evaluation of each driver's qualifications and safety experience. Safety analysis of information relating to these 20 applicants meets the burden of showing that granting the exemptions would achieve a level of safety that is equivalent to or greater than the level that would be achieved without the exemption. By granting the exemptions, the CMV industry will gain 20 additional CMV drivers. In accordance with 49 U.S.C. 31315, each exemption will be valid for 2 years from the effective date with annual recertification required unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

FMCSA exempts the following 20 drivers for a period of 2 years from the physical qualification standard concerning hearing: Johsua Arango (FL); Alan Brown (NJ); Mark Canoyer (MN); Nelson De Leon (FL); Jerry Ferguson (TX); Anthony Gray (KY); Sue H. Gregory (UT); David Hoffman (SD); Christopher Jayne (MO); Valerie Johnson (CA); William Larson (NC); Roy Lloyd, Sr. (VA); Ray Norris (TX); Gilbert Partida (TX); Johny Pierson (AL); James Queen (FL); Noel Rodriguez (NH); James Schubin (CA); Benton Scott (MS); and Morris Townsend (NC).

Dated: January 7, 2014.

**Anne S. Ferro,**

*Administrator.*

[FR Doc. 2014–00411 Filed 1–10–14; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

**[Docket No. FMCSA–2003–15268; FMCSA–2011–0275; FMCSA–2011–0298; FMCSA–2011–0299]**

### Qualification of Drivers; Exemption Applications; Vision

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

**ACTION:** Notice of renewal of exemptions; request for comments.

**SUMMARY:** FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 9 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

**DATES:** This decision is effective January 24, 2014. Comments must be received on or before February 12, 2014.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2003–15268; FMCSA–2011–0275; FMCSA–2011–0298; FMCSA–2011–0299], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

*Instructions:* Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

**Exemption Decision**

This notice addresses 9 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 9 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Morris R. Beebe, II (CO)
Marion J. Coleman, Jr. (KY)
Mark A. Ferris (IA)
Herman Martinez (NM)
Gilford J. Whittle (GA)
Adam O. Carson (MS)
Lex A. Fabrizio (UT)
Roger W. Hammack (AL)
Greg W. Story (NC)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

**Basis for Renewing Exemptions**

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 9 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (68 FR 37197; 68 FR 48989; 70 FR 42615; 72 FR 40360; 74 FR 34632; 76 FR 64164; 76 FR 73769; 76 FR 75940; 76 FR 78729; 77 FR 541; 77 FR 3547). Each of these 9 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

**Request for Comments**

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 12, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 9 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

**Submitting Comments**

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2003–15268; FMCSA–2011–0275; FMCSA–2011–0298; FMCSA–2011–0299 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

**Viewing Comments and Documents**

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2003–15268; FMCSA–2011–

0275; FMCSA–2011–0298; FMCSA–2011–0299 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Dated: December 17, 2013.

**Larry W. Minor,**

*Associate Administrator for Policy.*

[FR Doc. 2014–00363 Filed 1–10–14; 8:45 am]

**BILLING CODE 4910–EX–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

### Notice and Request for Comments

**AGENCY:** Surface Transportation Board.

**ACTION:** 30-day notice of request for approval: complaints and petitions.

**SUMMARY:** As required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3519 (PRA), the Surface Transportation Board (STB or Board) gives notice that it has submitted a request to the Office of Management and Budget (OMB) for approval of the following information collections: (1) Complaints under 49 U.S.C. 721, 10701–10707, 11101–11103, 11701–11707 (rail), and 14701–14707 (motor, water & intermediaries), and 15901–15906 (pipelines) and 49 CFR 1111; [1] (2) petitions for declaratory orders under 5 U.S.C. 554(e) and 49 U.S.C. 721; and (3) ''catch all'' petitions (for relief not otherwise specified) under 49 U.S.C. 721 and 49 CFR 1117. Under these statutory and regulatory sections, the Board provides procedures for persons to make a broad range of claims and to seek a broad range of remedies before the Board. The Board previously published a notice about this collection in the **Federal Register** on April 22, 2013, at 78 FR 23826 (60-day notice). That notice allowed for a 60-day public review and comment period. No comments were received.

The information collections relevant to these complaints and petitions are described separately below. Regarding any of these collections, comments may now be submitted to OMB concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility.

**Description of Collections**

*Collection Number 1*

*Title:* Complaints Under 49 CFR 1111.
*OMB Control Number:* 2140–00XX.
*STB Form Number:* None.
*Type of Review:* Existing collection in use without an OMB control number.
*Respondents:* Affected shippers, carriers, communities, and other persons that seek redress for alleged violations related to unreasonable rates, unreasonable practices, service issues, and other statutory claims.
*Number of Respondents:* 4.
*Frequency:* On occasion. In Fiscal Year (FY) 2012, there were 5 complaints of this type filed with the Board by respondents.
*Total Burden Hours* (annually including all respondents): 2,335 hours (estimated hours per complaint (467) × number of FY 2012 complaints (5)).
*Total ''Non-Hour Burden'' Cost* (such as printing, mailing, and messenger costs): $7,310 (estimated ''non-hour burden'' cost per complaint ($1,462) × number of FY 2012 responses (5)).
*Needs and Uses:* Under the Board's regulations, persons may file complaints before the Board seeking redress for alleged violations of provisions of the ICA. In the last few years, the most significant complaints filed at the Board have alleged that a railroad is charging unreasonable rates or that it is engaging in an unreasonable practice. *See, e.g.,* 49 U.S.C 10701, 10704, 11701, 14701, 15901. The collection by the Board of these and other complaints, and the agency's action in conducting proceedings and ruling on the complaints, enables the Board to meet its statutory duty to grant relief from statutory violations (i.e., unreasonable rates and practices).

*Collection Number 2*

*Title:* Petitions for Declaratory Orders.
*OMB Control Number:* 2140–00XX.
*STB Form Number:* None.
*Type of Review:* Existing collection in use without an OMB control number.
*Respondents:* Affected shippers, carriers, communities, and other persons that seek a declaratory order from the Board to terminate a controversy or remove uncertainty.
*Number of Respondents:* 7.
*Frequency:* On occasion. In FY 2012, there were 7 petitions of this type filed with the Board by respondents.
*Total Burden Hours* (annually including all respondents): 1,281 hours (estimated hours per petition (183) × number of petitions (7)).
*Total ''Non-Hour Burden'' Cost* (such as printing, mailing, and messenger costs): $8,652 (estimated ''non-hour burden'' cost per petition ($1,236) × number of petitions (7)).
*Needs and Uses:* Under 5 U.S.C. 554(e) and 49 U.S.C. 721, the Board may issue a declaratory order to terminate a controversy or remove uncertainty. Petitions for declaratory order cover a broad range of requests. In recent years, petitions filed with the Board have sought declaratory orders on issues such as whether the provisions of the ICA and the Board's regulations preempt state and local laws (i.e., local permitting and land use laws) and even whether certain railroad practices are appropriate and legal. The collection by the Board of these petitions for declaratory order helps the Board to more efficiently meet its statutory duty to regulate the rail industry.

*Collection Number 3*

*Title:* Petitions for relief not otherwise provided.
*OMB Control Number:* 2140–00XX.
*STB Form Number:* None.
*Type of Review:* Existing collections in use without an OMB control number.
*Respondents:* Affected shippers, carriers, communities, and other persons that seek relief from violations of the ICA that are not otherwise specifically provided for under the Board's other regulatory provisions.
*Number of Respondents:* 6.
*Frequency:* On occasion. In FY 2012, there were 9 petitions of this type filed with the Board by respondents.
*Total Burden Hours* (annually including all respondents): 220.5 hours (estimated hours per petition (24.5) × number of petitions (9)).
*Total ''Non-Hour Burden'' Cost* (such as printing, mailing, and messenger costs): $630 (estimated ''non-hour burden'' cost per petition ($70) × number of petitions (9)).
*Needs and Uses:* Under 49 U.S.C. 721 and 49 CFR 1117 (the Board's catch all petition provision), shippers, carriers, and the public in general may seek relief (such as waivers of the Board's regulations) not otherwise specifically provided for under the Board's other regulatory provisions. Under § 1117.1, such petitions should contain three items: (a) A short, plain statement of jurisdiction, (b) a short, plain statement of petitioner's claim, and (c) request for relief. The collection by the Board of these petitions enables the Board to more fully meet its statutory duty to

[1] In its 60-day notice, the Board inadvertently failed to include the statutory sections 49 U.S.C. 11101–11103, 14701–14707 and 15901–15906. Under these sections of the Interstate Commerce Act (49 U.S.C. 10101–16106) (ICA), persons may bring complaints against non-rail carriers.

regulate the rail industry by granting relief to respondents.

*Retention Period:* Information in these collections is maintained by the Board for 10 years, after which it is transferred to the National Archives as permanent records.

**DATES:** Comments on this information collection should be submitted by February 12, 2014.

**ADDRESSES:** Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board'' and should identify the collection(s) that the comments address. These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Patrick Fuchs, Surface Transportation Board Desk Officer, by fax at (202) 395–5167; by mail at OMB, Room 10235, 725 17th Street NW., Washington, DC 20500; or by email to *oira—submission@omb.eop.gov* or faxed to them at (202) 395–6974.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Levitt, (202) 245–0269. [Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.] Relevant STB regulations are referenced below and may be viewed on the STB's Web site under E-Library > Reference: STB Rules, *http://www.stb.dot.gov/stb/elibrary/ref_stbrules.html.*

**SUPPLEMENTARY INFORMATION:** Under the PRA, a federal agency conducting or sponsoring a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Dated: January 8, 2014.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2014–00387 Filed 1–10–14; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF THE TREASURY

### Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, section 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th Street and Pennsylvania Avenue NW., Washington, DC, on February 4, 2014 at 11:30 a.m. of the following debt management advisory committee:

Treasury Borrowing Advisory Committee of The Securities Industry and Financial Markets Association.

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues and conduct a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, section 10(d) and Public Law 103–202, section 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, section 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, section 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions and financing estimates. This briefing will give the press an opportunity to ask questions about financing projections. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Fred Pietrangeli, Director for Office of Debt Management (202) 622–1876.

Dated: January 7, 2014.

**Matthew S. Rutherford,**

*Assistant Secretary, (Financial Markets).*

[FR Doc. 2014–00298 Filed 1–10–14; 8:45 am]

**BILLING CODE 4810–25–M**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Wrist Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 689), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

*Correction*

In FR Doc. 2013–27395, published on November 15, 2013, at 78FR68905, make the following corrections.

On page 68906, in the first column, under the **SUPPLEMENTARY INFORMATION** section heading, above the Affected Public heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to

respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at pages 68905–68906.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00381 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Back (Thoracolumbar Spine) Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 68906), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

**Correction**

In FR Doc. 2013–27356, published on November 15, 2013, at 78 FR 68906, make the following corrections.

On page 68906, in the second column, under the SUPPLEMENTARY SECTION heading, above the AFFECTED PUBLIC heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at page 68906.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00382 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Foot (Including Flatfeet (pes planus) Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 68907), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

*Correction*

In FR Doc. 2013–27396, published on November 15, 2013, at 78FR68907, make the following corrections.

On page 68908, in the first column, under the Supplementary Section heading, above the Affected Public heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at pages 68907–68908.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00392 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Hand and Finger Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 68907), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

**Correction**

In FR Doc. 2013–27407, published on November 15, 2013, at 78 FR 68907, make the following corrections.

On page 68907, in the first column, under the SUPPLEMENTARY SECTION heading, above the AFFECTED PUBLIC heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at page 68907.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00385 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Knee and Lower Leg Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register**

on November 15, 2013 (78 FR 68909), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

**Correction**

In FR Doc. 2013–27409, published on November 15, 2013, at 78 FR 68909, make the following corrections.

On page 68910, in the third column, under the **SUPPLEMENTARY SECTION** heading, above the AFFECTED PUBLIC heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at pages 68909–68910.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00380 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Ankle Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 68908), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

*Correction*

In FR Doc. 2013–27401, published on November 15, 2013, at 78FR68908, make the following corrections.

On page 68908, in the second column, under the Supplementary Section heading, above the Affected Public heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at page 68908.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00391 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Elbow and Forearm Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 68907), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

*Correction*

In FR Doc. 2013–27408, published on November 15, 2013, at 78FR68907, make the following corrections.

On page 68907, in the third column, under the Supplementary Section heading, above the Affected Public heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at page 68907.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00384 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900—NEW]**

### Hip and Thigh Conditions Disability Benefits; Correction

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) published an information collection notice in a **Federal Register** on November 15, 2013 (78 FR 68906), that omitted 60-day **Federal Register** notice information. This document corrects the error by adding the **Federal Register** notice information.

**FOR FURTHER INFORMATION CONTACT:** Crystal Rennie, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 632–7492.

*Correction*

In FR Doc. 2013–27393, published on November 15, 2013, at 78FR68906, make the following corrections.

On page 68906, in the third column, under the **SUPPLEMENTARY SECTION** heading, above the affected public heading, add the following information:

''An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on November 15, 2013, at page 68906.''

Dated: January 8, 2014.

By Direction of the Secretary.

**Crystal Rennie,**

*VA Clearance Officer, Department of Veterans Affairs.*

[FR Doc. 2014–00378 Filed 1–10–14; 8:45 am]

**BILLING CODE 8320–01–P**

# FEDERAL REGISTER

Vol. 79 Monday,

No. 8 January 13, 2014


Part II

## Department of Homeland Security

Coast Guard

33 CFR Parts 140, 145, 148, et al.

46 CFR Parts 25, 27, 28, et al.

Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment; Proposed Rule

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 140, 145, 148, and 149**

**46 CFR Parts 25, 27, 28, 30, 31, 32, 34, 50, 56, 70, 71, 72, 76, 78, 90, 91, 92, 95, 107, 108, 113, 114, 116, 118, 122, 125, 132, 147, 159, 160, 161, 162, 164, 167, 169, 175, 176, 177, 181, 182, 185, 188, 189, 190, and 193**

**[Docket No. USCG–2012–0196]**

**RIN 1625–AB59**

## Harmonization of Standards for Fire Protection, Detection, and Extinguishing Equipment

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to amend its regulations for certain design and approval standards for fire protection, detection, and extinguishing equipment on inspected and uninspected vessels, outer continental shelf facilities, deepwater ports, and mobile offshore drilling units. The proposed amendments would harmonize Coast Guard regulations with appropriate national and international consensus standards; address advances in fire protection technologies and standards; update Coast Guard approval processes for fire detection and alarm systems; and revise Coast Guard regulations for other types of equipment or components, such as spanner wrenches, non-metallic pipes, and sprinkler systems. These proposed changes are necessary to ensure Coast Guard regulations remain current and address advances in technology.

**DATES:** Comments and related material must either be submitted to our online docket via *http://www.regulations.gov* on or before April 14, 2014 or reach the Docket Management Facility by that date.

**ADDRESSES:** You may submit comments identified by docket number USCG–2012–0196 using any one of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* (202) 493–2251.

(3) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329.

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

*Viewing incorporation by reference material:* You may inspect the material proposed for incorporation by reference at Room 5S 18–07, U.S. Coast Guard Headquarters, Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509 between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 372–1392. Copies of the material are available as indicated in the ''Incorporation by Reference'' section of this preamble.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email LCDR John Miller, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard; (202) 372–1372, *TypeApproval@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Barbara Hairston, Program Manager, Docket Operations, telephone (202) 366–9826.

**SUPPLEMENTARY INFORMATION:**

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## I. Public Participation and Request for Comments

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

### *A. Submitting Comments*

If you submit a comment, please include the docket number for this rulemaking (USCG–2012–0196), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. We recommend that you include your name and a mailing address, an email address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and follow the instructions on that Web site. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

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

### *B. Viewing Comments and Documents*

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and follow the instructions on that Web site. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of

Transportation to use the Docket Management Facility.

*C. Privacy Act*

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

*D. Public Meeting*

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

## II. Abbreviations

ABS American Bureau of Shipping Rules for Building and Classing Steel Vessels
AHJ Authority Having Jurisdiction
ANSI American National Standards Institution
ASTM ASTM International
BLS Bureau of Labor Statistics
CFR Code of Federal Regulations
COI Collection of Information
$CO_2$ Carbon Dioxide
COA Certificate of Approval
DHS Department of Homeland Security
EC European Community
EEA European Economic Area
EFTA European Free Trade Association
ENV3 Category ENV3 Tests of Lloyds Register Type Approval System
E.O. Executive Order
FR Federal Register
FSS Code Fire Safety Systems Code
FTP Code Fire Test Procedures Code
GT Gross Ton
IMO International Maritime Organization
IEC International Electrotechnical Commission
ISO International Organization for Standardization
MISLE Marine Information for Safety and Law Enforcement
MODU Mobile Offshore Drilling Unit
MRA Mutual Recognition Agreement
NFPA National Fire Protection Association
NPRM Notice of Proposed Rulemaking
NRTL Nationally Recognized Testing Laboratory
NVIC Navigation and Vessel Inspection Circular
OCS Outer Continental Shelf
OCMI Officer in Charge Marine Inspections
OSHA Occupational Safety and Health Administration
OSV Offshore Supply Vessel
PFM Policy File Memorandum
RA Regulatory Analysis
§ Section Symbol
SOLAS International Convention for the Safety of Life at Sea
UL Underwriters Laboratory
U.S.C. United States Code

## III. Executive Summary

*A. Purpose of the Regulatory Action*

This proposed regulatory action is necessary to update Coast Guard regulations pertaining to certain design and approval standards for fire detection and alarm systems, fire extinguishers, and other fire prevention equipment used on inspected and uninspected vessels, Outer Continental Shelf (OCS) facilities, deepwater ports, and mobile offshore drilling units (MODUs). The proposed updates would harmonize our regulations with national and international industry consensus standards, and incorporate other advances in fire protection technologies and standards.

The basis of this notice of proposed regulatory action is the Secretary of Homeland Security's regulatory authority under the following statutes. Section 1333 of Title 43, United States Code (U.S.C.) mandates the issuance of safety equipment regulations on OCS facilities; 46 U.S.C. 3306 mandates the issuance of firefighting material and equipment regulations for Coast Guard inspected vessels and the issuance of structural fire protection and equipment regulations for small passenger vessels; 46 U.S.C. 3703 mandates firefighting equipment and material regulations for vessels carrying liquid bulk dangerous cargoes; 46 U.S.C. 4102 authorizes marine safety equipment regulations for fire extinguishers, life preservers, engine flame arrestors, engine ventilation, and emergency locating equipment on uninspected vessels, and authorizes regulations, after consultation with the Towing Safety Advisory Committee, for fire protection and suppression measures on towing vessels; 46 U.S.C. 4302 authorizes safety equipment such as firefighting equipment regulations for recreational vessels; and 46 U.S.C. 4502 mandates fire extinguisher regulations for some uninspected commercial fishing vessels and authorizes safety equipment regulations for certain other uninspected commercial fishing vessels. Section 1509 of Title 33, U.S.C., authorizes the Coast Guard to promulgate regulations for safety equipment relating to the promotion of safety of life and property in deepwater ports. The Secretary of Homeland Security has delegated these statutory authorities to the Coast Guard through Delegation No. 0170.1.

Under the statutory authorities listed above, the Coast Guard is authorized to develop and maintain standards for fire protection, detection, and extinguishing equipment on inspected and uninspected vessels, OCS facilities, deepwater ports, and MODUs. The Coast Guard implements these authorities through regulations specified in Table 1. Table 1 lists the subchapters in Titles 33 and 46 of the Code of Federal Regulations (CFR) affected by this proposed regulatory action (collectively referred to as ''affected subchapters''), and provides a breakdown of each subchapter by subject matter.

TABLE 1—AFFECTED SUBCHAPTERS

| CFR title | Subchapter | Parts | Topic |
|---|---|---|---|
| 33 | N | 140–147 | Outer Continental Shelf Activities. |
| 33 | NN | 148–150 | Deepwater Ports. |
| 46 | C | 24–28 | Uninspected Vessels. |
| 46 | D | 30–39 | Tank Vessels. |
| 46 | F | 50–64 | Marine Engineering. |
| 46 | H | 70–89 | Passenger Vessels. |
| 46 | I | 90–105 | Cargo and Miscellaneous Vessels. |
| 46 | I–A | 107–109 | Mobile Offshore Drilling Units. |
| 46 | J | 110–113 | Electrical Engineering. |
| 46 | K | 114–124 | Small Passenger Vessels Carrying more than 150 Passengers or with Overnight Accommodations for more than 49 Passengers. |
| 46 | L | 125–139 | Offshore Supply Vessels. |
| 46 | N | 140–149 | Dangerous Cargoes. |
| 46 | Q | 159–165 | Equipment, Construction and Material Specifications and Approval. |

TABLE 1—AFFECTED SUBCHAPTERS—Continued

| CFR title | Subchapter | Parts | Topic |
|---|---|---|---|
| 46 | R | 166–169 | Nautical Schools. |
| 46 | T | 175–187 | Small Passenger Vessels (Under 100 Gross Tons (GT)). |
| 46 | U | 188–196 | Oceanographic Research Vessels. |

*B. Summary of the Major Provisions of the Proposed Regulatory Action*

The major proposed provisions of this regulatory action harmonize Coast Guard regulations with national and international industry consensus standards and update Coast Guard regulations to incorporate advances in fire protection technology for specific types of fire protection, detection, and extinguishing equipment. Provisions are discussed below and are grouped by equipment type or topic.

Fire detection and alarm systems:

• Provide vessels with the option to meet either the applicable International Convention for the Safety of Life at Sea, 1974 (SOLAS) and the International Maritime Organization (IMO) Fire Safety Systems (FSS) Code requirements, or updated Coast Guard regulations for the design and installation of fire detection and alarm systems. These proposed changes would provide vessel owners and/or operators and designers greater flexibility in fire detection and alarm system design for U.S. domestic vessels.

• Consolidate and update the fire detection and alarm system requirements in 46 CFR subchapter H (passenger vessels). These changes would also affect 46 CFR subchapters C, I, K, and T vessels where the regulations refer to subchapter H for fire detection and alarm system requirements. The consolidation of these requirements would make it easier for industry to locate and meet these requirements. The proposed updates reflect advancements in the fire detection and alarm systems industry, which include development of digital technology and modern seamless electronic technology for the much larger land-based market. The Coast Guard would not require retrofitting of currently installed systems, but would require any modifications to installed systems or new installations to comply with the updated requirements after a 2½ year compliance period.

• Revise Coast Guard approval processes for fire detection and alarm systems by allowing manufacturers of fire detection and alarm systems equipment the option of seeking approval for an entire system or an individual device; making approval processes easier for manufacturers by allowing some approval tests to be completed by an approved third party nationally recognized testing laboratory (NRTL); and requiring the use of the most current and widely used national consensus standards for approval of fire detection and alarm systems, as specified by this rulemaking. These revisions would allow for an easier replacement of individual devices and open the market to small manufacturers or to those dedicated to making components but not producing all components necessary for a complete detection system. They would also provide manufacturers more flexibility and options for choosing a laboratory; and align our regulations with the most up-to-date national consensus standards that are already widely used by the fire detection industry.

Fire extinguishers:

• Replace the Coast Guard's weight-based rating system for fire extinguishers with the Underwriters Laboratory (UL) performance-based rating system. Adopting the national industry standard rating system would streamline the selection, inspection, and approval processes for marine fire extinguishers.

• Revise maintenance requirements for fire extinguishers by adopting National Fire Protection Association (NFPA) 10 ''Standard for Portable Fire Extinguishers'' (2010 Edition), which requires certified personnel to conduct annual fire extinguishing equipment maintenance. NFPA 10 distinguishes between monthly inspections (a visual check) and annual maintenance (a thorough inspection of materials and components, and associated repairs). Vessel crewmembers could continue to perform monthly inspections, however, a certified person would be required to conduct annual maintenance. This proposed change would align Coast Guard regulations with the current industry practice of having annual maintenance performed by commercial servicing companies.

• Codify use of UL standards for testing and labeling of fire extinguishers. These standards provide detailed, technical requirements for construction, performance, testing, packaging, and marking of the specific type of extinguisher. This proposed change would align Coast Guard regulations with current industry practice.

• Reduce the number of spare portable fire extinguishers required on vessels traveling domestic routes. This change is proposed because of the proposed enhanced maintenance requirements that would result in more reliable spares, as well as making new spares more easily obtainable.

Other fire protection equipment:

• Require small passenger vessels to carry spanner wrenches for fire hydrants that use 1.5-inch diameter hoses. This proposed requirement for small passenger vessels is consistent with spanner wrench carriage requirements for other vessel types, and is necessary to ensure that fire hoses can be replaced and deployed as needed.

Fire protection equipment approvals:

• Add new specification subparts in 46 CFR subchapter Q to address existing and new approval series for fire protection equipment and components required for use on SOLAS ships. The new approval series would codify the standards and procedures currently used by industry to obtain Coast Guard approval for fire protection equipment and components required on SOLAS ships. The new approval series would set forth design, construction, testing, and performance requirements for the affected equipment and components satisfying SOLAS requirements.

• Codify an alternative path to Coast Guard approval through an existing Mutual Recognition Agreement (MRA) to which the U.S. is a party, allowing for Coast Guard approvals of certain fire protection equipment issued by another nation that is party to the MRA. This proposed change would reduce manufacturer costs and burdens associated with duplicative testing and evaluation for multiple national approvals.

## IV. Background and Purpose

This rulemaking is part of a continued response to the Presidential Regulatory Reform Initiative of March 4, 1995 entitled ''Regulatory Reinvention Initiative,'' which called for a review of agency regulations with the goals of: (1) Cutting obsolete regulations; (2) Focusing on results instead of process and punishment; (3) Convening meetings with the regulated community;

and (4) Expanding efforts to promote consensual rulemaking. So far, we have issued four rulemakings in response to the Presidential Regulatory Reform Initiative.

The first rulemaking, ''Inspected and Uninspected Commercial Vessels; Removal of Obsolete and Unnecessary Regulations'' (60 FR 48044, September 18, 1995), removed or revised requirements for nuclear vessels, ocean incinerator ships, and ocean thermal energy conversion plant ships that the Coast Guard found to be obsolete or unnecessary.

The second rulemaking, ''Adoption of Industry Standards'' (61 FR 25984, May 23, 1996), made more substantial changes, removing or amending unnecessary provisions and adopting appropriate industry standards and practices in place of Coast Guard-specific requirements for vessels.

The third rulemaking, ''Harmonization with International Safety Standards'' (62 FR 51188, September 30, 1997), continued the Coast Guard's effort to reform its regulations by removing superfluous and outdated requirements and aligning the regulations more closely with international standards for vessels.

In the fourth rulemaking, ''Review and Update of Standards for Marine Equipment'' (73 FR 65156, October 31, 2008), the Coast Guard amended its rules relating to standards for marine equipment and updated the incorporation of references to national and international industry consensus standards for inspected commercial vessels in those rules.

With this proposed rulemaking, the Coast Guard is completing this set of responses to the 1995 Presidential Regulatory Reform Initiative by reviewing the existing fire protection, detection, and extinguishing equipment requirements and proposing revisions to ensure Coast Guard regulations are clear, contain additional flexibility through alternative compliance options, and reflect current industry practice, industry consensus standards, and modern technology.

Subsequent to the 1995 Presidential Regulatory Reform Initiative, Executive Order (EO) 12866 (''Regulatory Planning and Review'') was amended by EO 13563 (''Improving Regulation and Regulatory Review'') to direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). EO 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

We are also proposing to incorporate voluntary consensus standards instead of Coast Guard specific standards as directed by the Office of Management and Budget, Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities.'' *See Section VII. L. Technical Standards* for the list of voluntary consensus standards used in this rulemaking.

*A. Equipment-Specific Revisions*

The Coast Guard fire protection, detection, and extinguishing equipment regulations addressed in this NPRM have not been updated substantially since 1952 and do not reflect the latest industry practices or technologies. In this rulemaking, the Coast Guard proposes specific changes that address advances in fire protection, detection, and extinguishing equipment technologies. The proposed amendments mainly cover two types of equipment: Fire detection and alarm systems, and fire extinguishers. Additionally, the Coast Guard proposes revisions to its fire protection equipment approval processes that would allow manufacturers to obtain Coast Guard approval for equipment that would satisfy the applicable requirements in each of the affected subchapters (See Table 1 for list of affected subchapters). The Coast Guard also proposes some less significant revisions affecting other categories of fire protection equipment, including spanner wrenches, non-metallic piping, and sprinkler systems.

*B. Harmonize Coast Guard Regulations With National and International Industry Consensus Standards*

The Coast Guard proposes to replace specific fire protection, detection, and extinguishing equipment requirements by incorporation of national and international industry consensus standards, which would align Coast Guard regulations with current industry practices.

1. International Industry Consensus Standards

The Coast Guard proposes to incorporate into the affected subparts international industry consensus standards established by the IMO. International industry consensus standards are established by the Parties, including the United States, to SOLAS, working through the IMO. The United States, using input from multiple public meetings, actively participated in the negotiations that led to the development of these international industry consensus standards for fire protection, detection, and extinguishing equipment (IMO standards). The IMO standards addressed by this rulemaking implement the requirements of Chapter II–2 (fire protection, fire detection, and fire extinguishment) of SOLAS by providing detailed design, testing, installation, and maintenance requirements for fire protection, detection, and extinguishing equipment. The Coast Guard has proposed to incorporate the IMO standards into our regulations to fulfill our obligations under SOLAS, and because they provide best practices and modern design standards developed by the international community. Additionally, these provisions would provide further efficiencies by allowing domestic vendors and vessels to use one market for delivery and acquisition of products.

The Coast Guard also proposes to incorporate into the affected subparts an international industry consensus standard established by the International Electrotechnical Commission (IEC). The IEC is an international organization that develops and publishes consensus-based international standards for electrical, electronic, and related technologies. The Coast Guard proposes to incorporate the IEC standard for electrical components of a detection system, as this IEC standard represents the best industry standard as well as current marine industry practice for the use of these components.

2. National Industry Consensus Standards

The Coast Guard proposes to incorporate into the affected subparts national industry consensus standards by the NFPA, ASTM International (ASTM), and UL that have been approved by the American National Standards Institute (ANSI). ANSI is a private, nonprofit membership organization with members from private and public sector organizations that facilitates the development of national consensus standards. ANSI's work focuses on accrediting the standards development procedures of individual standards organizations to ensure that the standards developed represent a true consensus of private and public interests. These ANSI-accredited national industry consensus standards are developed by technical committees composed of representatives from a cross section of stakeholders affected by these standards. The Coast Guard

participates in the development of these national industry consensus standards through representation in the technical committees.

## V. Discussion of Proposed Rule

This proposed rule would make amendments within each of the affected subchapters within Titles 33 and 46 of the CFR for vessels, OCS facilities, deepwater ports, and MODUs. The proposed amendments address fire alarm and detection systems, fire extinguishers, and other fire protection equipment requirements, and would revise approval processes and make other administrative changes to correct errors, provide better organization, and make general clarifying changes. Parts A through E of this section discuss these proposed provisions. The discussion is divided into five major categories: (A) Fire Alarm and Detection Systems, (B) Fire Extinguishers, (C) Other Fire Protection Equipment Requirements, (D) Updates to Approval Process and Guidance for Equipment and Materials, and (E) Administrative Changes. Within these categories, we divide the discussion into sub-categories. Table 2 provides a list of these categories, sub-categories and affected CFR sections. For explanation of the proposed amendments presented in Table 2, see parts A through E of this section.

TABLE 2—INDEX OF PROPOSED CHANGES AND CFR SECTIONS AFFECTED

| Categories | Sub-categories | Affected CFR sections |
|---|---|---|
| A. Fire Alarm and Detection Systems. | 1. Harmonization with national and international industry consensus standards. | 46 CFR 76.01–2; § 95.01–2; § 161.002–1. |
| | 2. Optional use of detection and alarm system requirements of SOLAS and the FSS Code. | 46 CFR 76.27–1; § 76.27–70. |
| | 3. Consolidation and revision of operation and installation requirements. | 46 CFR 76.05–1; § 76.05–20; § 76.27–5; § 76.27–10; § 76.27–15; § 76.27–20; § 76.27–25; § 76.27–30; § 76.27–35; § 76.27–70; § 76.27–80. |
| | 4. Grandfathering and 2 and ½; year Compliance Period. | 46 CFR 76.27–80; § 76.30–1; § 76.33–1; § 76.35–1. |
| | 5. Sample extraction, smoke detection systems. | 46 CFR 76.33–20; § 95.05–1; § 95.05–3. |
| | 6. Changes to approval processes for detection and alarm systems. | 46 CFR 161.002–1; § 161.002–2; § 161.002–3; § 161.002–4; § 161.002–6; § 161.002–8; § 161.002–9; § 161.002–10; § 161.002–12; § 161.002–14; § 161.002–15; § 161.002–18; § 161.002–19. |
| | 7. Revised requirements using guidance found in Navigation and Vessel Inspection Circular (NVIC) 7–80 for excess detection systems. | 33 CFR 149.403; § 149.404; 46 CFR 27.203; § 28.155; § 34.01–5; § 76.01–5; § 95.01–5, § 118.120; § 132.340; § 167.45–30; § 181.120; § 193.01–5. |
| B. Fire Extinguishers | 1. Ratings: UL 711 and NFPA 10: 2010 | 33 CFR 145.05, § 145.10; § 145.15; § 149.405; § 149.409; § 149.410; 46 CFR 25.30–1; § 25.30–20; § 25.30–80; § 27.303; § 27.305; § 28.160; § 34.50–1; § 34.50–5; § 34.50–10; § 34.50–80; § 76.50–1; § 76.50–5; § 76.50–10; § 76.50–20; § 76.50–80; § 95.01–1; § 95.50–1; § 95.50–5; § 95.50–10; § 95.50–20; § 95.50–80; § 108.491; § 108.495; § 108.496; § 118.115; § 118.500; § 132.210; § 132.220; § 132.240; § 132.250; § 162.028–2; § 162.028–3; § 162.039–2; § 162.039–3; § 169.567; § 181.500; § 193.50–5; § 193.50–10; § 193.50–20; § 193.50–80. |
| | 2. Maintenance: NFPA 10: 2010 | 33 CFR 145.01; § 149.408; 46 CFR 25.30–10; § 31.01–2; § 31.10–18; § 71.25–20; § 91.25–7; § 91.25–20; § 107.235; § 169.247; § 176.810; § 188.01–5; § 189.25–20. |
| | 3. Testing: UL 8, UL 154, UL 299, UL 626, 2129. | 46 CFR 162.028–1; § 162.028–3; § 162.028–4; § 162.039–1; § 162.039–3; § 162.039–4. |
| | 4. Approval process | 46 CFR 162.028–5; § 162.028–7; § 162.039–5; § 162.039–7. |
| | 5. Reducing and relocating of spare extinguisher requirements. | 46 CFR 34.50–10; § 34.50–15; § 76.50–10; § 76.50–15; § 95.50–10; § 95.50–15; § 108.495; § 132.230; § 169.567; § 181.500; § 193.50–15. |
| C. Other fire protection equipment requirements. | 1. Spanner wrench carriage requirements for small passenger vessels. | 46 CFR 118.310; § 181.310. |
| | 2. Alternative use of two small fire hoses in place of a single hose. | 46 CFR 76.10–5; § 76.10–10; §; § 95.10–5; § 95.10–10 § 193.10–5; § 193.10–10. |
| | 3. Limited use of non-marine fire extinguishers. | 46 CFR 34.50–10. |
| | 4. Amended definitions of small passenger (subchapter T) vessels. | 46 CFR 175.400; § 177.410. |
| | 5. Clarification on the use of international standard (SOLAS) in lieu of domestic standards. | 46 CFR 32.56–1; § 72.05–1; § 92.07–1; § 116.400; § 177.420; § 190.07–1. |
| | 6. Use of nonmetallic pipe | 46 CFR 56.60–25. |
| | 7. Use of nonmetallic pipe on small passenger (subchapter T) vessels. | 46 CFR 182.720. |
| | 8. Sprinkler systems | 46 CFR 25.30–15; § 34.01–15; § 34.30–1; § 76.01–2; 76.25–1; § 76.25–5; § 76.25–10; § 76.25–15; § 76.25–20; § 76.25–25; § 76.25–30; § 76.25–35; § 95.01–2; § 95.30–1; § 108.101; § 108.430; § 193.01–3; § 193.30–1. |
| | 9. Alternatives for Halon bottle inspection. | 46 CFR 147.7, § 147.65. |

TABLE 2—INDEX OF PROPOSED CHANGES AND CFR SECTIONS AFFECTED—Continued

| Categories | Sub-categories | Affected CFR sections |
|---|---|---|
| D. Updates to equipment approval process and guidance for equipment and materials. | 1. Acknowledgement of MRA | 46 CFR 159.001–3; § 159.003–1; § 159.003–3; § 159.003–5; § 159.003–7; § 159.003–9. |
| | 2. Approval Series | 46 CFR 162.027–1; § 162.027–2; § 162.027–3; § 162.027–4; § 162.163–1; § 162.163–2; § 162.163–3; § 162.163–4; § 164.006–6; § 164.007–10; § 164.008–8; § 164.009–26; § 164.012–16; § 164.105–1; § 164.105–2; § 164.105–3; § 164.105–4; § 164.106–1; § 164.106–2; § 164.106–3; § 164.106–4; § 164.107–1; § 164.107–2; § 164.107–3; § 164.107–4; § 164.108–1; § 164.108–2; § 164.108–3; § 164.108–4; § 164.109–1; § 164.109–2; § 164.109–3; § 164.109–4; § 164.110–1; § 164.110–2; § 164.110–3; § 164.110–4; § 164.111–1; § 164.111–2; § 164.111–3; § 164.111–4; § 164.112–1; § 164.112–2; § 164.112–3; § 164.112–4; § 164.117–1; § 164.117–2; § 164.117–3; § 164.117–4; § 164.136–1; § 164.136–2; § 164.136–3; § 164.136–4; § 164.137–1; § 164.137–2; § 164.137–3; § 164.137–4; § 164.138–1; § 164.138–2; § 164.138–3; § 164.138–4; § 164.139–1; § 164.139–2; § 164.139–3; § 164.139–4; § 164.141–1; § 164.141–2; § 164.141–3; § 164.141–4; § 164.142–1; § 164.142–2; § 164.142–3; § 164.142–4; § 164.144–1; § 164.144–2; § 164.144–3; § 164.144–4; § 164.146–1; § 164.146–2; § 164.146–3; § 164.146–4; § 164.201–1; § 164.201–2; § 164.201–3; § 164.201–4; § 164.207–1; § 164.207–2; § 164.207–3; § 164.207–4. |
| | 3. FTP Code tests laboratories ISO/IEC 17025 certified. | 46 CFR 159.010–3. |
| E. Administrative changes. | 1. Correcting metric conversions | 46 CFR 114.400; § 118.410; § 175.400; § 181.410. |
| | 2. Moving regulations from 46 CFR 181.40 to 181.405. | 46 CFR 181.400; § 181.405. |
| | 3. Addition of omitted statutory authority citation. | 33 CFR part 149. |
| | 4. Editorial changes and general clarifying changes. | 46 CFR 28.325; § 28.830; § 34.01–5; § 34.50–15; § 56.60–25; § 76.05–1; § 76.05–5; § 76.05–10; § 76.05–20; § 76.10–5; § 76.10–10; § 76.27–30; § 76.27–90; § 76.30–1; § 76.30–5; § 76.30–10; § 76.30–15; § 76.30–90; § 76.33–1; § 76.33–5; § 76.33–10; § 76.33–15; § 76.33–20; § 76.33–90; § 76.35–1; § 76.35–5; § 76.35–10; § 76.35–15; § 76.50–20; § 78.47–13; § 92.07–1; § 95.01–5; § 95.05–1; § 95.10–5; § 95.10–10; § 95.30–1; § 108.405; § 113.05–7; § 116–440; § 118.310; § 118.400; § 122.612; § 147.65; § 169.609; § 169.236; § 169.563; § 169.629; § 169.672; § 169.703; § 176.810; § 177.410; § 185.612; § 189.25–20; § 190.07–1; § 193.10–5; § 193.10–10; § 193.50–1; § 193.50–90. |

*A. Fire Alarm and Detection Systems*

In 46 CFR parts 76 (Fire protection equipment in subchapter H), 95 (Fire protection equipment in subchapter I), and 161 (Electrical equipment in subchapter Q), we propose updated requirements for fire alarm and detection systems. We propose harmonizing our operation and installation requirements with current national and international industry consensus standards to provide the regulated community with up-to-date requirements that better match the current state of the detection and alarm industry. Additionally, we propose reorganizing existing requirements and renaming some subparts or sections to better reflect any updates, reorganizations, or the revised or existing content of the sections for clarity and ease of reading.

1. Harmonization With National and International Industry Consensus Standards

We propose to harmonize 46 CFR parts 76, 95, and 161 with the below listed national and international industry consensus standards. We discuss the effects of harmonizing Coast Guard regulations with these standards in the sections A.2 through A.7.

• Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: Article, Annexes and Certificates. (Incorporating all Amendments in Effect from July 1, 2009) (''SOLAS''). SOLAS provides requirements for vessel construction, arrangement, and management on international voyages. With respect to fire detection and alarm systems, Chapter II–2, Regulation 7 identifies the general requirements for fire alarm systems on vessels.

• International Code for Fire Safety Systems, 2007 Edition, (''FSS Code''). The FSS Code provides international standards of specific engineering specifications for fire safety systems required by Chapter II–2 of SOLAS, as amended. The FSS Code details requirements for design, installation, and testing of fire protection and detection systems on vessels.

• International Standard IEC 60092–504, Electrical Installations in Ships—Part 504: Special Features—Control and Instrumentation, Third Edition 2001–03 (''IEC 60092–504''). This international standard is intended to ensure safety in the design, selection, installation, maintenance and use of electrical equipment for the generation, storage, distribution, and utilization of electrical energy for all purposes in seagoing ships. This standard deals with electrical, electronic, and programmable equipment intended for control,

monitoring, alarm, and protection systems for use in ships.

• American National Standard for Radiant Energy-Sensing Fire Detectors for Automatic Fire Alarm Signaling, February 2004 (''ANSI FM 3260''). This standard sets operational, durability, and other specific, technical performance requirements for radiant energy-sensing fire detectors used for automatic fire alarm signaling for the protection of occupants, spaces, structures, areas, or objects.

• NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition. This standard covers the design and installation of sprinkler systems.

• NFPA 72, National Fire Alarm and Signaling Code, 2010 Edition. This standard covers the application, installation, location, performance, inspection, testing, and maintenance of fire alarm systems, supervising station alarm systems, public emergency alarm reporting systems, fire warning equipment and emergency communications systems, and their components.

• UL 38, Standard for Manually Activated Signaling Boxes for Fire Alarm Systems, 2008. This standard sets operational, durability, and other specific, technical requirements for manual signaling boxes for fire alarm systems intended for permanent installation and use in ordinary locations.

• UL 268, Standard for Smoke Detectors for Fire Protective Signaling Systems, 2009. This standard sets operational, durability, and other specific, technical requirements for smoke detectors intended to be employed in indoor locations.

• UL 464, Standard for Audible Signaling Appliances, 2009. This standard sets operational, durability, and other specific, technical requirements for electrically and electronically operated bells, buzzers, horns, and similar audible signal appliances, rated 300 volts or less, for general or fire-protective signaling service and intended for indoor or outdoor locations.

• UL 521, Standard for Heat Detectors for Fire Protective Signaling Systems, 1999. This standard sets operational, durability, and other specific, technical requirements for heat detectors for fire protective signaling systems intended to be installed in ordinary indoor and outdoor locations.

• UL 864, Standard for Control Units and Accessories for Fire Alarm Systems, 2003. This standard sets operational, durability, and other specific, technical requirements for discrete electrical control units and accessories for fire alarm systems to be employed in accordance with numerous NFPA Standards. The products covered by this standard are intended to be used in combination with other appliances and devices to form a commercial fire alarm system. These products provide all monitoring, control, and indicating functions of the system.

• UL 1480, Standard for Speakers for Fire Alarm, Emergency, and Commercial and Professional Use, 2003. This standard sets operational, durability, and other specific, technical requirements for speakers for indoor and/or outdoor use in dry, damp, wet, or underwater locations and are intended for fire alarm systems in accordance with the National Fire Alarm Code, NFPA 72, providing emergency voice/alarm occupant notification.

• UL 1971, Standard for Signaling Devices for the Hearing Impaired, 2002. This standard sets operational, durability, and other specific requirements for emergency-signaling devices for the hearing impaired. These devices should also be used in accordance with the requirements of the National Fire Alarm Code, NFPA 72. A signaling device, as covered by these requirements, consists of a unit assembly of electrical parts having provision for the connection of power supply circuits routed through the equipment by a prescribed scheme of circuiting.

2. Optional Use of Detection and Alarm System Requirements of SOLAS and the FSS Code

In 46 CFR subpart 76.27 (Fire Detection and Alarm System, Details), we propose to allow non-SOLAS vessels to meet either the appropriate provisions of SOLAS and the FSS Code, or existing Coast Guard regulations for the design and installation of fire detection and alarm systems. Specifically, proposed § 76.27–1(b) states that the design, manufacture, installation, and operation of fire detection and alarms systems must be in accordance with either SOLAS Chapter II–2, Regulation 7 and the FSS Code Chapter 9, or Coast Guard requirements in § 76.27–5 through 76.27–35. Proposed § 76.27–70 sets forth the additional requirements with which SOLAS certificated U.S. ships must comply when using the regulations in SOLAS and the FSS Code. Proposed § 76.27–70 also codifies existing U.S. interpretations of SOLAS and the FSS Code and provides clarification on these regulations.

These changes are proposed to provide U.S. vessel owners and/or operators and designers greater flexibility in detection and alarm system design. The Coast Guard, using input from multiple public meetings, actively participated in the formation of these international requirements and therefore determined that these standards provide the appropriate level of safety and are broadly equivalent to existing Coast Guard regulations.

3. Consolidation and Revision of Operation and Installation Requirements

The Coast Guard proposes to change the title of 46 CFR 76.05–1 from ''Fire detecting systems'' to ''Fire detection and alarm systems'' because we are consolidating alarm and fire detection system requirements to reflect modern seamless electronic technology. Additionally, the text of this section would be edited to cover alarm systems in addition to fire detection systems.

The Coast Guard proposes to consolidate existing §§ 76.27, 76.30, 76.33, and 76.35 into one revised subpart 76.27. The existing regulations for fire detection and alarm systems have not been updated appreciably since they were first promulgated in 1965 (30 FR 16940, December 30, 1965). As such, they do not reflect developments in the field of fire detection and alarm systems used on land or in the marine environment. These proposed changes consolidating existing regulations into and updating subpart 76.27 would also affect 46 CFR subchapters C, I, K, and T where these regulations refer to subchapter H for fire detection and alarm system requirements.

We propose changing the title of subpart 76.27 from ''Electric Fire Detecting System, Details'' to ''Fire Detection and Alarm System, Details'' to reflect the proposed consolidation of alarm and fire detection system requirements within this subpart. Along with the new text consolidating the alarm and fire detection system requirements and adapting to digital electronic technology, we propose to reorganize the sections within subpart 76.27 to better reflect the proposed and revised content of these sections. Specifically, § 76.27–1 would remain ''Application''; § 76.27–5 would become ''General''; § 76.27–10 would become ''Operation''; § 76.27–15 would become ''Detectors''; § 76.27–20 would be titled ''Alarm indicators''; § 76.27–25 would be titled ''Power and circuitry''; § 76.27–30 would be titled ''Zoning''; § 76.35 would be titled ''Installation''; § 76.27–70 would be titled ''Application of SOLAS and the FSS Code''; § 76.27–80 would be titled ''Installations contracted

for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE]''; and § 76.27–90 would remain ''Installations contracted for prior to November 15, 1952.'' The proposed changes to the text of these sections are discussed in more detail below.

As introduced above, we also propose to consolidate into subpart 76.27 the requirements for electric, pneumatic, and manual fire detection and alarm systems in consideration of the seamless technology that is now being employed in the industry. The proposed rule would consolidate elements of pneumatic fire detection systems currently set forth in subpart 76.30, elements of smoke-detecting systems currently set forth in subpart 76.33, and elements of manual alarm systems currently set forth in subpart 76.35. These proposed changes reflect the current practice of the fire protection industry, which seamlessly integrates fire detection and alarm systems together. The existing organization artificially segregates elements of fire detection and alarm systems based on the type of system. Additionally, in § 76.27–15 we propose to broaden the scope of electric fire detecting systems to cover fire detection and alarm systems responsive to heat, smoke, flame, or other fire indicators, to allow the use of these detection technologies as our regulations currently limit the detection types that can be used.

We also propose creating new § 76.27–5 to explicitly set forth the functional requirements of fire detection and alarm systems that were implicit in the existing regulations. Specifically, this section would require the fire detection and alarm system to detect fires in protected spaces, to process this information, and to signal the crew and passengers as appropriate. This proposed change would provide the purpose and functional requirements of each currently required device. By providing a performance standard we would allow industry the flexibility in meeting and obtaining safety objectives.

We also propose to move the installation requirements for approved fire detecting systems on certain existing vessels from Table 76.05–1(a) to new Table 76.27–80. Fire detection and alarm system installation requirements for new vessels would be found in proposed § 76.27–35(a), as discussed below. Existing installation requirements for approved fire extinguishing systems will remain the same; however we propose to move these requirements from Table 76.05–1(a) to new Table 76.05–20.

We propose revising § 76.27–10 to bring the requirements for operation of prescribed fire detection and alarm systems in line with modern, electronic, and commercially available units. This proposed change would remove the current restriction against an interface between a fire detection and alarm system and related safety systems, as well as ship operating systems, to exploit the efficiencies and added safety afforded by modern industry practice.

We also propose to move a portion of the former text of § 76.27–15 to new § 76.27–35. The effect of this proposed change would be to allow, in addition to heat detectors, the use of approved smoke, flame, or other detectors of fire indicators. This proposed change would take advantage of the availability of reliable smoke detectors in today's market.

We propose new § 76.27–20 to provide detailed requirements for alarm indicators, which align with modern electronic indicators that are commercially available.

We propose new § 76.27–25 to indicate that the power and circuitry of the fire detection and alarm system must comply with 46 CFR subchapter J (Electrical Engineering).

We propose renumbering existing § 76.27–5 as new § 76.27–30, and amending this section to provide flexibility to employ systems using electronically addressable detectors. When an addressable detector is triggered, the identity, type, and location of the detector can be immediately displayed at the control panel. This information is more precise and useful than that afforded by a zoned system. Thus, we propose allowing systems using addressable detectors as an alternative to zoned systems.

Proposed new § 76.27–35 would cover installation of the components of fire detection and alarm systems, and include some relevant existing text that would be moved to this new section from §§ 76.27–15 and 76.35–10. In addition, in this proposed new section, we propose to require that the spacing of certain other elements in vessels be according to spacing derived from the tests passed to obtain type approval, rather than an arbitrary maximum. This should encourage innovation and flexibility in the marine detection and alarm market.

4. Grandfathering and 2½-Year Compliance Period

The Coast Guard proposes to allow existing vessels to continue to use their currently installed fire detection and alarm systems that were designed, installed, and currently operated in accordance with existing subparts 46 CFR 76.27, 76.30, 76.33, and 76.35 until the existing system is altered or a new system is added. It is Coast Guard policy to permit grandfathering and not require retrofitting unless there is a significant safety concern, and the proposed changes for fire alarm and detection systems are not aimed at addressing identified safety deficiencies but are intended to update our regulations to allow the use of the most modern technology.

Additionally, the Coast Guard proposes to allow new installations of currently approved fire detection and alarm systems designed and installed in accordance with existing subparts 76.27, 76.30, 76.33, and 76.35 for 2½ years from the date of the final rule publication. The Coast Guard proposes this 2½-year compliance period to allow manufacturers to appropriately plan and conduct testing of existing systems to the proposed new standards. Based upon our understanding of technology and industry this 2½-year compliance period would allow manufacturers ample time to design, test, and gain approval for fire detection systems and devices. Many of the Coast Guard's rules set compliance dates based on the vessel's keel laying or contract date; this is to prevent the need to make drastic changes to vessel designs once a vessel has been contracted or construction has begun. For this rule, however, we have proposed a compliance date based on the date of installation because detection and alarm system details can easily be changed at any time without redesign of previously approved plans. For this rule, installation date would be considered the date of final inspection/acceptance of the fire detection and alarm system. We specifically seek comments on whether this timeframe is sufficient.

Existing vessels that alter existing installations or add new systems after the 2½-year compliance period, however, would be required to comply with the new rule. We propose to allow the installation of fire detection and alarm systems approved using existing Coast Guard installation requirements and approvals to remain valid for installation until 2½ years after the publication date of the final rule. New fire detection equipment approvals would need to meet the proposed new requirements as of the effective date of the final rule.

In proposed new § 76.27–80, we would consolidate the existing requirements for electrical fire detection systems found in §§ 76.27–5, 76.27–10, and 76.27–15. These requirements

would only apply to installations contracted for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE]. The existing requirements for pneumatic fire detecting systems, smoke detecting systems, and manual alarm systems that are found in subparts 76.30, 76.33, and 76.35 would remain the same. However, we propose to narrow the applicability of each of these subparts to installations contracted for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE]. *See* changes to proposed §§ 76.30–1, 76.33–1, and 76.35–1.

5. Sample Extraction Smoke Detection Systems

We propose to amend 46 CFR 95.05–1 and 95.05–3 to require that smoke detection systems installed on vessels carrying explosive cargoes comply with the provisions of Chapter 10 of the FSS Code which provides details of component, installation, control, and testing requirements for sample extraction type smoke detection systems. Currently available and approved smoke sampling systems are already designed to meet Chapter 10 of the FSS Code. For existing vessels, we would require retrofitting to comply with the revised requirements that change the requirement for smoke sample exhaust in § 76.33–20(c), within 5 years of publication of the final rule. To ensure personnel safety, we propose to revise § 76.33–20(c) to require smoke samples to exhaust to the outside; the existing regulations allow smoke samples from these systems to be discharged to the bridge or fire control station to allow the detection of fire by odor. This practice has been deemed unsafe by the Coast Guard and the international maritime industry, and has been replaced by a provision requiring smoke samples to exhaust to the outside (*See* IMO Resolution A.515(13), Annex 2, paragraph 1.11). Existing vessels with sample extraction type smoke detection systems that do not exhaust to the outside are a significant safety concern. Therefore, the Coast Guard would require vessels to meet the proposed requirements in § 76.33–20(c) within 5 years of the publication date of the final rule. The 5-year compliance deadline aligns with the current dry-docking interval.

Based on a review of vessel records contained in the Coast Guard's Marine Information for Safety and Law Enforcement (MISLE) database, the majority of existing vessels no longer have sample extraction type smoke detection systems or have already upgraded to the types of systems we are proposing to require in this rulemaking. Therefore, we expect this retrofitting requirement to affect only four vessels.

Additionally, we understand that the Coast Guard-approved systems currently available for new installations already meet the requirements of Chapter 10 of the FSS Code, including all necessary planning and tests, because manufacturers are already complying with the FSS Code requirements. Because available systems already meet the proposed rule's requirement to comply with the provisions of Chapter 10 of the FSS Code, we are not proposing any compliance period. We specifically seek comments on whether a compliance period is necessary and why.

6. Changes to Approval Processes for Detection and Alarm Systems

Regulations in 46 CFR 161.002 specify requirements for design and manufacture of fire detection systems and devices for Coast Guard approval. The Coast Guard proposes to update these requirements and add a new approval process for individual devices (e.g., detectors, control panels, alarms, etc). The proposed updates reflect current industry practices as well as current fire detection technology. The proposed new approval process of individual devices would simplify the current Coast Guard approval process. To reflect these changes, the Coast Guard proposes to change the name of subpart 161.002 from ''Fire Protective Systems'' to ''Fire Detection Systems.''

We propose new § 161.002–2—Definitions, that would define fire detection and alarm system testing and equipment related terms that are used in this subpart. These terms are frequently associated with fire detection systems of today and are commonly used industry terms.

We propose to remove § 161.002–3—Materials and workmanship, because suitability of materials is covered by the national industry consensus standards that we propose to incorporate by reference in §§ 161.002–4, 161.002–6, 161.002–10, and 161.002–15.

In § 161.002–4—General requirements, we propose to limit this section to the discussion of only the general requirements for fire detection systems. We also propose to move the existing provision concerning testing requirements from this section to proposed new § 161.002–6. Section 161.002–4 would retain the requirement that all fire detection systems be designed, constructed, tested, marked, and installed according to the applicable standards in 46 CFR subchapter J.

We propose to add § 161.002–6—Testing requirements, in order to outline the testing requirements for fire detection systems and devices. Paragraph (a) of this proposed section would allow manufacturers to use a Coast Guard-accepted laboratory (*See* 46 CFR 159.010) or an NRTL accepted by the Occupational Safety and Health Administration (OSHA) (as meeting OSHA standards in accordance with 29 CFR 1910.7) to conduct functional tests of fire detection systems and devices. OSHA maintains a listing of current NRTLs on its Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html*. This proposed change would provide manufacturers with more flexibility and options for choosing a test laboratory. Additionally, this proposed change would make it easier for manufacturers of fire detection systems not traditionally in the marine market to gain Coast Guard approval because only a limited number of tests would need to be conducted by a Coast Guard accepted independent laboratory. This proposed change would also allow land-based fire detection system and device manufacturers that have previously tested and listed their product with an NRTL to get Coast Guard approval without having to repeat previous tests. As explained below, we will retain the requirement that certain marine environmental tests, such as resistance damage due to vibration, be conducted by Coast Guard accepted independent laboratories.

Paragraph (b) of this proposed section would require a manufacturer, in order to have a fire detection system or device Coast Guard-approved, to test that system or device in accordance with UL 38, 268, 464, 521, 864, 1480, and 1971, and ANSI FM 3260. These are the most up-to-date industry consensus standards for fire detection system or device approvals and are already used widely by the fire detection industry. We do not expect any additional impact to the industry because industry is already voluntarily using these standards in order to achieve laboratory listing for land-based and marine products.

Paragraph (c) of this proposed section would add a reference to IEC 60092–504, which contains marine environmental testing requirements. Per 46 CFR 113.05–7, the currently required tests come from American Bureau of Shipping Rules for Building and Classing Steel Vessels (ABS) (2003) or Category ENV3 Tests of Lloyds Register Type Approval System (ENV3), Test Specification Number 1 (2002). The proposed rule would require the use of

tests from IEC 60092–504, which are effectively the same as the ABS and ENV3 tests, except the IEC tests are the international industry standard. Requiring the IEC tests would harmonize our regulations with international industry standards and current industry practice. To be Coast Guard-approved, fire detection systems or devices must meet the environmental testing parameters outlined in the newly proposed Table 161.002–6(c). In paragraph (c), the Coast Guard would require that these tests be performed only by Coast Guard accepted independent laboratories because they have demonstrated experience and expertise in conducting these tests.

Paragraph (d) of this proposed section would require that the enclosure protection requirements for control panels and remote annunciators comply with IEC 60092–504 and 46 CFR 111.01–9 of subchapter J. We do not expect these requirements to have any effect on the manufacturers of these devices. IEC 60092–504 refers to the requirements of IEC 60529 (incorporated by reference in 46 CFR 110.10–1) for enclosure protection. These enclosure protection requirements are currently optional in 46 CFR 111.01–9, and a majority of the manufacturers are using this method of enclosure protection already.

We propose to change the title of § 161.002–8 from ''Automatic fire detection systems, general requirements'' to ''Fire detection systems, general requirements'' because it covers the general requirements for all fire detection systems. We also propose to update the language in this section to better reflect the updated terminology as defined in newly proposed § 161.002–2.

We propose to change the title of § 161.002–9 from ''Automatic fire detection system, power supply'' to ''Fire detection system, power supply'' because it covers the power supply for all fire detection systems. We also propose to update the language in this section to better reflect updated terminology as defined in proposed new § 161.002–2.

We propose to change the title of § 161.002–10 from ''Automatic fire detecting system control unit'' to ''Fire detection system control unit'' to better reflect updated terminology. We also propose changes that focus this section on the electrical requirements for fire detection system control units. Specifically, we propose requiring that control units meet the requirements of § 111.01–9, which gives details of the electrical protection needed to keep control units safe from environmental damage. We are doing this to be clear that those requirements apply to control units, as it is not clearly stated in the existing regulations. Additionally, we propose to require that the electrical supervision of circuits meet the standards of NFPA 72. Specifically, the electrical supervision circuit must be a Class A or Class X pathway as specified in NFPA 72, which is an industry standard for circuitry. The intent of this proposed change is to require that the circuit be capable of monitoring and alarming if there is a problem with the wiring of the fire detection devices within the fire detection system; other classes (B, C, D, and E) of circuitry do not do this. We also propose changing the title of this section from ''Automatic fire detection system control unit'' to ''Fire detection system control unit'' to better reflect the revised content of this section. The existing provisions in this section that address requirements for alarm performance and operation for each individual device would be relocated to proposed new § 161.002–6.

We propose removing § 161.002–12—Manual fire alarm systems, because requirements for manual fire alarm systems are covered by UL 38, which would be incorporated by reference in proposed new § 161.002–6, as discussed above.

We propose removing § 161.002–14—Watchman's supervisory systems, because these types of systems are no longer used in new vessel construction. These systems have been replaced with addressable fire detection systems. There are currently no Coast Guard approved watchman's supervisory systems.

We propose to amend § 161.002–15—Sample extraction smoke detection systems to harmonize our regulations with the FSS Code, which is the current international consensus standard. This proposed change incorporates the FSS Code's requirements for the design of the sample extraction type smoke detection systems, including its control unit and power supply. We propose to allow the listing of the control unit to meet the standards of the FSS Code or UL 864. This action would not add any additional requirements, but harmonizes our regulations with current industry practice.

We propose to change the title of § 161.002–18—Method of application for type approval, to ''System method of application for type approval'' because we are proposing to differentiate between the fire detection system method of approval and the fire detection device method of approval. We would limit this section to the system approval requirements for fire detection systems because we propose changes to our product approval methods, which would make Coast Guard approval easier for manufacturers to obtain, and ultimately lead to a wider array of choices for owner/operators, shipyard installers, and system designers. The Coast Guard's current fire detection approval process requires that the entire system be approved as a complete system. If a component of an approved system needs to be changed or updated, a manufacturer must have the entire system re-approved. For vessel owner/operators this system-wide approval means that when a component needs to be replaced, one matching the existing system must be found. This system-wide approval also means that specialty parts manufacturers, such as those that only manufacture heat detectors, cannot enter into the marine market.

We propose to add new § 161.002–19—Device method of application for type approval, that would explain the new type-approval application method for individual fire detection and alarm system devices. This process would allow manufacturers to get individual fire detection devices (e.g., heat detectors) approved separately from a complete system. This new type approval application process would be the same as the current process in § 161.002–18, except that it would be limited to reviewing and approving the individual devices, rather than the entire systems.

As part of that process, we would approve individual devices and accept tests of the individual devices conducted by NRTLs. NRTLs are laboratories regulated by OSHA, similar to Coast Guard regulation and oversight of Coast Guard-accepted independent laboratories, and therefore provide an equivalent level of safety to Coast Guard accepted laboratories with regards to the functional testing of individual fire detection devices. The use of NRTLs in addition to Coast Guard accepted laboratories for this purpose would allow greater flexibility in the design and installation of the fire detection and alarm systems that use individual devices, and could open the market to new and smaller manufacturers. This flexibility would result in a broader spectrum of products available that could be used to design fire detection and alarm systems that best fit each individual vessel. In addition, the safety and reliability of these fire detection and alarm systems would be enhanced by aligning our regulations with modern design and manufacturing practices as discussed above, specifically in proposed § 161.002–6.

7. Revised Requirements Using Guidance Found in Navigation and Vessel Inspection Circular (NVIC) 7–80 for Excess Detection Systems

The Coast Guard proposes to codify NVIC 7–80, Use of Fire Detection Systems Which Are Not Approved Under § 161.002 (available online at *http://www.uscg.mil/hq/cg5/nvic/pdf/1980/n7-80.pdf*). See proposed sections 33 CFR 149.404; 46 CFR 27.203, 28.155, 34.01–5, 76.01–5, 95.01–5, 118.120, 132.340, 167.45–30, 181.120, and 193.01–5. These provisions would allow the carriage of excess fire detection systems that meet the following criteria: Non-Coast Guard approved, provided that the system's components are listed by an NRTL; designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance; the installation conforms to the requirements of 46 CFR subchapter J (Electrical Engineering), with specific regard to the hazardous location installation regulations; the Coast Guard plan review is completed for wiring plans; and the system and components remain functional as intended. The Coast Guard has permitted the use of NRTL-approved fire detection systems as excess equipment where our regulations do not require fire-detection systems equipment because excess equipment undergoes extensive performance testing before it receives a listing by an NRTL. NRTL-approved equipment, however, may not have been tested for durability, vibration and corrosion resistance, and other properties important to marine use, and therefore cannot be substituted for required equipment. We would codify this guidance and cancel NVIC 7–80.

*B. Fire Extinguishers*

We propose to replace Coast Guard-unique requirements for portable and semi-portable fire extinguisher rating, maintenance, and testing and labeling with national consensus standard requirements. The proposed rule would replace: The Coast Guard weight-based rating scale for fire extinguishers with performance ratings in UL 711 ''Standard for Rating and Testing of Fire Extinguishers'' (7th Edition); the Coast Guard-unique maintenance procedures with a requirement to maintain fire extinguishers in accordance with NFPA 10 ''Standard for Portable Fire Extinguishers'' (2010 Edition); and the Coast Guard-specific tests for marine-type approval for fire extinguishers with testing and labeling methods in five separate UL standards. The proposed rule also would reduce the required number of spare extinguishers and charges onboard classes of vessels required to carry spares.

The discussion of these proposed changes, below, covers both portable and semi-portable fire extinguishers and refers to them as ''fire extinguishers'' (excluding fixed fire extinguishing systems) unless specifically noted.

1. Ratings: UL 711 and NFPA 10:2010

The Coast Guard proposes to replace the Coast Guard-unique rating system set forth in 33 CFR 145.05, 46 CFR 34.50–5, 76.50–5, 95.50–5, 132.210 and 193.50–5 with the rating system in UL 711, ''Standard for Rating and Testing of Fire Extinguishers'' (UL ratings) to eliminate confusion caused by fire extinguishers being labeled with both the Coast Guard rating and the UL rating. UL 711 details performance testing required for rating a fire extinguisher, and its use for marking fire extinguishers would be required in 46 CFR 162.028–2 and 162.039–2 (the UL rating uses the classification of fires as set forth in NFPA 10:2010). Currently, Coast Guard regulations in §§ 162.028–4 and 162.039–4 require labeling fire extinguishers with the Coast Guard-unique rating system using an alpha-numeric designation, which is based on the weight of the extinguishing agent in the extinguisher. Coast Guard regulations also require each fire extinguisher to meet the listing and labeling requirements of the independent laboratory that tests the extinguisher for approval. Currently, all the fire extinguishers the Coast Guard has approved were tested by UL or by another laboratory using the UL ratings. Therefore, all Coast Guard accepted independent laboratories already test and label the fire extinguishers with the UL ratings (example: 20–B:C) as well as the Coast Guard rating (example: B–II).

The Coast Guard weight-based rating system presumes that any extinguisher with 10 pounds of extinguishing agent would have less extinguishing capability than an extinguisher with 15 pounds of extinguishing agent. However, this method of rating fire extinguishers is inconsistent with the UL ratings, which use a performance-based rating system that could rate fire extinguishers with 10 or 15 pounds of extinguishing agent the same, provided they can extinguish the same test fire.

To determine if there is a correlation between the two rating systems, we used Annex H of NFPA 10: 2010 to compare the Coast Guard's weight-based rating system with the average UL ratings given to fire extinguishers with similar agent capacities. Annex H, Table H.2 identifies not only the agent capacities but the typical UL rating for an extinguisher of that type. This allowed us to identify the UL ratings that corresponded to our existing minimum weight-based requirements. We would use these corresponding UL ratings instead of the Coast Guard weight-based ratings in § 162.028–2, 162.028–3, 162.039–2, and 162.039–3.

The Coast Guard also proposes to designate fire extinguishers as semi-portable based on an overall weight of over 50 pounds rather than on the weight of the agent carried, as set forth in proposed 162.039–3(b).

In 46 CFR 76.50–20, the Coast Guard proposes to require the use of fire extinguisher hoses and nozzles suitable for reaching all areas of a protected space in consideration of the unwieldy nature of the semi-portable fire extinguishers. Although currently approved semi-portable fire extinguishers are equipped with hoses and nozzles, we are clarifying that these must be adequate for their installed location. The Coast Guard does not intend to require that vessels replace existing properly functioning and properly installed fire extinguishers that meet the current Coast Guard weight-based requirement because they have a different UL rating than is proposed.

The proposed rule allows each class of vessel addressed in each affected subchapter to keep existing fire extinguishers aboard, provided that each fire extinguisher is properly maintained. See proposed sections 33 CFR 145.15; and 149.410; and 46 CFR 25.30–1; 25.30–80; 34.50–1; 34.50–80; 76.50–1; 95.01–1; 95.50–1; 95.50–80; 108.491; 118.115; 132.250; and 193.50–80. When a fire extinguisher is replaced, however, the replacement fire extinguisher would have to meet the proposed new requirements.

We believe that eliminating our existing Coast Guard-unique rating system would enhance maritime safety by aligning our requirements for extinguishing capacities with the accepted national industry standard to ensure that the appropriate sizes and types of fire extinguishers are used. Further, these proposed changes would simplify the labeling requirements for manufacturers and limit confusion when purchasing fire extinguishers for marine use.

Notably, this proposed change from the Coast Guard-unique ratings to the UL ratings would completely eliminate carbon dioxide ($CO_2$) semi-portable fire extinguishers as an option for semi-portable fire extinguishers required in machinery spaces. Under the current regulations, large $CO_2$ fire extinguishers with a capacity of 100 pounds of $CO_2$

(B–V semi-portable fire extinguishers) satisfy the Coast Guard rating requirements for machinery spaces, but these types of fire extinguishers cannot meet the UL testing standards to receive a high enough rating to be used in these locations. Although we are not proposing to require replacing these existing installations because we do not have casualty data to justify the economic burden to industry of replacing operable extinguishers, we note that large non-$CO_2$ extinguishers are cheaper than these large $CO_2$ extinguishers, and encourage vessel owners/operators to replace these $CO_2$ extinguishers. Replacement extinguishers would have to comply with the requirements as proposed in 33 CFR 145.10 and 149.409; and 46 CFR 25.30–20; 27.303; 27.305; 28.160; 34.50–10; 76.50–10; 95.50–10; 95.50–20; 108.495; 108.496; 118.500; 132.220; 132.240; 169.567; 181.500; 193.50–10; and 193.50–20.

2. Maintenance: NFPA 10: 2010

We propose to require that vessel owners and/or operators ensure that inspection, maintenance and recharging of fire extinguishers are carried out in accordance with NFPA 10: 2010. We propose the use of NFPA 10: 2010 maintenance standards because they provide more complete maintenance requirements as compared with current Coast Guard fire extinguisher maintenance requirements in 33 CFR 145.01; and 149.408; and 46 CFR 25.30–10; 31.10–18; 71.25–20; 91.25–20; 107.235; 169.247; 176.810; and 189.25–20. NFPA 10 provides details for the selection, installation, inspection, maintenance, and testing of fire extinguishers. Specifically, NFPA details how often and what items to check on an extinguisher, when to repair or replace extinguishers, and provides details for refilling or recharging extinguishers as needed.

NFPA 10 distinguishes between monthly inspections, which are simple visual checks of the fire extinguisher, and annual maintenance, which includes thorough inspection of the condition of the fire extinguisher and inspection or replacement of components. NFPA 10 requires that the annual maintenance and recharging of fire extinguishers be done by certified persons (see the next paragraph), while monthly inspections may be conducted by personnel (such as crew) who are not required to be certified. On a vessel, for example, this means that monthly inspections could be completed by the owner/operator, person-in-charge, master, or a designated member of the crew. However, annual maintenance would need to be conducted by a certified person. NFPA 10 does not clearly identify certification standards and leaves approval to local Authorities Having Jurisdiction (AHJ), therefore, the Coast Guard is proposing to accept any certification by an AHJ. We propose incorporating NFPA 10: 2010 by reference into each affected subchapter for maintenance requirements for fire extinguishers. See proposed sections 33 CFR 145.01 and 149.408; and 46 CFR 25.30–10; 31.10–18; 71.25–20; 91.25–20; 107.235; 169.247; 176.810; 188.01–05; and 189.25–20.

We propose to allow the annual maintenance of non-rechargeable or non-refillable fire extinguishers to be conducted by a certified person, owner/operator, person-in-charge, or a designated member of the crew. This is because NFPA 10 directs that such extinguishers found to be deficient be removed from service, and this type of review and replacement is easily managed by personnel appointed by the vessel owner/operator.

NFPA 10 has included the standard requirements for the use of certified servicing agents since August 17, 2008. This standard is widely adopted as the national standard for maintenance and repair of fire extinguishers. Therefore, maintenance conducted by certified companies is generally conducted in accordance with NFPA 10 guidelines by certified personnel. Since most fire extinguisher servicing companies serve the marine market in addition to their land-based clientele, we do not anticipate that vessel owner/operators would have difficulty finding an appropriately certified company. Additionally, a vessel owner/operator could use an appropriately certified employee to conduct annual maintenance of fire extinguishers.

3. Testing: UL 8, UL 154, UL 299, UL 626, UL 2129

The requirements for Coast Guard approval of portable and semi-portable fire extinguishers are found in 46 CFR 162.028 and 162.039. These subparts are similar in structure, and we propose to make identical changes in both subparts to remove the existing Coast Guard-unique requirements and, in their place, require conformity with the industry standards for testing and labeling fire extinguishers.

We propose to require the use of five UL standards for the testing and labeling of fire extinguishers instead of the current Coast Guard-specific testing requirements in §§ 162.028–3 and 162.039–3. The five UL manufacturing standards that would be incorporated by reference into §§ 162.028–1 and 162.039–1 are: (1) UL 8, Standard for Foam Fire Extinguishers; (2) UL 154, Standard for Carbon-Dioxide Fire Extinguishers; (3) UL 299, Standard for Dry Chemical Fire Extinguishers; (4) UL 626, Standard for 2½-Gallon Stored Pressure, Water-Type Fire Extinguishers; and (5) UL 2129, Standard for Halocarbon Agent Fire Extinguishers. Each of these UL standards gives specific technical requirements for construction, performance testing, packaging, and marking of the specific type of extinguisher.

The current requirements in §§ 162.028–3 and 162.039–3 are duplicative of the UL standards and, as discussed above, fire extinguishers are already being tested to these UL standards by Coast Guard accepted independent laboratories. This proposed change would eliminate the duplicative Coast Guard requirements by replacing them with the requirement to use the UL standards, and reflect current industry practice.

4. Approval Process

We propose changes to §§ 162.028–5 and 162.039–5 to list our Web site at *http://cgmix.uscg.mil* as the place to find the list of laboratories recognized by the Coast Guard to conduct testing of fire extinguishers. Currently, we list the recognized laboratories in the regulations. Providing a Web site in the regulations, rather than the list itself, would provide continually updated information concerning recognized independent laboratories.

We also propose changes to §§ 162.028–7 and 162.039–7 to more clearly reflect the procedure that fire extinguisher manufacturers must use to request and obtain Coast Guard approval. The proposed change would provide for a Coast Guard-recognized independent laboratory to approve the extinguishers on behalf of the Coast Guard as detailed in a Memorandum of Understanding (available in the docket as described under **ADDRESSES** above) required by existing § 159.010–7 between the Coast Guard and the laboratory.

5. Reducing and Relocating Spare Portable Extinguisher Requirements

We propose to reduce the number of spare portable fire extinguishers required and add this number to the tables that indicate the location and number of required extinguishers in 46 CFR 34.50–10(a), 76.50–10(a), 95.50–10(a), 108.495, 169.567(a), and 181.500(b).

Spare fire extinguishers are not required to be kept in open locations for

use during firefighting and are, therefore, not intended to be used as ''back-up'' for when an extinguisher required for a space does not work or is expended during firefighting activities. Spare extinguishers are carried on board to replace those taken out of service in the case of damage, low charge, or in the infrequent case they were expended in firefighting activities prior to returning to port. Given the relative ease of purchasing Coast Guard approved fire extinguishers—they can be purchased at nearly any large home improvement or even hardware store—and the speed of shipping Coast Guard approved extinguishers within the U.S., the carriage of a large number of spares is unnecessary for vessels on domestic routes.

Additionally, a reduction in the number of spares required is warranted by the proposed, enhanced maintenance requirements that would make extinguishers more reliable, further reducing the need to carry a large number of spare extinguishers. Therefore, the Coast Guard proposes to reduce the number of spares required by reducing the percentage of spares specified in 46 CFR 34.50–10(a), 76.50–10(a), 95.50–10(a), 108.495, 169.567(a), and 181.500(b), and deleting the following sections: 46 CFR 34.50–15, 76.50–15, 95.50–15, 132.230 and 193.50–15. We seek specific comments on the appropriate percentage of spares necessary on domestic vessels. We propose to reduce the percentage from 50 percent to as low as 10 percent, depending on the comments received. In comments submitted to the docket, please indicate the recommended percentage (ranging from 50 to 10 percent), and provide a brief explanation or justification for why that percentage is the most appropriate for the new standard. Ships on international voyages subject to SOLAS, including cruise ships, would still be required to comply with SOLAS requirements, 100 percent spare charges for the first 10 extinguishers, then 50 percent for the remaining extinguishers (SOLAS Chapter II–2, Regulation 10.3.3).

The proposed change to add the number of required spares to existing tables would make our regulations more concise and readable. These existing tables indicate the required number and location of all extinguishers onboard, but do not include the number of spare extinguishers required. These changes would allow the tables to cover all of the required extinguishers.

*C. Other Fire Protection Equipment Requirements*

1. Spanner Wrench Carriage Requirement for Small Passenger Vessels

We propose to require in 46 CFR 118.310 and 181.310, that small passenger vessels carry spanner wrenches for fire hydrants that use 1.5-inch diameter hoses. Spanner wrenches are required to attach and detach fire hoses from the fire main system during fire emergencies, allowing them to be deployed or moved as necessary. In the September 30, 1997 final rule, ''Small Passenger Vessel Inspection and Certification'' [1] that established firefighting requirements for 46 CFR subchapter K and T vessels, spanner wrench requirements for 1.5-inch diameter hose stations were inadvertently omitted for small passenger vessels. All other affected subchapters include requirements for spanner wrenches to accompany fire hydrants. However, because they are generally accepted as standard firefighting equipment to accompany 1.5-inch diameter hose connections, marine inspectors report that most if not all small passenger vessels include this vital safety equipment already. To be consistent with requirements for hoses of this size on other classes of inspected vessels, we propose to require that spanner wrenches be placed at all fire hydrants serving 1.5-inch diameter hoses.

2. Alternative Use of Two Small Fire Hoses in Place of a Single Hose

In 46 CFR 76.10–5; 76.10–10; 95.10–5; 95.10–10; 193.10–5; and 193.10–10, we propose to allow two 1.5-inch diameter fire hoses instead of one 2.5-inch diameter fire hose to be used at external locations on vessels. We propose this change to increase crew safety and enhance firefighting capabilities on board the applicable vessels. A 2.5-inch diameter fire hose could be unwieldy and unsafe if crewmembers have not been trained or drilled in working with such a large-sized hose. Allowing the use of two 1.5-inch diameter hoses would alleviate the physical difficulties of moving the hose during an emergency, and would reduce additional training requirements for crew members. Generally, two 1.5-inch diameter hoses should deliver equivalent volumes of water and have similar ranges to a 2.5-inch diameter hose. This allowance would not preclude the use or carriage of a 2.5-inch diameter hose if desired by the vessel owner/operator.

3. Limited Use of Land-Based Fire Extinguishers

We propose in 46 CFR 34.50–10 that portable fire extinguishers brought onto unmanned barges during cargo transfer or operation of barge machinery or boilers, as required by Table 34.50–10(a), need not be Coast Guard-approved. Such extinguishers would, however, need to be listed and labeled by an NRTL. Each NRTL for $CO_2$ fire extinguishers (there are currently three identified by OSHA: FM Approvals LLC, Intertek Testing Services NA, Inc. and Southwest Research Institute), tests to the same standard, UL 711, Rating and Fire Testing of Fire Extinguishers.

This proposed change would codify and expand the policy issued by NVIC 13–86, Use of Underwriters Laboratory Listed Fire Extinguishers (available online at *http://www.uscg.mil/hq/cg5/nvic/pdf/1986/n13-86.pdf*), which allows non-Coast Guard approved fire extinguishers, but only those that are UL-approved, to be used on unmanned barges. We have permitted the use of non-Coast Guard approved, UL-approved extinguishers on unmanned barges because these vessels are not required to carry portable fire extinguishers while in transit, and such extinguishers need not be tested for marine environmental conditions, which is the purpose of the Coast Guard approval. Fire extinguishers are only required during cargo operations (see footnote 13 to Table 34.50–10(a)). The use of extinguishers that are brought aboard an unmanned barge during loading reduces administrative costs for the barge owner because barges would not be required to purchase fire extinguishers to be permanently mounted on the barges, nor would they need to be inspected monthly or serviced annually. As an alternative, we would allow unmanned barge owners and operators who choose to carry fire extinguishers onboard a greater selection of fire extinguishers by not limiting selection to UL-approved extinguishers. This proposed change would supersede NVIC 13–86, which would be canceled.

4. Amended Definitions for Small Passenger (Subchapter T) Vessels

We propose to clarify the fire detection requirements on small passenger vessels constructed with general purpose resin. Commandant (CG–ENG–4) has received numerous requests for clarification of the requirements in 46 CFR 177.410(c)(3) from Officers in Charge, Marine

[1] 62 FR 51326, which amended 61 FR 982.

Inspection (OCMIs) throughout the country. Through these requests, we learned that the requirements are confusing to marine inspectors as well as vessel owners, operators and designers. The existing regulation at § 177.410(c)(3) gives two broad examples of isolated spaces (voids and storage lockers), and two examples of ignition sources (electrical equipment and piping for a dry exhaust system). We propose to more clearly and restrictively define these two terms in the list of definitions found at § 175.400.

The proposed changes are not intended to fundamentally alter the requirements; specifically, we do not intend for an increase in the required installations. Instead, the proposed changes are meant to better explain the current intent of the regulations to limit the locations that require detection systems to spaces that are not smoke tight and infrequently visited by the crew during operations, and that contain anticipated sources of ignition dangers.

5. Clarification on the Use of International Standards (SOLAS) in Lieu of Domestic Standards

The proposed changes to 46 CFR 32.56–1; 72.05–1; 92.07–1; 116.400; 177.420; and 190.07–1 would allow vessel designers to use the U.S. or SOLAS requirements for structural fire protection for domestic vessels. We propose these changes to clearly indicate that vessels meeting the structural fire-protection requirements of Chapter II–2 of SOLAS are deemed to have met the structural fire-protection requirements found in the subchapter under which the vessel is inspected. Currently, in each of the affected subchapters, the requirements allow ships with SOLAS certificates (those meeting the SOLAS requirements) to be considered equivalent. The proposed change is intended to allow any U.S. flag vessel to be built to the requirements of SOLAS Chapter II–2 even if it is not certificated to SOLAS. The use of SOLAS Chapter II–2 as a design basis for structural fire protection allows greater flexibility in design, and because it is difficult to retrofit vessels to meet structural fire-protection requirements, it would allow vessels built for domestic trade to be more easily converted for SOLAS trade and subsequently certificated as SOLAS ships.

6. Use of Non-Metallic Pipe

We propose changes to 46 CFR 56.60–25(a)(3) that would allow the use of short sections of unapproved pipe, 30 inches or less in length, in non-vital systems, provided the pipe is contained in one compartment. Section 56.60–25 contains the requirements for the use of non-metallic pipe on vessels. Currently, § 56.60–25(a) requires that all piping, except that used on open decks, or in cofferdams, voids, and ducts, must meet low flame spread requirements. This requirement is intended to limit the flame spread of pipe in enclosed spaces, such as accommodations, machinery spaces, and control spaces, as well as to prevent the passage of flame from one compartment to another. In § 56.60–25(a), the Coast Guard also limits the use of non-metallic pipes in non-vital systems unless the pipe meets fire endurance requirements (which tests the strength of the pipe during and after a fire) found in IMO Resolution A.753(18), Guidelines for the Application of Plastic Pipes on Ships. The Coast Guard's primary concern when plastic pipe is used on inspected vessels, OCS facilities, and MODUs is the spread of flame, and the Coast Guard's secondary concern is the integrity of the vital piping systems. We propose the allowance of short runs of plastic pipe (30 inches or less) on non-vital systems contained within a single compartment without any Coast Guard approval. Plastic pipe is easier to maintain and cheaper, and this use would not compromise the Coast Guard's safety goals. This allowance is envisioned to be employed primarily for use in sanitary service areas, such as toilet, sink and shower supply, and drain lines in accommodation spaces.

7. Use of Non-Metallic Pipe on Small Passenger (Subchapter T) Vessels

Section 46 CFR 182.720, prohibits the use of non-metallic piping in vital systems for small passenger vessels regulated under 46 CFR subchapter T. The intent of this prohibition is to make the ''construction material requirements for vital system piping consistent for all vessels regardless of size or passenger capacity.'' *See* ''Small Passenger Vessel Inspection and Certification;'' Supplemental Notice of Proposed Rulemaking (59 FR 1994, January 13, 1994). The rulemaking implementing this prohibition (*See* 61 FR 864, January 10, 1996) aligned the requirements for non-metallic piping with requirements for other vessels at the time without directing users to refer to 46 CFR part 56 to find the requirements for non-metallic pipe. All other inspected vessels, including passenger vessels regulated under 46 CFR subchapters H and K, are required to use the requirements found in § 56.60–25 for non-metallic pipe. Section 56.60–25 also incorporates IMO Resolution A.753(18), which allows specially tested and approved non-metallic pipe to be used in limited applications for vital systems. Because subchapter T does not refer the reader to § 56.60–25, and was not updated to mirror the requirements in § 56.60–25, the current regulations in subchapter T are more restrictive than those allowed for other classes of vessels. Our proposed changes to § 182.720 would allow this class of small passenger vessels to use the requirements of § 56.60–25, including the proposed changes to this section discussed above, as an alternative to those prescribed in subchapter T.

8. Sprinkler Systems

We propose to remove the Coast Guard-unique design and installation requirements for sprinkler systems currently found in 46 CFR subchapter H, §§ 76.25–5 through 76.25–35, erroneously left in place by a previous rulemaking. This proposed change would make it clear that sprinkler systems must be designed and installed in accordance with § 76.25–1, which requires that sprinkler systems meet the requirements of NFPA 13. In 1997, we first incorporated by reference and required the use of NFPA 13 in § 76.25–1—Final Rule, ''Harmonization with International Safety Standards'' (62 FR 51188, September 30, 1997). In that rulemaking, we adopted NFPA 13 to replace the Coast Guard-unique requirements for sprinkler systems, and §§ 76.25–5 through 76.25–35 should have been deleted, but were not.

Additionally, in § 76.01–2 we propose to update the version of NFPA 13 incorporated by reference from the 1996 edition to the most current 2010 edition. We would also make conforming amendments in 46 CFR subchapters D (§ 34.01–15), I (§ 95.01–2), I–A (§ 108.101), K (§ 114.600) and U (§ 193.01–3).

The NFPA made one substantial change to NFPA 13, in Chapter 25, Marine Systems, between the 1996 and 2010 editions, to require that marine sprinkler systems be designed and installed to be fully operational without a reduction in system performance both when the vessel is upright, and inclined at the angles of inclination specified in § 58.01–40, aligning with current industry practice.

Further, we propose to specify in § 76.25–1 that Chapter 25 of NFPA 13: 2010 is to be used for the design and installation of sprinkler systems. Our current regulations do not direct the reader to Chapter 25; we propose to clearly require system designers and installers to use Chapter 25. We would also make conforming amendments in

46 CFR subchapters D (§ 34.30–1), I (§ 95.30–1), I–A (§ 108.430), K (§ 114.439) and U (§ 193.30–1).

We also propose in 46 CFR 25.30–15 to require automatic sprinkler systems installed in uninspected vessels to be designed and installed in accordance with the requirements of NFPA 13. Such automatic sprinkler systems are an alternative to the $CO_2$ systems currently addressed in § 25.30–15.

9. Alternatives for Halon Bottle Inspection

We propose to amend 46 CFR 147.65 to establish an alternative method of periodic inspection and testing requirements for Halon 1301 fire extinguishing systems. Currently, under § 147.65, cylinders storing Halon 1301 must be emptied and hydrostatically tested every 12 years. Also, cylinders discharged more than 5 years after the previous testing must be retested before refilling. The international ban on the production of Halon 1301 requires carefully controlled reclamation and collection of Halon 1301. This makes emptying and refilling a Halon 1301 cylinder expensive and impractical for many vessel owners. As an alternative to emptying and refilling procedures, NVIC 3–95, Periodic Inspection and Testing of Fixed Halon Fire Fighting Equipment Aboard Merchant Vessels (available online at *http://www.uscg.mil/hq/cg5/nvic/pdf/1995/n3-95.pdf*), provides for visual exams of halon-storage bottles. We propose to codify this policy of providing a visual exam alternative by incorporating by reference the Compressed Gas Association Pamphlet CG–6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, 10th edition, an industry standard that identifies safe and effective methods of conducting visual exams in § 147.7. The proposed regulations would supersede the guidance in NVIC 3–95, which would be canceled.

*D. Updates to Approval Process and Guidance for Equipment and Materials*

Certain types of lifesaving, firefighting, navigation, and environmental protection equipment and materials are required to be Coast Guard approved if they are to be used on vessels inspected by the Coast Guard. While the regulations for vessels and offshore installations found in Titles 33 and 46 of the CFR focus on requirements for carrying and using this equipment and materials, subchapter Q contains the Coast Guard approval requirements for them. Subchapter Q is divided into subparts that each address a specific material or piece of equipment. The number of each subpart is commonly referred to as an approval series; for example, subpart 164.141 is the approval series for plastic pipes, and the approval series forms a part of each approval number.

The Coast Guard does not test equipment and materials for approval, but rather our regulations specify the required test methods and minimum performance criteria for approval. Once a product manufacturer can provide proper documentation to indicate that the product meets the requirements for approval, the Coast Guard issues a Certificate of Approval (COA) for the product that clearly identifies the product and its approved use. The COA includes the ''approval number,'' such as 164.141/XXX, where the first portion of the number is the product's approval series (for example subpart 164.141 for plastic pipes) and XXX would be a unique number specific to that product. To ensure that product testing is conducted by an impartial and qualified entity, the testing must be performed by a Coast Guard-accepted independent laboratory. Laboratories must apply to the Coast Guard to become a Coast Guard-accepted independent laboratory, and are subject to continued review and oversight by the Coast Guard to ensure they continue to meet the detailed requirements found at § 159.010–3.

The Coast Guard has traditionally numbered its approval series, and the corresponding subparts in subchapter Q, according to whether the equipment addressed in the subpart is approved for use on vessels on coastwise routes and other non-international voyages, sometimes called ''domestic vessels,'' or for use on vessels on international voyages and therefore subject to SOLAS, which are sometimes called ''SOLAS ships.'' Subparts/series with a ''0'' after the decimal (for example, subpart 164.012) generally apply to equipment or materials approved for use on domestic vessels, and subparts with ''1'' after the decimal (for example, subpart 164.112) generally apply to equipment or materials approved as meeting the SOLAS requirements for use on SOLAS ships.

In this Notice of Proposed Rulemaking (NPRM), we propose to make changes to the requirements for product approval by allowing the approval of certain products by other nations' approval authorities under Mutual Recognition Agreements, by codifying new approval series for approval of products required for SOLAS ships, and by updating the requirements of existing series to meet the current industry practice.

1. Mutual Recognition Agreements (MRA)

In 46 CFR part 159, we propose to create subpart 159.003, titled Approvals Under Mutual Recognition Agreements, to codify an alternate path to obtaining Coast Guard approval of equipment through an established MRA. An MRA for product approvals is an agreement between the U.S. and another nation or group of nations, such as the European Union, to recognize and accept approvals issued by nations signatory to the MRA (or their appointed representatives) for use on U.S. inspected vessels. The products receive a Coast Guard approval number issued by the other nations' approving authority. Because each nation that is party to the MRA has its own regulations and interpretations of the commonly applicable international standards, each MRA identifies the specific equipment covered under that MRA, which has been determined to meet equivalent approval and conformity assessment standards.

The ability to obtain Coast Guard approval for specified equipment and materials from certain foreign approval authorities through an established MRA offers manufacturers the ability to receive both Coast Guard and another nation's approvals in a single process. This reduces administrative and testing costs, since without the MRA manufacturers must submit approval requests to each nation individually. Each nation to which the manufacturer applies can have different testing requirements and approval procedures, sometimes meaning similar tests need to be repeated because a testing laboratory is accepted by one nation and not another, or that similar tests need to be performed to meet multiple variations in nations' requirements. With an MRA in place, a manufacturer need only go through the approval process with one party, and thereby gain approval from the other parties of the MRA, thereby reducing duplicative testing and administrative costs.

These proposed rules include broad language to implement the MRA concept for approval of equipment and materials under 46 CFR subchapter Q. The currently existing MRAs covered by Change 1 (CH–1) to NVIC 08–04, Guide to Marine Equipment Approvals Covered by U.S.-European Community (US–EC) MRA & By U.S.-European Economic Area-European Free Trade Association (US–EEA EFTA) MRA (available online at *http://www.uscg.mil/hq/cg5/nvic/pdf/2004/08-04change1.pdf*), cover a broad range of marine products, including fire

protection equipment. The proposed rules would apply to all equipment approval series covered by any implemented MRA. There are currently two MRAs to which the U.S. is a party: (1) U.S./EC MRA, signed on February 27, 2004, and (2) U.S./EEA–EFTA MRA, signed on October 17, 2005. Under these two MRAs, a manufacturer may obtain Coast Guard approval for items identified in the MRA from an EC or EEA–EFTA ''Notified Body.'' Conversely, a European approval and wheelmark (a unique mark given to products approved under the European Marine Equipment Directive in the EC and EEA–EFTA countries) for the product may be issued by the Coast Guard.

In the proposed § 159.003–1, we state the purpose of the proposed new subpart is to implement MRAs. In proposed § 159.003–3, we clearly state that products approved and given Coast Guard approval numbers by other nations under the MRA guidelines are to be considered approved and may be used in any location that requires a Coast Guard-approved product. We specify the process for obtaining mutual approval from the Coast Guard for other nations in an MRA in proposed §§ 159.003–5 and 159.003–7. Proposed § 159.003–9 identifies the location of a list of products approved under current MRAs. Finally, we propose to add definitions related to this topic in § 159.001–3.

2. Approval Series

We propose to codify the standards and procedures currently used to obtain Coast Guard approval for fire protection equipment and components required on SOLAS ships in 46 CFR subchapter Q. We propose to create new subparts 164.105 through 164.207 to correspond to the product approval series numbers as identified in Table 3. The proposed new subparts would require testing the product in accordance with the IMO 2010 Fire Test Procedures Code (FTP Code), which entered into force internationally on July 1, 2012. The 2010 FTP Code provides guidelines for testing and approving fire protection materials for use on SOLAS ships, and includes tests for non-combustibility, smoke and toxicity generation, flame spread, and fire endurance evaluation. While the Coast Guard does have regulations in place for testing and approving some of these products for domestic vessels, SOLAS requires that the products be tested using the FTP Code standards and approved by a vessel's flag state administration. This means that U.S.-flagged vessels with SOLAS certificates must use products that have Coast Guard approval to the SOLAS/FTP Code requirements. Therefore, we propose the new approval series under which manufacturers may obtain Coast Guard approval, and U.S. vessels may use these approved products under the corresponding approval series to satisfy SOLAS requirements. Table 3 contains a list of the proposed new subparts and approval series numbers; fire protection equipment or material product name; and type of FTP Code test required for Coast Guard approval.

TABLE 3—PROPOSED NEW APPROVAL SERIES REQUIRING USE OF FTP CODE

| Proposed subpart & approval series | Product name | Test method required |
|---|---|---|
| 164.105 | Deck Assemblies (A–60) (SOLAS) | FTP Code, Annex 1, Part 1 for components and Part 3 for the entire bulkhead. |
| 164.106 | Primary Deck Coverings (SOLAS) | FTP Code, Annex 1, Parts 2 and 6. |
| 164.107 | Structural Insulation (A–60) (SOLAS) | FTP Code, Annex 1, Part 1 for components and Part 3 for the entire bulkhead. |
| 164.108 | Bulkhead Panels (B–0 And B–15) (SOLAS) | FTP Code, Annex 1, Part 1 for components and Part 3 for the entire bulkhead. |
| 164.109 | Non-combustible Materials (SOLAS) | FTP Code, Annex 1, Part 1. |
| 164.110 | Continuous Ceilings (B–0 and B–15) (SOLAS) | FTP Code, Annex 1, Part 1. |
| 164.111 | Draperies, Curtains and Other Suspended Textiles (SOLAS) | FTP Code, Annex 1, Part 7. |
| 164.112 | Interior Finishes (SOLAS) | FTP Code, Annex 1, parts 2 and 5. |
| 164.117 | Floor Finishes (SOLAS) | FTP Code, Annex 1, Parts 2 and 5. |
| 164.136 | Fire Doors (SOLAS) | FTP Code, Annex 1 Part 5 for components and Part 3 for the total door. |
| 164.137 | Windows | FTP Code, Annex 1, Part 3, Appendix 1 of Part 3 and hose stream test in IMO Resolution A.754(18). |
| 164.138 | Fire Stops (Penetration Seals) (SOLAS) | FTP Code, Annex 1, Part 3 and Appendix A.III and A.IV of IMO Resolution A.754(18). |
| 164.139 | Dampers (SOLAS) | FTP Code, Annex 1, Part 3 and Appendix A.II of Resolution. A.754 (18). |
| 164.142 | Bedding Components (SOLAS) | FTP Code, Annex 1, Part 9. |
| 164.144 | Upholstered Furniture (SOLAS) | FTP Code, Annex 1, Part 8. |
| 164.146 | Fire Door Control Systems (SOLAS) | FTP Code, Annex 1, Part 4. |
| 164.201 | Fire Restricting Materials For High-Speed Craft | FTP Code, Annex 1, Part 10. |
| 164.207 | Fire-Resisting Divisions For High-Speed Craft | FTP Code, Annex 1, Part 11. |

The Coast Guard also proposes to codify an existing SOLAS standard into a new approval series under new subpart 46 CFR 162.163, titled ''Portable Foam Applicators,'' in order to detail the approval requirements for portable foam applicators. Portable foam applicator units are a combination of portable foam nozzles and a supply of foam liquid concentrate, and are required in certain applications by SOLAS. Under the proposed rule, to receive Coast Guard approval of a portable foam applicator, the nozzle and the foam concentrate would have to be tested together for compliance with applicable sections of UL 162, Foam Equipment and Liquid Concentrates, Seventh Edition. UL 162 details the construction and performance requirements for equipment and liquid concentrates used in firefighting foam systems.

We also propose adding new subpart 46 CFR 164.141 for non-metallic piping systems. As discussed previously, we propose changes to 46 CFR 56.60–25 to require that plastic pipe be Coast Guard-approved. Currently, plastic pipes that comply with the fire and material

strength standards identified in § 56.60–25, but do not have a COA, may be used on inspected vessels, which is inconsistent with other subchapters that specifically indicate that a product must have a Coast Guard approval. This means vessel owners, builders, or outfitters must provide documentation to the Coast Guard verifying that, for each installation of plastic pipe, the pipes meet the requirements of § 56.60–25. In connection with the proposed change to § 56.60–25, requiring plastic pipe be Coast Guard approved, we are proposing this new subpart to add the approval series detailing plastic pipe requirements. This new approval series would eliminate the burden on vessel owners, builders, and outfitters of providing case-by-case documentation to the Coast Guard, and instead there would be plastic pipe available in the market place that is already tested and marked as Coast Guard approved. Manufacturers are already testing to these standards. This proposed change allows industry to use the pipe without further documentation.

Proposed new subpart 164.141 codifies the testing guidance in current Coast Guard Policy File Memorandum (PFM) 1–98 (available in the docket as described under **ADDRESSES** above), Policy File Memorandum on the Fire Performance Requirements for Plastic Pipe per IMO Resolution A.753(18). The Coast Guard created an approval series for plastic pipes based on PFM 1–98 to make the selection of pipes easier for designers, and so that manufacturers could have their pipes reviewed and type-approved by the Coast Guard for use on vessels required to meet the requirements of § 56.60–25. PFM 1–98 has been used to successfully establish approval, testing, and acceptance procedures for 37 different plastic pipe systems, each having a range of approved sizes. The proposed rule would supersede PFM 1–98 which would no longer be necessary in light of the proposed new approval series for plastic pipes.

We propose to amend the existing approval series at 46 CFR subpart 162.027 for fire hose nozzles used on domestic vessels. This proposed change would explicitly require fire hose nozzles to be of brass or bronze, except for hardware and other incidental parts, which may be of rubber, plastic, or stainless steel. Although, we currently do not specify the materials for construction of fire hose nozzles in the subpart for the fire hose nozzles approval series, we have historically established policy to only approve fire hose nozzles which are made from brass or bronze because of these materials' proven durability in marine environments. We would also add NFPA 1964, Standard for Spray Nozzles, 2008 as an alternative standard to which fire hose nozzles may be approved. Currently, this approval series only permits fire hose nozzles approved by the Coast Guard in accordance with ASTM F 1546. Approved manufacturers have indicated that NFPA 1964, which details construction requirements and performance and testing procedures of firefighting nozzles, is more commonly used in the fire protection equipment industry to certify nozzles.

NFPA 1964 also requires a follow-up (production quality control) program to ensure that manufacturers produce nozzles as designed, tested, and approved, but does not specify such program. Typically, follow-up programs for Coast Guard-approved equipment are administered by the independent laboratory that conducted initial testing for product approval as discussed in NVIC 2–06, Follow up Programs for Fire Safety Type-Approved Products (available online at *http://www.uscg.mil/hq/cg5/nvic/pdf/2006/NVIC%2002-06.pdf*). The focus of a follow-up program is to ensure that manufacturers making fire protective materials such as fire retardant carpets continue to make products to the same standards as those that were tested for approval. Follow-up programs include testing of random product samples to ensure manufacturing precision. Follow-up programs are important for the types of products covered in NVIC 2–06, since minor changes in production can affect the fire protective qualities of the finished product. For example, the under-application of a fire retardant chemical into a textile would reduce the fire protective qualities of carpet. However, for fire hose nozzles, performance of the final product is much less dependent on small production changes; therefore, the use of a certified quality-control procedure such as the International Organization for Standardization (ISO) 9001 configuration control, which is focused on ensuring the manufacturer consistently follows internal and external policies in production, is also appropriate. We propose in subpart 162.027 to allow the use of ISO 9000 configuration control as an alternative to a follow–up program administered by an independent laboratory. In the past, we have allowed the less restrictive use of ISO 9000 for specific and appropriate situations.

We have determined that the SOLAS standards for these materials provide an equivalent level of safety to our requirements. Therefore, in addition to the proposed new and updated approval series, we propose amending our regulations to indicate that certain fire protection equipment and materials approved under approval series that use international standards for SOLAS ships can be used in the place of the products approved under the U.S. requirements, without restriction. See proposed 46 CFR 164.006–6, 164.007–10, 164.008–8, 164.009–26, and 164.012–16. These proposed changes would allow products approved to meet the international standards to be considered equivalent to those products approved as meeting the U.S. requirements. The proposed changes, however, do not allow products meeting the domestic standards to be used in place of those requiring international approvals.

3. FTP Code Test Laboratories ISO/IEC 17025 Certified

On July 1, 2012, the 2010 FTP Code entered into force internationally. The 2010 FTP Code requires that laboratories use a quality control program based on ISO/IEC 17025. This standard is used throughout the world, including by our currently accepted and recognized laboratories, as a means to ensure that the testing of products is conducted in a consistent, appropriate, repeatable, and professional manner.

We propose to amend 46 CFR 159.010–3, titled ''Independent Laboratory: Standards for Acceptance'' to require that all Coast Guard accepted independent laboratories testing products to the FTP Code be accredited to ISO/IEC 17025: 2005, which specifies the general requirements for the competence of testing and calibration laboratories. This proposed requirement would fulfill U.S. obligations as a signatory to SOLAS. The FTP Code, which details the technical requirements necessary to satisfy SOLAS requirements and must be adhered to by SOLAS signatories, specifically requires that independent laboratories be accredited to ISO/IEC 17025: 2005.

*E. Administrative Changes*

1. Correcting Metric Conversions

In 46 CFR subchapter K (§ 118.410) and T (§ 181.410), we propose to correct the metric volume factors used for calculating the required quantity of $CO_2$ for a fixed fire extinguishing system. The existing regulations provide volume factors for systems protecting enclosed ventilation systems for rotating electrical propulsion equipment and cargo spaces. The values for imperial calculations are correct. The metric values, however, are incorrect, and

using them results in a significantly smaller required volume of $CO_2$. The imperial values align with our other regulations (See 46 CFR 95.15–5) as well as the industry standard for $CO_2$ extinguishing systems, NFPA 12: 2011, for similar hazard locations. Because designs of these systems are reviewed by the Marine Safety Center or local Officer-in-Charge, Marine Inspection (OCMI), plans for vessels built in the U.S. are nearly always drawn using imperial numbers, and because the use of the metric values would yield inappropriately small amounts of required agent that any experienced system designer would recognize as faulty, we are confident that any incorrect use of the metric values would have been corrected during plan review. Therefore, we do not believe there are existing vessels' systems that have been designed and installed with incorrect amounts of extinguishing agent.

Similarly, in 46 CFR subchapter K (§ 114.400) and subchapter T (§ 175.400), we propose to adjust the definition of ''open to the atmosphere,'' in both subchapters to correct an improper conversion from imperial to metric units. The definition includes metric equivalents for the requirements that indicate that a space open to the atmosphere is one that has at least 15 square inches of open area exposed to the atmosphere for every cubic foot of volume of the space. This is the desired ratio and matches the definition of ''open to the atmosphere'' that the Coast Guard uses in 33 CFR 183.605. However, the metric equivalent given in the regulations is incorrect and produces a result that is smaller than it should be. Because designs for vessels built to these regulations are reviewed by the Marine Safety Center or local OCMI, and plans for vessels built in the U.S. are nearly always drawn using imperial numbers, we are confident that any incorrect use of the metric values would have been corrected during plan review, therefore, we do not believe that any existing vessels were constructed and outfitted based on these erroneous values and thus no existing vessels would need to be retrofitted.

2. Moving Regulations From 46 CFR 181.400 to 181.405

The existing regulations at § 181.400 contain the requirements for both fire extinguishing systems and fire detection systems on small passenger vessels regulated under 46 CFR subchapter T. We propose to separate, for clarity, these requirements by removing the regulations for fire detection systems in § 181.400(c) through (g) and moving these regulations to proposed new § 181.405(a) through (e). Further, we propose to amend the title of § 181.400 to ''Spaces required to have fixed fire extinguishing systems,'' in order to clarify that this section would contain the requirements for fire extinguishing systems only.

3. Addition of Omitted Statutory Authority Citation

Section 1509 of Title 33, U.S.C. authorizes regulations for safety equipment relating to the promotion of safety of life and property in deepwater ports. Subchapter NN of Title 33 CFR contains regulations establishing warning devices and safety equipment requirements, as well as other matters that relate to the promotion of safety of life and property. However, the list of authorities for these regulations does not contain this statutory authority. For clarity, we propose adding 33 U.S.C. 1509 to the list of authorities contained in 33 CFR Subchapter NN, part 148.

4. Editorial and General Clarifying Changes

Lastly, we propose making corrections and editorial, organizational, and clarifying amendments. These proposed changes will have no substantive effect on the public.

*F. Preemption of State and Local Law*

The Coast Guard conducted a federalism analysis as part of this rulemaking in order to ensure compliance with Executive Order 13132. Section *VII.E., ''Federalism,''* discusses legal principles of preemption and the federalism implications of the proposed rule that 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, as required by Executive Order 13132. In addition to conducting the federalism analysis, the Coast Guard must also comply with President Obama's memorandum titled ''Preemption,'' issued on May 20, 2009, which instructs the heads of executive departments and agencies to include preemption language within the codified regulation if the regulation is intended to preempt state law. The memorandum also orders heads of executive departments and agencies to include the preemption provisions only if the provisions were justified under legal principles, including those discussed in Executive Order 13132.

This rulemaking proposes to revise existing regulations and issue new ones that preempt state and local regulation with regard to fire protection, detection, and extinguishing equipment on several types of vessels, including inspected vessels, uninspected vessels, uninspected commercial fishing vessels, towing vessels, deepwater ports, MODUs, and OCS facilities. The Coast Guard, therefore, proposes to add language to the regulatory text indicating what specific regulations have preemptive effect over State or local law within the same field. During our federalism analysis, we analyzed whether preemptive principles applied to each part, subpart, and section that is affected by this rulemaking. The Coast Guard ultimately determined, however, that uniformity and clarity of the preemptive effect of our regulations over State or local law could be achieved if the preemption language was inserted for other sections not affected by this rulemaking, but that do indeed preempt State or local laws or regulations within other fields. Therefore, if preemptive principles applied to the regulations within the entire subchapter, even if those parts, subparts, or sections were not affected by this rulemaking, the Coast Guard proposes to add language indicating that the regulations found within the subchapter have preemptive effect over State or local law or regulation. If, however, preemptive principles did not apply to all regulations within a subchapter, but only to the part, subpart, or section amended by this rulemaking, the Coast Guard proposes to add preemption language only to that particular part, subpart, or section. The goal of this approach is to ensure uniformity and avoid any confusion as to why a particular part or subpart may contain preemption language when preemption principles apply to other parts, subparts, or sections of a subchapter, if not the entire subchapter itself. If the Coast Guard placed preemption language only within parts, subparts, or sections amended by this rulemaking (even if preemption principles applied to all parts within a subchapter), it would result in confusion and would make implementation of the President's memorandum extremely difficult. To avoid this situation, we propose to place preemption language at the most appropriate location within the subchapter. Based on the President's 2009 memo, and the analysis in our Federalism section, the Coast Guard proposes the new preemption provisions within the regulatory text in the areas specified in Table 5, below. Table 5 contains details regarding which subchapters, parts, subparts, or sections contain proposed preemption language, the location of the proposed preemption

language, and the specific language that would be inserted into the regulatory text.

The authority to promulgate regulations for different categories of vessels is granted to the Coast Guard by Congress. With respect to inspected vessels listed in 46 U.S.C. 3301, Congress granted to the Coast Guard the exclusive authority to promulgate regulations in several different categories, one of which includes required equipment (See 46 U.S.C. 3306). Additionally, it is well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels) are within fields foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke and Intertanko* v. *Locke, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).*) Since this rulemaking would affect numerous subchapters containing regulations for inspected vessels, we propose to include preemption language for each specific subchapter in Title 46 of the CFR indicating that the regulations found within the subchapter have preemptive effect over State or local regulations within the same fields, specifically: D (tank vessels), F (marine engineering), H (passenger vessels—general), I (cargo & miscellaneous vessels), I–A (MODUs), K (small passengers vessels carrying more than 150 passengers or with overnight accommodations for more than 49 passengers), L (offshore supply vessels), N (dangerous cargoes), Q (equipment, construction, and materials: specifications and approval), R (nautical schools), T (small passenger vessels (under 100 GT)), and U (oceanographic research vessels).

Similarly, we propose adding preemption language indicating that the regulations found within subchapter N (outer continental shelf activities) in 33 CFR have preemptive effect over State or local regulations within the same fields. Congress granted the Coast Guard the authority to promulgate regulations for ''lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices'' on the OCS. (*See* 43 U.S.C. 1333(d)(1)). Subchapter N contains regulations establishing these warning devices and safety equipment requirements, as well as other matters that relate to the promotion of safety of life and property. For this reason, we propose to add language signaling that the regulations found within the entire subchapter have preemptive effect over State or local regulations within the same fields.

We also propose adding preemption language indicating that the regulations contained within subchapter NN, concerning deepwater ports, also have preemptive effect over State or local regulation within the same fields. Section 1509(b) of 33 U.S.C. states that the Secretary of Transportation, through delegation to the Coast Guard by operation of law, ''shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.'' Subchapter NN contains regulations establishing warning devices and safety equipment requirements, as well as other matters that relate to the promotion of safety of life and property. For this reason, we propose adding language signaling that the regulations found within the entire subchapter have preemptive effect over State or local regulation within the same fields.

Unlike inspected vessels, Congress provided a restrictive grant of regulatory authority to the Coast Guard with respect to uninspected vessels. The Coast Guard, therefore, may only establish safety standards in specific or limited areas where Congress intended the Coast Guard to have exclusive regulatory authority. With regard to uninspected vessels generally, as noted in 46 U.S.C. 4102(a), Congress required the carriage of a certain number, type, and size of fire extinguishers, which was permitted to be prescribed by regulation. Although certain other portions of 46 CFR subchapter C (uninspected vessels—generally) contain safety equipment regulations promulgated under 46 U.S.C. 4102, several of the safety equipment requirements are required to be located on or near equipment, or within certain spaces, in which Coast Guard regulations do not preempt State or local regulation. Therefore, the Coast Guard has already included preemption language, as part of a separate rulemaking, in 46 CFR 25.30, Fire Extinguishing Equipment, to indicate that only those regulations involving fire extinguishing equipment have preemptive effect over State or local regulation within the same field. *See* Carbon Dioxide Fire Suppression Systems on Commercial Vessels; Final Rule, (77 FR 33871, June 7, 2012).

This analysis for uninspected vessels generally also applies to uninspected commercial fishing vessels. Similar to the statute for uninspected vessels generally, 46 U.S.C. 4502 establishes safety standards in various different equipment categories, although some of those standards or equipment requirements are located on or near equipment, or within certain spaces, in which Coast Guard regulation does not preempt State or local regulation. For this reason, the Coast Guard proposes to insert language signaling preemptive effect over State or local regulation within the sections affected by this rulemaking only. In doing so, the Coast Guard hopes to avoid any confusion that may arise from a misreading of the regulation if language asserting preemptive effect seemed to apply to various equipment or spaces where Coast Guard regulations does not preempt State or local regulation.

Finally, the Coast Guard proposes to add language signaling preemptive effect over State or local regulation concerning safety equipment for towing vessels located in 46 CFR part 27. Although towing vessels are listed as inspected vessels under 46 U.S.C. 3301, the Coast Guard has only proposed comprehensive regulations for their inspection and has not yet promulgated final, effective rules. *See* Inspection of Towing Vessels; Notice of Proposed Rule, (76 FR 49976, August 11, 2011). This rulemaking, however, proposes regulations for towing vessels that involve categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), and these regulations have preemptive effect over State and local regulation within the same field. The subparts located within 46 CFR part 27 contain general provisions and fire protection and suppression equipment requirements and fall within a category in which the State or local governments are precluded from regulating. Therefore, the Coast Guard proposes to include language signaling the preemptive effect the regulations found within 46 CFR part 27 have over State and local law within the same fields.

TABLE 5—PROPOSED PREEMPTION LANGUAGE BY SUBJECT AND AFFECTED CFR SECTIONS

| Subject | Location | Language |
|---|---|---|
| Outer Continental Shelf Facilities | Amend 33 CFR 140.3 | The regulations in this subchapter (parts 140 through 147) have preemptive effect over State or local regulation in the same field. |
| Deepwater Ports | Amend 33 CFR 148.1 | The regulations in this subchapter (parts 148 through 150) have preemptive effect over State or local regulation in the same field. |
| Uninspected—General | 46 CFR 25.30–1 | This section already contains language indicating that the regulations in this subpart have preemptive effect over State or local regulation in the same field. |
| Uninspected—Towing | Create 46 CFR 27.103 | The regulations in this part have preemptive effect over State or local regulation in the same field. |
| Uninspected—Commercial Fishing Vessels. | Create 46 CFR 28.155(b) | The regulations in this section have preemptive effect over State or local regulation in the same field. |
| Uninspected—Commercial Fishing Vessels. | Create 46 CFR 28.160(e) | The regulations in this section have preemptive effect over State or local regulation in the same field. |
| Uninspected—Commercial Fishing Vessels. | Create 46 CFR 28.325(c) | The regulations in this section have preemptive effect over State or local regulation in the same field. |
| Uninspected—Commercial Fishing Vessels. | Create 46 CFR 28.830(c) | The regulations in this section have preemptive effect over State or local regulation in the same field. |
| Tank Vessels | Amend 46 CFR 30.01–1(a) | The regulations in this subchapter (parts 30, 31, 32, 34, 35, 36, 38, and 39) have preemptive effect over State or local regulation in the same field. |
| Marine Engineering | Create 46 CFR 50.01–15(c) | The regulations in this subchapter (parts 50, 52, 53, 54, 56, 57, 58, 59, and 61 through 64) have preemptive effect over State or local regulation in the same field. |
| Passenger Vessels—General | Amend: 46 CFR 70.01–1 | The regulations in this subchapter (parts 70, 71, 72, 76, 77, 78, and 80) have preemptive effect over State or local regulation in the same field. |
| Cargo & Miscellaneous Vessels | Amend 46 CFR 90.01–1 | The regulations in this subchapter (parts 90, 91, 92, 93, 95, 96, 97, 98, and 105) have preemptive effect over State or local regulation in the same field. |
| Mobile Offshore Drilling Unit (MODU) | Amend 46 CFR 107.01 | The regulations in this subchapter (parts 107 through 109) have preemptive effect over State or local regulation in the same field. |
| Small Passenger Vessels <100 GT | Amend 46 CFR 114.100 | The regulations in this subchapter (parts 114 through 122) have preemptive effect over State or local regulation in the same field. |
| Offshore Supply Vessels (OSVs) | Create 46 CFR 125.100(f) | The regulations in this subchapter (parts 125 through 134) have preemptive effect over State or local regulation in the same field. |
| Dangerous Cargoes | Create 46 CFR 147.1(d) | The regulations in this subchapter (parts 147, 147A, and 148) have preemptive effect over State or local regulation in the same field. |
| Equipment, Construction, etc[2] | Amend 46 CFR 159.001–1(b) | The regulations in this subchapter (parts 159 through 164) have preemptive effect over State or local regulation in the same field. |
| Nautical Schools | Amend 46 CFR 167.01–5(a) | The regulations in this subchapter (parts 166 through 169) have preemptive effect over State or local regulation in the same field. |
| Small Passenger Vessels >100 GT | Amend 46 CFR 175.100 | The regulations in this subchapter (parts 175 through 185) have preemptive effect over State or local regulation in the same field. |
| Oceanic Research Vessels | Amend 46 CFR 188.01–3 | The regulations in this subchapter (parts 188, 189, 190 and 193 through 196) have preemptive effect over State or local regulation in the same field. |

## VI. Incorporation by Reference

Material proposed for incorporation by reference appears in 33 CFR 140.7 and 149.3, and 46 CFR 25.01–3, 27.102, 28.40, 31.01–2, 34.01–15, 56.01–2, 71.25–3, 76.01–2, 91.25–7, 95.01–2, 107.115, 108.101, 114.600, 125.180, 147.7, 161.002–1, 162.027–2, 162.028–1, 162.039–1, 162.163–2, 164.105–2, 164.106–2, 164.107–2, 164.108–2, 164.109–2, 164.110–2, 164.111–2, 164.112–2, 164.117–2, 164.136–2, 164.137–2, 164.138–2, 164.139–2, 164.141–2, 164.142–2, 164.144–2, 164.146–2, 164.201–2, 164.207–2, 169.115, 175.600, 188.01–5, and 193.01–3. You may inspect this material at U.S. Coast Guard Headquarters where indicated under **ADDRESSES**. Copies of the material are available from the sources listed in 33 CFR 140.7 and 149.3, and 46 CFR 25.01–3, 27.102, 28.40, 31.01–2, 34.01–15, 56.01–2, 71.25–3, 76.01–2, 91.25–7, 95.01–2, 107.115, 108.101, 114.600, 125.180, 147.7, 161.002–1, 162.027–2, 162.028–1, 162.039–1, 162.163–2, 164.105–2, 164.106–2, 164.107–2, 164.108–2, 164.109–2, 164.110–2, 164.111–2,

[2] **Note:** We propose to remove existing preemption language found within 46 CFR 160.900 and 164.900, as the proposed preemption language in 46 CFR 159.001–1(b) would apply to all parts within subchapter Q.

164.112–2, 164.117–2, 164.136–2, 164.137–2, 164.138–2, 164.139–2, 164.141–2, 164.142–2, 164.144–2, 164.146–2, 164.201–2, 164.207–2, 169.115, 175.600, 188.01–5, and 193.01–3.

Before publishing a binding rule, we will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

## VII. Regulatory Analyses

The Coast Guard developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

### *A. Regulatory Planning and Review*

Executive Orders (EO) 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). EO 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has not been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, the proposed rule has not been reviewed by the Office of Management and Budget. Nonetheless, we developed an analysis of the costs and benefits of the proposed rule to ascertain its probable impacts on industry. We consider all estimates and analysis in this preliminary Regulatory Analysis (RA) to be draft and subject to change in consideration of public comments. A draft preliminary Regulatory Assessment follows:

The RA provides an evaluation of the economic impacts associated with this proposed rule. The table which follows provides a summary of the proposed rule costs and benefits.

TABLE 6—SUMMARY OF THE PROPOSAL'S IMPACTS

| Category | Summary |
|---|---|
| Affected Population | Affected population varies by CFR title and subchapter, see Table 7 below. |
| Total and Annualized Costs ($, 7% discount rate) | $1.08 Million total costs; $154,217 annualized costs. |
| Unquantified Benefits | • Harmonization and compliance with international standards;<br>• Harmonization with industry consensus standards;<br>• Increased compliance choices, reducing regulatory compliance burdens;<br>• Reduction in risk from potentially toxic or flammable gases no longer being routed into human-occupied spaces; and,<br>• Increased safety through the ready availability of tools and equipment during emergency situations. |

The proposed rule contains provisions to amend the CFR requirements for fire protection equipment, materials and systems. Section *V. Discussion of Proposed Rule,* lays out the proposed changes and the rationale for those changes. For the purposes of the RA, we note that the proposed provisions fall into two broad categories: (1) Provisions that harmonize Coast Guard regulations with national and international industry consensus standards; and (2) Provisions that correct or adjust existing regulations referring to specific issues or equipment. Most of the proposed provisions, both harmonizing and non-harmonizing, are not expected to impose additional costs upon the industry.

As indicated in the *IV. Background and Purpose* section, this proposed rule continues the Coast Guard's response to the Presidential Regulatory Reform Initiative of March 4, 1995 and directives including Executive Orders 12866 and 13563 that are intended to improve regulation and the regulatory process. The provisions of this proposed rule would: Remove obsolete regulations and language from the CFR; substitute performance-based options for regulatory compliance as opposed to conventional prescriptive solutions; and employ appropriate current national and international industry consensus standards. The Coast Guard recognizes the significant technological advances in fire detection and suppression systems that have been made for shoreside facilities and would, through this proposed rule, encourage the use of newer equipment and modern standards in maritime operations.

The impacts of the proposed changes are discussed in the RA according to the same outline of items covered in section *V. Discussion of Proposed Rule.* The five organizational categories are:

A. *Fire Alarm and Detection Systems;*

B. *Fire Extinguishers;*

C. *Other Fire Protection Equipment Requirements;*

D. *Updates to Approval Process and Guidance for Equipment and Materials; and,*

E. *Administrative Changes.*

The five categories listed above are either: (1) Provisions that harmonize Coast Guard regulations with national and international standards; or (2) Provisions that correct or adjust existing regulations referring to specific issues or equipment. There are several subcategories within each that are discussed in turn. As previously stated, we expect the majority of these provisions will not impose any additional costs on industry. However, those provisions which may result in additional costs are marked as such and discussed as appropriate.

Table 7 shows the total affected population and the numbers of vessels, facilities, and MODUs organized by CFR subchapter. For each subcategory of provisions we identified the affected population and the respective economic impacts.

TABLE 7—AFFECTED POPULATION

| CFR title | Sub-chapter | Topic | Population |
|---|---|---|---|
| 33 | N | Outer Continental Shelf Facilities | 9,247 |
| 33 | NN | Deepwater Ports | 79 |
| 46 | C | Uninspected Vessels | 11,362,556 |
| | | Towing Vessels | 7,848 |
| | | Uninspected Vessels | 93,850 |
| | | Fishing Vessels | 34,590 |
| | | Recreational Vessels* | 11,226,268 |
| 46 | D | Tank Vessels | 5,866 |
| 46 | F | Marine Engineering | n/a |
| 46 | H | Passenger Vessels | 290 |
| 46 | I | Cargo and Miscellaneous Vessels | 1,760 |
| 46 | I–A | Mobile Offshore Drilling Units (MODU) | 120 |
| 46 | J | Electrical Engineering | n/a |
| 46 | K | Small Passenger Vessels Carrying more than 150 Passengers or with Overnight Accommodations for more than 49 Passengers. | 446 |
| 46 | L | Offshore Supply Vessels | 1,377 |
| 46 | N | Dangerous Cargoes | 46 |
| 46 | Q | Equipment, Construction and Material Specifications and Approval | n/a |
| 46 | R | Nautical Schools | 37 |
| 46 | T | Small Passenger Vessels (Under 100 Gross Tons) | 10,169 |
| 46 | U | Oceanographic Research Vessels | 602 |

*Mechanically propelled recreational vessels.

Source: USCG MISLE database for all non-recreational populations. Recreational vessel population is from COMDTPUB P16754.26—2012 Recreational Boating Statistics, Table 37, available at *http://www.uscgboating.org/assets/1/workflow_staging/Page/705.PDF.*

Costs

In the following discussion, we describe the cost impacts for each category of provisions in the proposed rule. Within each subcategory, we provide a discussion of the provisions and their expected impacts on the industry.

*A. Fire Alarm and Detection Systems*

1. Harmonization With International and National Consensus Standards

These provisions would allow for the use of fire detection and alarm systems under the provisions of SOLAS and FSS Code or the CFR, and would update Coast Guard requirements to reflect modern practices in fire detection and alarm systems. Incorporation by reference is an administrative provision that is used to incorporate the international standards established for fire detection and alarm systems by SOLAS, the FSS Code, and other industry standards as discussed in *V. Discussion of Proposed Rule.*

These provisions remove outdated Coast Guard-specific installation requirements and incorporate by reference more up-to-date national and international consensus standards. These provisions do not require replacement or relocation of existing equipment, and therefore should impose no costs on existing or new vessels as discussions with industry show that their practice is to use the latest standards. Therefore, these provisions are not expected to result in any additional costs to industry.

2. Optional Use of Detection and Alarm System Requirements of SOLAS and the FSS Code

These incorporations provide references for other provisions that would provide non-SOLAS vessels with the option to use fire detection and alarm systems meeting either standards established by SOLAS, the FSS code and ICAI, or the standards for these systems established by the Coast Guard regulations.

SOLAS ships are currently in compliance with these provisions, so they would impose no new requirements and are not expected to incur any additional costs to the SOLAS ships population. These provisions would allow non-SOLAS vessels increased flexibility when selecting fire detection and alarm systems, by allowing fire detection and alarm systems design, manufacture, installation, and operation to comply with either Coast Guard standards or with SOLAS Chapter II–2, Regulation 7. We do not anticipate additional costs to non-SOLAS vessels since we are only giving these vessel owners the option of choosing between SOLAS and Coast Guard standards. Non-SOLAS vessels are currently using the Coast Guard standard and we believe that vessel owners and operators will only use the SOLAS standard if this will be cost-beneficial to their operations or they plan on changing their vessel status (in the future) to SOLAS.

3. Consolidation and Revision of Operation and Installation Requirements

As discussed in section *V. (A) Fire Alarm and Detection Systems,* these provisions would consolidate fire alarm and fire detection system requirements and better reflect current industry advancements and adoption of seamless technologies. These proposed changes would also affect subchapters C, I, K, and T for the requirements that refer the reader to subchapter H. Advancements in marine fire detection and alarm systems include the incorporation of standards articulated in SOLAS, the FSS Code, the development of digital technology with advanced features, and development of technology for the much larger shoreside market. The consolidation of these requirements would make it easier for industry to locate and meet these requirements. As such, these administrative changes would impose no new burden on industry and are not expected to result in additional costs.

4. Grandfathering, and 2½-Year Compliance Period

The provisions relating to all types of fire detection systems would be updated to reflect current technology with existing regulations retained for vessels contracted before the current provisions take effect. Vessels contracted prior to the effective date of the proposed rule

would not be required to retrofit to the newer SOLAS standards; as such, these provisions are not expected to impose any additional cost to industry. These provisions update outdated Coast Guard-specific requirements and incorporate by reference more up-to-date and more commonly used national and international consensus standards. With one exception, as discussed below, these provisions do not require replacement or relocation of existing equipment and so are not expected to have any additional costs to industry.

5. Sample Extraction Type Smoke Detection Systems

This provision would require changes regarding the ventilation of potentially toxic or flammable gases. Our current regulations allow systems to route these potentially toxic or flammable gases or smoke from the cargo hold to the bridge so that a watchstander can detect a problem by smell. International consensus standards consider this unacceptably dangerous, and SOLAS has required routing of sampled gases out of manned spaces since the 1978 protocol which went into effect May 25, 1980. The proposed new provisions, found in 46 CFR 76.33, would require that all existing vessels using sample extraction fire detection methods route the gases outside the vessel and install a sensing device that will trigger a visual and audible alarm in the bridge. Existing vessels will have 5 years in which to comply with this provision. Currently, all U.S. vessels that are SOLAS certificated and built after May 25, 1980, are in compliance with this provision. According to the Coast Guard MISLE database which documents the types of fire detection systems installed onboard vessels, the affected population for this provision includes four vessels—two active SOLAS vessels built before May 25, 1980, and two active non-SOLAS vessels.

Information from the U.S. Bureau of Labor Statistics (BLS) indicates that the loaded mean hourly labor cost (wages and benefits) is $27.15 for Sailors and Marine Oilers (BLS occupation code 53–5011 [3]). This loaded wage rate includes the hourly base wage rates of $19.11 multiplied by a load factor of 1.42 (rounded).[4] We estimate the cost per vessel to comply with this provision at $1,238 which involves the installation of a ventilation fan (average catalogue price $375) and a fixed gas detector (average price $700) and the cost of installation (6 hours at the equivalent wage of a crewmember $27.15 per hour × 6 hours = $163.91). We assume that one of the affected vessels will comply each year (given 5 years to meet compliance) beginning in the second year after publication of the final rule.[5]

Over the 10-year period of analysis, we estimate the total present value costs of this proposal to be about $3,919 and $4,467 discounted at 7 and 3 percent, respectively. We estimate the annualized costs to be approximately $956 and $975 discounted at 7 and 3 percent, respectively. Table 8 summarizes the costs of this proposal to industry.

TABLE 8—REQUIREMENT FOR ROUTING POTENTIALLY TOXIC OR FLAMMABLE GASES OR SMOKE

| Year(s) | Affected vessels | Average cost per vessel | Total cost all vessels | | |
|---|---|---|---|---|---|
| | | | Undiscounted | 7 Percent discount | 3 Percent discount |
| 1 | 0 | $1,238 | $0 | $0 | $0 |
| 2 | 1 | 1,238 | 1,238 | 1,081 | 1,167 |
| 3 | 1 | 1,238 | 1,238 | 1,011 | 1,133 |
| 4 | 1 | 1,238 | 1,238 | 944 | 1,100 |
| 5 | 1 | 1,238 | 1,238 | 883 | 1,068 |
| Totals* | 4 | | 4,952 | 3,919 | 4,467 |
| Annualized | | | | 956 | 975 |

*Totals may not sum due to rounding.

6. Changes to Approval Processes for Detection and Alarm Systems

These provisions would make approval processes easier for manufacturers by allowing some approval tests to be completed by an (NRTL) that is recognized by OSHA as meeting OSHA standards set forth in Subpart S of CFR Part 1910. Coast Guard approval would require that these devices be tested to the general construction, material and reliability standards found in the new consensus standards, including the previously listed US standards, which are incorporated by various provisions of the proposed rule. These new consensus standards are accepted practice within the shoreside and marine industry. Since shoreside practices drive the state of art for firefighting, these incorporations will increase flexibility for the maritime industry and are not expected to result in additional costs.

As the Coast Guard also requires environmental testing for approval of these systems, these provisions would use the standards identified in Table 1 of the (IEC) 60092–504. The IEC standards are compatible with current Coast Guard approval requirements which allow users the choice between the ABS Rules Table 4/11–1 (1996 version); or Category ENV3 tests of the Lloyd's Register Type Approval System, Test Specification 1 (1990 version). We would retain the requirement that testing for marine environmental standards be performed by a Coast Guard-approved laboratory, since these laboratories have the experience and expertise in conducting these tests, and no additional burden is anticipated as a result.

These provisions also allow manufacturers of fire alarm and detection equipment two different approval options: Either the current method of approval for an entire system or a new approval method for individual devices (i.e., smoke detectors) within a system. This change would allow for easier replacement of individual system devices and open the marine market to small manufacturers or those dedicated to making components but not producing all

[3] *http://www.bls.gov/oes/2012/may/oes535011.htm.*

[4] Load factor is determined by dividing the reported total average compensation for all private industries of $28.80 per hour worked in Second Quarter, 2012 by the wages and salaries per hour worked of $20.27.

[5] We anticipate that vessel owners will use the first year, after this rule goes into effect, for planning purposes to schedule for upgrading to the new requirement.

components necessary for a complete detection system.

These provisions do not require replacement or relocation of existing equipment and do not add restrictions to the approval process, and so are not expected to have any additional costs to industry.

7. Revised Requirements Using Guidance Found in Navigation and Vessel Inspection Circular (NVIC) 7–80 for Excess Detection Systems

These provisions allow the use of non-Coast Guard-approved fire detection systems as excess equipment, provided that: The components are listed by an NRTL; they are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance; the installation conforms to the requirements of 46 CFR subchapter J (Electrical Engineering), with specific regard to the hazardous location installation regulations; the Coast Guard has completed its review of the wiring plans and approved them; and the system and units remain functional as intended.

As previously discussed in *V. Discussion of Proposed Rule,* these provisions codify NVIC 7–80, issued April 2, 1980. These provisions codify existing practice and do not require replacement or relocation of existing equipment and so are not expected to have any additional costs to industry.

*B. Fire Extinguishers*

This proposed rule would make parallel changes in each of the subchapters which require vessels, offshore facilities, and deepwater ports to carry Coast Guard approved portable or semi-portable fire extinguishers.

1. Ratings: UL 711 and NFPA 10:2010

These provisions would apply to all the affected population carrying portable and semi-portable fire extinguishers listed in Table 5, including recreational vessels. The provisions would eliminate the current Coast Guard specific rating system for fire extinguisher classifications, relying instead on the relevant national industry standards. The Coast Guard rating system relies on a weight-based standard for the retardant, while the modern industry standards UL 711 and NFPA 10 are performance-based. Currently, all Coast Guard-approved fire extinguishers are rated by their testing laboratories using both the Coast Guard and the NFPA 10 and UL 711 rating systems. Sections 162.028–4 and 162.039–4 require labeling of approved extinguishers with a specified language which includes the Coast Guard rating of the extinguisher. As a result, the Coast Guard rating system is a duplicative and potentially confusing requirement that is inconsistent with current industry standards.

Under this provision, manufacturers of fire extinguishers would no longer have to label their extinguishers with the Coast Guard rating. Extinguisher labeling would remain consistent with current industry formats and styles, and manufacturers would not need to redesign their current labels. This would simplify labeling requirements for manufacturers and limit confusion on the purchases of fire extinguishers for marine use. Currently, all fire extinguishers with Coast Guard approval are also marked with a Coast Guard and UL rating. Therefore, sections 162.028–4 and 162.039–4 requiring labeling of approved extinguishers with Coast Guard rating language would no longer be required. The removal of these requirements would eliminate confusion and have no impact on the approval procedure. We anticipate that manufacturers would continue using their current supply of labels and would only remove the Coast Guard identifier when they order new labels. Industry would not incur any additional expense from this requirement.

The proposed changes would also include adjusting the current carriage requirements found in each subchapter that are currently based on the Coast Guard ratings (example: B–II) to an equivalent requirement that is based on the NFPA 10 and UL 711 ratings (example: 20–B). However, as noted in section *V. Discussion of Proposed Rule,* we found correlations between Coast Guard ratings and the NFPA 10 and UL 711 ratings, so that the number and relative size of extinguishers would not change. In some cases, however, a slightly larger or smaller extinguisher may be required under the new provisions.

For fire extinguishers on recreational and other vessels categorized under different subchapters, the Coast Guard would not require existing vessels to replace serviceable portable and semi-portable fire extinguishers as long as the equipment is properly maintained. When equipment is replaced, the replacement fire extinguisher would have to meet the requirements of the proposed provisions. New vessels, constructed after the publication of the final rule, would be required to be equipped with extinguishers that conform to the new requirements.

At the end of their serviceable life, all portable and semi-portable fire extinguishers for recreational and other vessels categorized under the different subchapters would require replacement with UL rated extinguishers. The examination of marine casualty reports from the MISLE database found positive correlations in extinguisher performance between the Coast Guard weight-based standard and the UL performance standard. The prices of extinguishers obtained from industry catalogues indicate there is no differential in prices for extinguishers rated acceptable under the current Coast Guard standards and those of the UL standards. For this reason, we do not expect these provisions relating to fire extinguishers in non-machinery spaces to result in any additional cost to industry.

The proposed provisions requiring UL class fire extinguishers would affect vessels using large semi-portable $CO_2$ extinguishers (class B–IV and B–V). Extinguishers of this size are currently required in machinery spaces of vessels described under the different subchapters as shown in Table 7. Currently, the Coast Guard's weight-based rating system allows $CO_2$ extinguishers to be used where larger semi-portable extinguishers are required. However, $CO_2$ extinguishers cannot meet the UL performance standards to receive a rating large enough to be considered equivalent to UL B–IV and B–V extinguishers, therefore semi-portable $CO_2$ extinguishers could not be used under this provision of the proposed rule. However, as with all other extinguishers, existing vessels would not have to replace their currently operational extinguishers and would be able to continue to use these extinguishers in machinery spaces until the end of their serviceable life, when they would have to be replaced with extinguishers of comparable classification under the UL rating scale. Vessels using $CO_2$ based extinguishers would be required to replace their semi-portable $CO_2$ extinguisher with an extinguisher that uses another extinguishing agent.

To determine if there is a cost differential between the current Coast Guard-approved $CO_2$ semi-portable fire extinguishers and the comparable UL rated fire extinguishers, the Coast Guard Lifesaving and Fire Safety Division (CG–ENG–4) examined the catalogue pricing of B–V extinguishers that use other fire-retardant agents. The average price of the $CO_2$ based B–V extinguisher was approximately $5,000, whereas the B–V extinguishers using other agents ranged

in price from $1,200 to $2,000. This cost differential would result in a net savings [6] for all vessels that replace these larger $CO_2$ extinguishers as we would not require replacement ahead of the normal replacement schedule.

2. Maintenance: NFPA 10: 2010

These provisions of the proposed rule would require that individuals performing the annual inspection, maintenance, and necessary recharging of fire extinguishers be certified in accordance with the standards of NFPA 10. Currently, all Coast Guard approved portable fire extinguishers have language on the label stating that the extinguisher is to be inspected and maintained in accordance with NFPA 10. The NFPA 10 requirements are consistent with long-standing industry standard practices in the U.S., both shoreside and marine, and refer to the inspection and maintenance of fire extinguishers. We do not know who is currently NFPA 10 certified so we estimate compliance costs below based on our best available information.

Non-rechargeable (non-refillable) fire extinguishers are replaceable units that are expected to require little or no maintenance; after one use or a maximum service life of 12 years, they are replaced. For these extinguishers, all inspections (monthly and annual) and maintenance could continue to be done by owners, operators or designated crewmembers. Uninspected vessels, including recreational vessels, generally carry these types of extinguishers and are therefore not expected to be subject to any additional costs due to these provisions.

Currently, the Coast Guard permits both the monthly inspections and annual maintenance of rechargeable fire extinguishers to be performed by vessel owners, operators or by a designated crewmember. NFPA 10 requires that a ''certified'' person perform all annual maintenance of rechargeable extinguishers. Monthly inspections could continue to be performed by the owner, operator or a designated crewmember. In addition, the Coast Guard would accept the certification or licensing of a fire extinguisher servicing agency granted by an appropriate state or local authority having jurisdiction for servicing and maintenance.

The Coast Guard's MISLE database contains records on approximately 113,851 fire extinguishers onboard 17,132 U.S.-flagged vessels which could be affected by these provisions. We do not have information as to which of these extinguishers are disposable and which are rechargeable; for the cost analysis we assume that all of the extinguishers would be rechargeable. We also estimate that more than 90 percent [7] of inspected vessels currently use private servicing companies (which are already in compliance with NFPA 10) in lieu of doing their own annual maintenance, and are therefore not expected to incur any additional costs due to these provisions.

The costs associated with these provisions would be the certification costs for owner/operators who wish to continue performing annual maintenance according to NFPA 10 specifications. We estimate that 10 percent or 1,714 vessels currently are not using a private servicing company to maintain their extinguishers. We, therefore assume that a designated individual from each of these vessels would continue to perform annual maintenance on their extinguishers and would therefore require certification. Table 9 summarizes the population of vessels and fire extinguishers, as well as the average extinguisher count per vessel.

TABLE 9—AFFECTED POPULATION FOR VESSELS CHOOSING CERTIFICATION

| Vessel inspection subchapter | Existing population | | Affected population (10 percent of existing) | | Avg. per vessel |
|---|---|---|---|---|---|
| | Vessels | Extinguishers | Vessels | Extinguishers | |
| D—Tank Vessels | 3,367 | 13,746 | 337 | 1,375 | 4.08 |
| H—Passenger Vessels | 290 | 8,489 | 29 | 849 | 29.27 |
| I—Cargo and misc. Vessels | 1,716 | 32,540 | 172 | 3,254 | 18.96 |
| IA—MODU | 82 | 3,594 | 8 | 359 | 43.83 |
| K—Small Passenger Carrying 150+ PAX or 49+ Overnight | 446 | 3,536 | 45 | 354 | 7.93 |
| L—Offshore Supply Vessels | 520 | 9,530 | 52 | 953 | 18.33 |
| N—Dangerous Cargoes (Dry Bulk) | 46 | 470 | 5 | 47 | 10.22 |
| R—Nautical Schools | 37 | 836 | 4 | 84 | 22.59 |
| T—Small Passenger Vessels (< 100 Gross Tons) | 10,169 | 37,725 | 1,017 | 3,773 | 3.71 |
| U—Oceanographic Vessels | 64 | 1,581 | 6 | 158 | 24.70 |
| UNSPECIFIED | 395 | 1,804 | 40 | 180 | 4.57 |
| TOTALS* | 17,132 | 113,851 | 1,713 | 11,385 | 6.64 |

*Totals may not sum due to rounding.

NFPA 10 certification can be obtained by either taking an online examination that lasts 2.5 hours or by attending an 8-hour seminar concluding with an examination. Upon successful completion of the examination, a certificate is awarded which will be valid for three years. We assume that individuals currently servicing fire extinguishers are familiar with proper maintenance methods and any necessary training prior to the exam can be accomplished through on the job training. We also assume that owners and operators would choose the least cost and time consuming means of obtaining certification. Therefore, we estimate the cost of this provision using the online method of certification to be $139 per course.[8]

As previously discussed, information from the BLS indicates that the loaded mean hourly labor cost (wages and benefits) is $27.15 for crew members (BLS occupation code 53–5011—Sailors and Marine Oilers). This loaded wage rate includes the hourly base wage rates of $19.11 multiplied by a load factor of 1.42. We assume one crew member per vessel would be certified. We also

[6] We are unable to provide a cost estimate for the savings that vessels may incur from replacing $CO_2$ extinguishers, because there is no way of knowing the exact number of $CO_2$ extinguishers being carried on vessels or the rate of future replacements.

[7] The 90 percent is an estimate provided by CG–Engineering–1 based on input from field marine inspectors.

[8] *http://train.fpcltd.com/.*

anticipate that in the initial year of this proposed rule, all vessels would be required to have a crewmember certified. Thereafter, we anticipate that ⅓ of the affected population would have one crewmember certified each year.[9] Certification through online examination would cost approximately $207 per mariner ($139 + (2.5 hrs × $27.15/hr)). The annual cost of online examination for 10% of the affected population is approximately $354,000 (undiscounted) for the first year and approximately $118,000 (undiscounted) for the recurring years.

Additionally, we anticipate that industry will incur a cost burden for recordkeeping of crew members' certifications. Vessel owners and operators must have crew members' certificates available when asked by inspector to verify crew member training. We assume that a person in charge of the vessel would spend 2 minutes filing the certificate and 2 minutes to produce the certificate upon request. Based on information from the BLS, we estimate a loaded wage rate[10] of $50.38 and an estimated annual cost of this requirement to be $3.36 per vessel ($50.38 × 4 minutes ÷ 60 min/hr). We have included a detailed Paperwork Reduction Analysis in the collection of information section of the RA.

Over the 10-year period of analysis, we estimate total present value cost at approximately $1.07 million discounted at 7 percent with an annualized cost of approximately $152,000 discounted at 7 percent. Table 10 summarizes the costs impact of this proposal rule on industry.

TABLE 10—CERTIFICATION COSTS FOR NFPA 10

| Year | Certifications per year | Undiscounted costs | | Total discounted costs | |
|---|---|---|---|---|---|
| | | Cost of online examination | Total costs with recordkeeping costs | Online examination (7 percent) | Online examination (3 percent) |
| 1 | 1,713 | $354,425 | $360,181 | $336,618 | $349,690 |
| 2 | 571 | 118,128 | 120,046 | 104,853 | 113,155 |
| 3 | 570 | 117,921 | 119,836 | 97,822 | 109,667 |
| 4 | 571 | 118,128 | 120,046 | 91,583 | 106,660 |
| 5 | 570 | 117,921 | 119,836 | 85,441 | 103,372 |
| 6 | 571 | 118,128 | 120,046 | 79,992 | 100,537 |
| 7 | 570 | 117,921 | 119,836 | 74,628 | 97,438 |
| 8 | 571 | 118,128 | 120,046 | 69,868 | 94,766 |
| 9 | 570 | 117,921 | 119,836 | 65,183 | 91,844 |
| 10 | 571 | 118,128 | 120,046 | 61,025 | 89,326 |
| Totals* | | 1,416,747 | 1,439,757 | 1,067,013 | 1,256,454 |
| Annualized | | | | 151,919 | 147,295 |

*Totals may not sum due to rounding.

3. Testing: UL 8, UL 154, UL 299, UL 626, UL 2129

These provisions amend the approval requirements for portable and semi-portable fire extinguishers to reference the appropriate UL standards. We would require the use of UL standards for each type of extinguisher and remove the current Coast Guard specific requirements. Currently all extinguishers receiving Coast Guard approvals are also tested to UL standards and listed by a Coast Guard-recognized laboratory; therefore, we do not expect this change to add any additional costs to industry.

We are proposing to delete the existing sections §§ 162.028–1 and §§ 162.039–1 which are informational provisions and add new sections that incorporate by reference the NFPA 10 and the applicable UL standards for the different types of fire extinguishers currently approved for marine use. The harmonization of these provisions with a current Coast Guard requirement would not add any costs to industry.

4. Approval Process

These provisions change the location from the CFR to our Web site (*http://cgmix.uscg.mil*) as the place to find the list of currently recognized Coast Guard testing laboratories. These provisions also amend the approval requirements for fire extinguisher manufacturers to more clearly reflect current practice under the Memorandum of Understanding as noted in section *V. Discussion of Proposed Rule.* These are informational provisions that are not expected to result in costs to industry.

5. Reducing and Relocating Portable Spare Extinguisher Requirements

These provisions would amend the domestic vessel requirements for spare fire extinguishers by reducing the number of required spare portable fire extinguishers. We seek specific comments on the appropriate percentage of spares necessary on domestic vessels. Depending on comments received, we propose to reduce the number of spares to somewhere in the range of the currently required 50 percent down to as low as ten percent. Depending on comments received, we will specify the percentage of spares necessary and add this number to the existing tables in 46 CFR 34.50–10(a), 76.50–10(a), 95.50–10(a), 108.495, 169.567(a), and 181.500(b), and delete the existing references in sections: 46 CFR 76.50–15, 95.50–15, 132.230 and 193.50–15. These provisions would add no burden to domestic vessels.

Requirements for vessels on international voyages subject to SOLAS would not change. These vessels would still be required to comply with SOLAS requirements, 100 percent spare charges for the first 10 extinguishers, then 50 percent for the remaining extinguishers (SOLAS Chapter II–2, Regulation 10.3.3).

[9] The ⅓ certification estimate is based on vessels having employee turnover and/or crewmember needing to re-certify every three years. In this analysis we assume that for years 2 and 3, ⅓ of the affected population will be required to get certified due to an equal number of crew turnover or change in job statue that would require new certification of another crewmember. Thereafter, we assume that the number of crewmember turnover, change of job status and re-certification would equate to ⅓ of the affected population per year.

[10] Mean hourly wage of $35.46 for BLS occupation code 53–5021, Captains, Mates, and Pilots of Water Vessels (*http://www.bls.gov/oes/2012/may/oes535021.htm*), multiplied by a load factor of 1.42.

*C. Other Fire Protection Equipment Requirements*

1. Spanner Wrench Carriage Requirement for Small Passenger Vessels

These provisions would impose a new requirement that all subchapter T and K vessels carry a spanner wrench for each 1.5-inch diameter hose installation. For existing vessels, these provisions would apply to those that currently do not have spanner wrenches. According to the Coast Guard's MISLE database, there are approximately 2,585 subchapter T and K vessels with 1.5-inch diameter hose installations. The total number of 1.5-inch diameter hose installations onboard the vessels is 6,538, for an average of approximately 2.5 hose installations per vessel. The individual catalogue prices of spanner wrenches indicate a cost of $15.00 to $25.00 per wrench.

Table 11 summarizes the vessel population and the cost of the potential distribution of spanner wrenches per vessel costs depending on the number of 1.5-inch diameter hose installations. Coast Guard marine inspectors report that over 90 percent of subchapter T and K already have the necessary spanner wrenches. We therefore assume that 259 vessels, or 10 percent of vessels in the affected population, would need to purchase spanner wrenches based on the number of 1.5-inch diameter hose installations on board.

TABLE 11—SUMMARY OF VESSEL POPULATION AND POTENTIAL PER VESSEL COSTS

| Number of 1.5″-hose installations | Total vessel count | 10% of affected vessels | Costs per vessel | |
|---|---|---|---|---|
| | | | Low | High |
| 1 | 630 | 63 | $15.00 | $25.00 |
| 2 | 1,298 | 130 | 30.00 | 50.00 |
| 3 | 263 | 26 | 45.00 | 75.00 |
| 4 | 164 | 16 | 60.00 | 100.00 |
| 5 | 111 | 11 | 75.00 | 125.00 |
| 6–9 | 78 | 8 | 90–135 | 150–225 |
| 10–20 | 33 | 3 | 150–300 | 250–500 |
| >20 | 8 | 1 | 315–750 | 525–1250 |
| Total * | 2,585 | 259 | | |

Table 12 summarizes the total costs of this proposal to industry. We expect the costs of this provision to be incurred in the first year. We estimate costs for this provision using the average cost range of spanner wrenches to be $20 per vessel. Based on information from MISLE, there are approximately 6,538 1.5-inch diameter hose installations onboard 2,585 vessels for an average of 2.5 (rounded) 1.5-inch diameter hose installations per vessel. Based on an average of 2.5 hose installations per vessel, (for cost calculation purposes in this analysis we use an average cost for the wrench of $20.00) the average per vessel costs is approximately $50 ($20.00 per unit × 2.5 units per vessel).

TABLE 12—TOTAL COSTS OF SPANNER WRENCH CARRIAGE REQUIREMENT

| | Affected vessels | 10% of Count of 1.5″ installations | Wrench costs | Total * |
|---|---|---|---|---|
| | (A) | (B) | (C) | (B × C) |
| Spanner wrench price | 259 | 654 | $20.00 | $13,076 |

* Totals may not sum due to rounding.

2. Alternative Use of Two Small Firehoses in Place of a Single Hose

This provision allows for two 1.5-inch diameter hoses to be used instead of one 2.5-inch hose. This allowance would only be for hoses at external locations. This provision does not preclude the use or carriage of a 2.5-inch hose and allows the vessel owners and operators to make the choice which best suit their specific need. This provision, which is an option to owners and operators, is not expected to have any additional costs on industry. We came to this conclusion, because we believe that existing vessels would not exercise their option to convert from a 2.5-inch diameter hose to two 1.5-inch diameter hoses unless it will be beneficial to their operations.

3. Limited Use of Land-Based Fire Extinguishers

We propose in 46 CFR 34.50–10 that portable fire extinguishers brought onto unmanned barges during cargo transfer or operation of barge machinery or boilers, as required by Table 34.50–10(a), need not be Coast Guard-approved. As discussed in section *V. Discussion of Proposed Rule,* this proposed change would codify the policy issued by NVIC 13–86, which allows non-Coast Guard approved fire extinguishers, but only those that are UL-approved, to be used on unmanned barges. We have permitted the use of non-Coast Guard, UL-approved extinguishers on unmanned barges because unmanned barges are not required to carry portable fire extinguishers while in transit, and thus such extinguishers need not be tested for marine environmental conditions, which is the purpose of the Coast Guard approval.

The use of extinguishers that are brought aboard an unmanned barge during loading may reduce the operating costs for the barge owner because barges would not be required to have fire extinguishers permanently mounted onboard the barges, nor would they need to be inspected monthly or serviced annually. This change codifies current practice and provides industry with flexibility in providing fire extinguishers for barges during cargo operations. As such, we do not expect these proposed changes to result in any additional costs to the industry.

4. Amended Definitions for Small Passenger (Subchapter T) Vessels

These provisions include explanatory language and clarification of definitions. These provisions do not alter nor impose new requirements on industry, but rather are informational and explanatory in nature. Consequently, they would not impose any additional costs on the industry.

5. Clarification on the Use of International Standards (SOLAS) in Lieu of Domestic Standards

These provisions would establish equivalency between the structural fire protection requirements of SOLAS, Chapter II–2 and the requirements of subparts affecting domestic vessel populations. The purpose would be to allow certain types of domestic vessels to employ the structural fire protection requirements established by SOLAS if it is advantageous to do so.

These provisions also allow the use of alternative materials in products approved under each of the SOLAS Chapter II–2 approval sections.

6. Use of Non-Metallic Pipe

These provisions allow for the use on non-metallic piping for short sections, 30 inches or less, in non-vital systems provided the pipe is contained in one compartment. Current requirements state that all piping in these situations meet flame spread requirements. The proposed allowance of short runs of plastic pipe on non-vital systems within the same compartment without any Coast Guard approval increases flexibility for industry and may reduce costs. Also, plastic pipes are easier to maintain and cheaper, and their use would not compromise the Coast Guard's safety goals. We expect that the industry would choose to employ plastic pipes for use in sanitary service areas, such as toilet, sink and shower supply, and drain lines in accommodation spaces. As such, we do not expect these proposed changes to result in any additional costs to the industry.

7. Use of Non-Metallic Pipe on Small Passenger (Subchapter T) Vessels

The Supplemental Notice of Proposed Rulemaking (SNPRM) for Small Passenger Vessel Inspection and Certification, (59 FR 1994, January 13, 1994) aligned the requirements for non-metallic piping with requirements for other vessels at the time without directing users to refer to 46 CFR part 56 to find the requirements for non-metallic pipe. All other inspected vessels, including passenger vessels regulated by 46 CFR subchapters H and K, are required to use the requirements found in § 56.60–25 for nonmetallic pipe. The intent of the 1994 SNPRM was to make the ''construction material requirements for vital system piping consistent for all vessels regardless of size or passenger capacity.'' However, the 1994 SNPRM did not include the reference to § 56.60–25 for Subchapter T vessels.

Because subchapter T does not refer the reader to § 56.60–25, and was not updated to mirror the requirements in § 56.60–25, the current regulations in Subchapter T are more restrictive than those for other classes of vessels. The proposed changes to § 182.720 would allow this class of small passenger vessels to use the requirements of § 56.60–25, including the proposed changes to this section discussed above, as an alternative to those prescribed in subchapter T. As such, we do not expect these proposed changes to result in any additional costs to the industry.

8. Sprinkler Systems

The proposed regulations would remove the Coast Guard-unique design and installation requirements for sprinkler systems currently found in 46 CFR 76.25–5 through 76.25–35, erroneously left in place by a previous rulemaking (Harmonization with International Safety Standards; 62 FR 51188, September 30, 1997). In that rulemaking, which adopted NFPA 13 to replace the Coast Guard-unique requirements for sprinkler systems, sections 76.25–5 through 76.25–35 should have been deleted, but were not.

The proposed regulations would also add clarifying language and chapter specificity regarding NFPA 13. Updates in 2010 to NFPA 13 specify that performance for the designed sprinkler system should not be reduced whether a vessel is upright or at an inclined angle. Industry practice for marine systems already takes these incline angles into account and therefore these proposed changes do not alter current industry standards or practice and as such, are not expected to result in any additional costs.

9. Alternatives for Halon Bottle Inspection

Current requirements for cylinders storing Halon 1301 state that they must be emptied and hydrostatically tested every 12 years. Also, cylinders discharged more than 5 years after the previous testing must be retested before refilling. However, due to the international ban on the production of Halon 1301, emptying and refilling of a Halon 1301 cylinder is expensive and impractical for many vessel owners as it requires carefully controlled reclamation and collection of Halon 1301.

As discussed in *V. Discussion of Proposed Rule,* the proposed changes to 46 CFR 147.65 would establish an alternative method of periodic inspection and testing requirements for Halon 1301 fire extinguishing systems by codifying NVIC 3–95, Periodic Inspection and Testing of Fixed Halon Fire Fighting Equipment Aboard Merchant Ships, and allow visual exams for Halon-storage bottles. We do not expect these proposed changes to result in any additional costs to industry.

*D. Updates to Approval Process and Guidance for Equipment and Materials*

1. Mutual Recognition Agreements (MRA)

These provisions would explain the following with regard to MRAs: Their purpose; the Coast Guard process for approval and acceptance of equipment and materials; the numbering and labeling of approved equipment and materials; and the location of the current listing of all equipment approved under MRAs. These provisions may expand market opportunities and reduce management and testing costs for manufacturers as duplicative foreign nation approvals would not need to be sought. These provisions further the goals of E.O. 13609, which states that international regulatory cooperation can be an important means of promoting the goals of E.O. 13563. E.O. 13609 further states that differences between the U.S. and foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. These provisions codify MRAs currently in force, and do not impose new requirements on industry. Consequently, they would not impose any additional costs on the industry.

2. Approval Series

To accompany the changes made to the requirements for fire-detection systems on board vessels, 46 CFR Subchapter Q would codify changes to the approval requirements necessary to meet the changes as discussed above. Also, we would replace outdated Coast Guard-specific requirements, including standards for non-metallic piping systems and fire hose nozzles, with suitable national and international consensus standards, and codify new approval series for equipment and materials approved for use on SOLAS ships, including portable foam applicator units.

The proposed changes would require that all Coast Guard-accepted independent laboratories testing products for approval to the SOLAS requirements adhere to the FTP Code. On July 1, 2012, the 2010 Fire Test Procedures Code entered into force, and requires that laboratories use a quality control program based on ISO/IEC 17025. This standard is used throughout the world by our accepted laboratories as a means to ensure that testing of products is conducted in a consistent, appropriate, repeatable, and professional manner. Additionally, the proposed subpart 162.027 allows the use of ISO 9000 configuration control as an alternative to a follow-up program administered by an independent laboratory. In the past, we have allowed the less restrictive use of ISO 9000 for specific and appropriate situations.

In addition to the proposed new and updated approval-series requirements discussed above, the proposed changes would amend our regulations to indicate that certain fire protection equipment and materials approved under approval series that use international standards for SOLAS vessels can be used without restriction in place of the products approved under the U.S. requirements, such as fire doors. These changes would allow products approved to meet the international standards to be considered equivalent to those products approved as meeting the U.S. requirements, because we have determined that the SOLAS standards for these materials provide an equivalent level of safety to our requirements.

For the reasons discussed above, we do not expect these proposed changes to result in any additional costs to industry.

3. FTP Code Test Laboratories ISO/IEC 17025 Certified

These provisions require that all laboratories which test according to the FTP Code be ISO/IEC 17025 certified. All currently approved FTP Code laboratories have ISO/IEC certification. This provision would codify international consensus standards and reflects currently existing practice and is not expected to impose any additional costs on industry.

*E. Administrative Changes*

The proposed rule will also perform some administrative and technical changes including: Correcting conversion calculations listed in 46 CFR subchapter K (§ 118.410) and T (§ 181.410); moving and separating, for clarity, certain requirements by removing the regulations for fire detection systems in § 181.400(c) through (g) and moving these regulations to proposed new § 181.405(a) through (e); adding previously omitted statutory authority citation 33 U.S.C. 1509 to the list of authorities contained in 33 CFR Subchapter NN, part 148; and, making other corrections including editorial, organizational, and clarifying amendments. These are administrative corrections and would not impose any additional cost to the affected population.

Summary of Total Costs From All Provisions

As discussed in the preamble and RA, total costs from this proposed rule stem from three provisions: (1) The NFPA 10 certification costs for owners and operators who wish to continue performing annual maintenance themselves; (2) Installation of a sensing device for vessels using sample extraction fire detection methods; and (3) The spanner wrench carriage requirement. Table 13 summarizes the total costs for these provisions and Table 16 presents the average total discounted and annualized costs by inspected subchapter (7 percent discount rate). Over the 10-year period of analysis, we estimate total discounted costs of these provisions to be approximately $1.08 million and the annualized cost at $154,217 using a discount rate of 7 percent.

TABLE 13—ESTIMATE FOR TOTAL COSTS

| Year | NFPA 10 certification and recordkeeping | Undiscounted costs | | | Discounted costs | |
|---|---|---|---|---|---|---|
| | | Sample extraction | Spanner wrenches | Undiscounted total costs | Total costs (7 percent) | Total costs (3 percent) |
| 1 | $360,181 | $0 | $13,076 | $373,257 | $348,838 | $362,385 |
| 2 | 120,046 | 1,238 | ..... | 121,284 | 105,934 | 114,322 |
| 3 | 119,836 | 1,238 | ..... | 121,074 | 98,832 | 110,800 |
| 4 | 120,046 | 1,238 | ..... | 121,284 | 92,527 | 107,759 |
| 5 | 119,836 | 1,238 | ..... | 121,074 | 86,324 | 104,439 |
| 6 | 120,046 | ..... | ..... | 120,046 | 79,992 | 100,537 |
| 7 | 119,836 | ..... | ..... | 119,836 | 74,628 | 97,438 |
| 8 | 120,046 | ..... | ..... | 120,046 | 69,868 | 94,766 |
| 9 | 119,836 | ..... | ..... | 119,836 | 65,183 | 91,844 |
| 10 | 120,046 | ..... | ..... | 120,046 | 61,025 | 89,326 |
| Totals * | 1,439,757 | 4,944 | 13,076 | 1,457,784 | 1,083,152 | 1,273,617 |
| Annualized | ..... | ..... | ..... | ..... | 154,217 | 149,307 |

* Totals may not sum due to rounding.

Total Costs by CFR Subchapter

As this proposed rule affects a range of commercial vessels regulated under a number of 46 CFR subchapters, we present a summary of those affected vessels organized by inspection subchapter designation in Table 14. This summary aggregates the per-vessel costs based on a vessel's inspection subchapter designation. The summary in Table 12 presents the average 10-year and annualized costs, discounted at 7 percent. We also present the total number of affected vessels and the average annualized discounted cost per vessel (7 percent). Over the 10-year period of analysis, we estimate approximately 1,713 vessels will incur an average annualized cost of $78 per vessel. Table 14 below presents these results.

TABLE 14—AVERAGE DISCOUNTED TOTAL COSTS BY INSPECTION SUBCHAPTER

[7 percent]

| Inspection subchapter designation | Description | Discounted total costs (7 percent) | Annualized costs (7 percent) (A) | Affected population (B) | Annualized costs per vessel (A/B) |
|---|---|---|---|---|---|
| C | Uninspected Vessels | $0 | $0 | n/a | n/a |
| D | Tank Vessels | 212,875 | 30,309 | 338 | 90 |
| H | Passenger Vessels >100 GT | 18,335 | 2,610 | 30 | 87 |
| I | Cargo Vessels | 108,492 | 15,447 | 174 | 89 |
| IA | MODU | 5,184 | 738 | 8 | 90 |
| K | Small Passenger Vessels | 28,198 | 4,015 | 87 | 46 |
| L | Offshore Supply Vessels | 32,876 | 4,681 | 52 | 90 |
| N | Dangerous Cargoes (Dry Bulk) | 2,908 | 414 | 5 | 90 |
| R | Nautical Schools | 2,339 | 333 | 4 | 90 |
| T | Small Passenger Vessels | 642,924 | 91,538 | 1,233 | 74 |
| U | Oceanographic Research | 4,046 | 576 | 6 | 90 |
| Unspecified | | 24,973 | 3,556 | 40 | 90 |
| Totals ** | | 1,083,152 | 154,217 | 1,976 | 78 |

** Totals may not sum due to rounding.

Benefits

1. Harmonization with International and National Standards

The benefits of the proposed rule include harmonization and compliance with internationally enforced standards, and harmonization with national industry consensus standards.

For U.S. vessels to receive SOLAS certification, they must be constructed and maintained to international standards in addition to Coast Guard regulations. Therefore, harmonizing our regulations with SOLAS requirements reduces the regulatory burden on vessel owners and operators. Further, for SOLAS vessels, compliance with internationally enforced standards is necessary to prevent a vessel from being subject to detention by Port State Controls (PSC). Port State Controls can detain a ship in a foreign port and require that any deficiencies be rectified before the ship can depart. Delays of this type can be costly to the owners and operators of vessels. Additionally, permitting non-SOLAS vessels to use international standards instead of domestic standards would give these vessels more options during the design, installation and outfitting process of the vessel.

For both SOLAS and non-SOLAS vessels, the harmonization with national industry consensus standards allows vessels to take advantage of modern technologies developed for shoreside use. The marine market for fire safety equipment is much smaller than that for the shoreside industry and, by incorporating the use of national industry consensus standards, this proposed rule would allow vessels a wider choice of equipment that still meets the standards required for vessel safety. This increase in availability and selection of products and services allows owners and operators to increase their purchasing power by improving the product and pricing options available through greater competition.

Most of the harmonization provisions, whether international standards or modern industry consensus standards, are not expected to impose any additional costs on industry because they will not require the immediate replacement of serviceable current equipment. Current equipment will be replaced only at the end of its serviceable life, in most cases. The cost of replacement equipment that meets the new standards is expected to be less costly than its current counterpart in the marine market. There are three exceptions to this, which have been discussed in the Costs section. Additionally, these provisions provide additional economic efficiencies through the expansion of markets, particularly international markets.

2. NFPA 10 Certification

The shoreside firefighting industry drives innovations and the establishment of standards. NFPA 10 certification for individuals maintaining fire extinguishers is an established shoreside standard and practice helping to ensure that pressure vessels are properly handled and maintained. Similarly, NFPA 10 certification for mariners servicing fire extinguishers helps to ensure that those performing the maintenance have been trained to industry standards. These certifications help to preserve the margin of safety necessary when handling pressure vessels such as portable fire extinguishers. Additionally, national industry consensus standards, incorporated by reference, help to ensure that maintenance is performed in a consistent manner. This allows vessel owners and operators to take advantage of improved methodologies and safe operating procedures as well as removing barriers for the maintenance industry to service the maritime sector, potentially expanding the market of service providers and reducing costs.

3. Ventilation of Potentially Toxic or Flammable Gases for Systems Using Sample Gas Extraction

Sample gas extraction systems which route environmental samples from the cargo holds to the bridge so a watchstander can detect a problem by smell have been considered by international consensus standards to be unacceptably dangerous. These potentially toxic or flammable gases may create hazardous conditions and may present unnecessary and avoidable risks to the watchstander. In recognition of this, the 1978 SOLAS protocol, which went into effect May 25, 1980, directed that the gases be vented to the exterior rather than to the bridge. The need for a reduction of human exposure to potentially hazardous environments is well recognized by the Occupational Safety and Health Administration as noted in their implementation of ventilation standards, including exhaust ventilation systems (29 CFR 1910.94(a)(4)). These standards specify that potentially toxic gasses should be routed away from human occupied spaces.

Additionally, the installation of a detection system provides increased warning capability as both a visual and audible alarm is installed. As such, the detection system reduces detection time as the sensitivity to gases which indicate potential problems is much more attuned and consistent than an individual crew member's olfactory sense. Finally, the environmental conditions are improved as potentially toxic or flammable gases are no longer routed into human-occupied spaces.

4. Spanner Wrench Carriage Requirement

Spanner wrench requirements ensure that the safety equipment installed onboard vessels is available for use. These requirements ensure that a 1.5-inch hose can be used in the case of an emergency. Additionally, requiring the placement of the wrench near the hose installation may reduce response time as the necessary tool is readily available.

*B. Small Entities*

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

In order to determine whether this proposed rule would have a significant impact on a substantial number of small entities, we assume the maximum potential impact any single vessel and entity would incur when estimating costs. Table 15 illustrates this possibility should a single entity choose to implement these requirements on the same vessel during the first year. We anticipate that the estimated average annualized discounted cost (7 percent) per vessel to be $78. Table 14 (above) discusses the distribution of costs by inspection subchapter and we note that the annualized discounted costs (7 percent) range from approximately $46 to $90.

TABLE 15—ESTIMATED MAXIMUM UNDISCOUNTED FIRST YEAR COSTS

| Inspection subchapter designation | Description | NFPA 10 certification costs | Sample extraction costs | Spanner wrench costs | Totals (undiscounted) | | |
|---|---|---|---|---|---|---|---|
| | | | | | Total costs | Vessel count | Cost per vessel |
| C | Uninspected Vessels | ..... | ..... | ..... | $0 | n/a | n/a |
| D | Tank Vessels | 70,787 | 1,238 | ..... | 72,025 | 337 | 214 |
| H | Passenger Vessels >100 GT. | 6,097 | 1,238 | ..... | 7,335 | 29 | 253 |
| I | Cargo Vessels | 36,077 | 2,476 | ..... | 38,553 | 172 | 225 |
| IA | MODU | 1,724 | ..... | ..... | 1,724 | 8 | 210 |
| K | Small Passenger Vessels. | 9,377 | ..... | 852 | 10,229 | 45 | 229 |
| L | Offshore Supply Vessels. | 10,932 | ..... | ..... | 10,932 | 52 | 210 |
| N | Dangerous Cargoes (Dry Bulk). | 967 | ..... | ..... | 967 | 5 | 210 |
| R | Nautical Schools | 778 | ..... | ..... | 778 | 4 | 210 |
| T | Small Passenger Vessels. | 213,792 | ..... | 4,318 | 218,110 | 1,017 | 214 |
| U | Oceanographic Research. | 1,346 | ..... | ..... | 1,346 | 6 | 210 |
| Unspecified | ..... | 8,304 | ..... | ..... | 8,304 | 40 | 210 |

We next calculate the expected impact on small entities using a 1 percent revenue impact as a threshold level. In order for a small entity to incur this threshold value, their average annual revenue must be less than approximately $22,000. Using information from several industry sources which contain revenue and employee size information (such as Manta, Cortera, and ReferenceUSA), the Coast Guard has developed a database of entities in the maritime industry which includes the vessels they own. Table 16 presents the distribution of these entities which is broken down by the vessel inspection subchapter designation, the estimated number of small entities, and the estimated count of small entities with revenue under the threshold value based on the cost impact presented in Table 15.

TABLE 16—ESTIMATED DISTRIBUTION OF SMALL ENTITIES BY INSPECTION SUBCHAPTER

| Inspection subchapter designation | Number of small entities | Average revenue | Max revenue | Min revenue | Revenue for a 1% impact | Count of entities under the threshold |
|---|---|---|---|---|---|---|
| C | 1,094 | $1,380,864,403 | $187,437,000,000 | $15,000 | n/a | n/a |
| D | 146 | 21,494,060,774 | 187,437,000,000 | 62,000 | 21,392 | 0 |
| H | 45 | 100,290,000 | 500,000,000 | 500,000 | 25,293 | 0 |
| I | 142 | 86,252,652 | 1,070,988,000 | 70,000 | 22,467 | 0 |
| IA | 16 | 242,016,333 | 1,767,445,000 | 390,000 | 21,024 | 0 |
| K | 48 | 5,915,538 | 50,000,000 | 110,000 | 22,934 | 0 |
| L | 18 | 4,532,613 | 20,000,000 | 150,000 | 21,024 | 0 |
| N | 3 | 27,075,000 | 100,000,000 | 500,000 | 21,024 | 0 |
| R | 6 | 849,996 | 1,549,979 | 200,000 | 21,024 | 0 |

TABLE 16—ESTIMATED DISTRIBUTION OF SMALL ENTITIES BY INSPECTION SUBCHAPTER—Continued

| Inspection subchapter designation | Number of small entities | Average revenue | Max revenue | Min revenue | Revenue for a 1% impact | Count of entities under the threshold |
|---|---|---|---|---|---|---|
| T | 1,015 | 12,532,100 | 1,000,000,000 | 9,000 | 21,448 | 4 |
| U | 8 | 27,500,000 | 50,000,000 | 5,000,000 | 21,024 | 0 |
| Unspecified | 347 | 46,920,905 | 1,390,835,000 | 2,000 | 21,024 | 5 |
| Blank * | 24 | 58,153,333 | 741,370,000 | 140,000 | n/a | n/a |
| Totals ** | 2,912 | | | | | |

* Vessels with 'BLANK' inspection subchapters are treated as 'Uninspected'.
** Totals may not sum due to rounding.

The Coast Guard assumes that entities will choose to minimize revenue impacts for any given year; therefore, we estimate the revenue impact would more closely resemble the discussion presented in Table 14. However, based on the analysis presented in Tables 15 and 16, at most 9 out of 1,362 (1,015 + 347) entities may experience annual costs exceeding the 1 percent threshold. As a result, the Coast Guard assumes this proposed rule would not significantly impact revenues on a substantial number of small entities (i.e., annual costs are expected to be less than one percent of annual revenues), and therefore, do not represent a significant economic impact on affected small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES**. In your comment, explain why you think it qualifies and how and to what degree this proposed rule would economically affect it.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult LCDR John Miller, Office of Design and Engineering Standards, Lifesaving and Fire Safety Division (CG–ENG–4), Coast Guard; (202) 372–1372 or email *John.H.Miller@uscg.mil*. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

*D. Collection of Information*

The proposed rule would call for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1310.3 (c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The Title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection. This proposed rule would modify an existing collection as discussed below.

*Title:* Certificates of Compliance, Boiler/Pressure Vessel Repairs, Cargo Gear Records, and Shipping Papers.

*OMB Control Number:* 1625–0037.

*Summary Of Collection Of Information:* These requirements provide the marine inspector with information regarding the condition of a vessel and its equipment, a list of the type and amount of cargo that has been or is being carried on a vessel, plus information about the owner of the vessel. Each of these requirements relate to the promotion of safety of life at sea and protection of the marine environment.

*Need For Information:* The certification requirement would provide proof that the crewmember assigned to perform the annual fire extinguisher maintenance for rechargeable fire extinguishers onboard a vessel is trained and certified in accordance with NFPA 10 industry standards. Vessel owners and operators must have crew members' certificates available when asked by an inspector to verify crew member training.

*Proposed Use Of Information:* The certificate verifies that crewmembers performing annual maintenance on rechargeable fire extinguishers are current on NFPA 10 training and standards.

*Description Of The Respondent:* We anticipate that a small number of the affected population (1,713 vessel owner/operators) would perform their own annual maintenance on rechargeable fire extinguishers. Vessel owners and operators do have the option of hiring servicing companies to perform the annual maintenance instead of performing the task themselves. However, if a vessel owner or operator elects to perform the annual maintenance on rechargeable fire extinguishers themselves, the crewmember selected for the duty must be trained and certified in NFPA 10 industry standards. We assume the vessel Master will maintain the certificate on file.

*Number Of Responents:* We estimate that a Master for each of 1,713 vessels would be affected by this proposed rule. See Table 7 for an estimated detailed description of the number of vessels, by subchapter, affected by this rule.

*Frequency Of The Response:* We anticipate that all 1,713 vessels will have a crewmember trained and certified in accordance with NFPA 10 industry standards to perform annual maintenance on rechargeable fire extinguishers. We estimate that in the

first year all vessels in the affected population would require certification. After the first year, we estimate that ⅓ of the affected population or 571 crewmembers, would require new certification or re-certification. See footnote 5 above for explanation of the assumption used in the certification for years 2 and 3.

*Burden Of Response:* We estimate additional burden imposed by this proposed rule to be minimal on a per vessel basis. The amount of annual recordkeeping required is anticipated to be less than two minutes for filing the certificate, and another two minutes for producing the certificate during periodic inspections.

*Estimate Of Total Annual Burden:* We estimate the total annual burden for the affected population in the initial year of this rule to be 114.2 hours ((4 min * 1,713 total affected population) ÷ 60 minutes). After the initial year, we anticipate that 1/3 of the affected population or 571 vessel Masters [11] would be burdened with this new requirement. We estimate the annual burden, after the initial year, to be 38 hours ((4 min * 571) ÷ 60 minutes). The annual cost of this burden in the initial year is estimated to be $5,754 (114.2 hours * $50.38 Vessel Masters), and after the initial year to be $1,914 (38 hours * $50.38 Vessel Masters). The per-vessel burden cost is estimated to be $3.35 ($1,914 ÷ 571) (note that the per-vessel cost burden in the initial year will be equal to the burden in the subsequent years).

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (d)), we have submitted a copy of this proposed rule to OMB for its review of the collection of information.

We ask for public comments on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our function better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information, and how we can minimize the burden of collection.

If you submit comments on the collection of information, submit them both to OMB and to the Docket Management Facility where indicated under **ADDRESSES**, by the date under **DATES**.

You need not respond to a collection of information unless we have published a currently valid control number from OMB. Before the Coast Guard could enforce the collection of information requirements in this proposed rule, OMB would need to approve the Coast Guard's request to collect this information.

[11] As discussed above in section *VII. Regulatory Analysis,* we assume a vessel master will be responsible for filing and producing the certificate upon request.

*E. Federalism*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental principles and preemption requirements described in Executive Order 13132. Our analysis is explained below.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard, including categories for inspected vessels. It is also well-settled, now, that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. (*See* the decision of the Supreme Court in the consolidated cases of *United States* v. *Locke* and *Intertanko* v. *Locke, 529 U.S. 89, 120 S.Ct. 1135 (March 6, 2000).*) This proposed rule regulates fire prevention, protection, detection, and extinguishing equipment on inspected vessels, and therefore the States may not regulate within this category of fire prevention equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Additionally, towing vessels are now subject to inspection under 46 U.S.C. 3301 and 3306. As mentioned above, it is well-settled that states may not regulate within categories covered in 46 U.S.C. 3306 for inspected vessels. Since this proposed rule creates comprehensive regulations for fire prevention, protection, detection, and extinguishing equipment on towing vessels, states may not regulate within this category of fire prevention equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Congress also granted to the Coast Guard, through delegation by the Secretary, the authority to promulgate regulations with respect to firefighting equipment on uninspected vessels. 46 U.S.C. 4102(a) requires that ''[e]ach uninspected vessel propelled by machinery shall be provided with the number, type, and size of fire extinguishers, capable of promptly and effectively extinguishing burning liquid fuel, that may be prescribed by regulation.'' This proposed rule regulates, among other things, fire extinguishing equipment on uninspected vessels, and therefore the States may not regulate within this category. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Additionally, with regard to regulations promulgated under 46 U.S.C. 4302 concerning recreational vessels, under 46 U.S.C. 4306, those Federal regulations that establish minimum safety standards for recreational vessels and their associated equipment, as well as regulations that establish procedures and tests required to measure conformance with those standards, preempt State law, unless the State law is identical to a Federal regulation or a State is specifically provided an exemption to those regulations, or permitted to regulate marine safety articles carried or used to address a hazardous condition or circumstance unique to that State. This proposed rule establishes minimum requirements for fire extinguishing equipment for recreational vessels, and therefore the States may not issue regulations that differ from Coast Guard regulations within these fire equipment categories for recreational vessels. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Congress also granted the authority, through delegation by the Secretary, to promulgate regulations for uninspected commercial fishing vessels, which requires these vessels to ''be equipped with . . . readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire.'' 46 U.S.C. 4502(a)(1). Also, Congress permitted the Secretary to establish minimum safety standards for certain uninspected commercial fishing vessels, including standards for ''fire protection and firefighting equipment, including fire alarms and portable and semi-portable fire extinguishing equipment.'' 46 U.S.C. 4502(c)(2)(C). As this proposed rule regulates fire prevention, protection, detection, and extinguishing

equipment on uninspected commercial fishing vessels, the States may not regulate within this category of equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Additionally, Congress specifically granted the authority to regulate artificial islands, installations, and other devices permanently or temporarily attached to the Outer Continental Shelf (OCS) and in the waters adjacent thereto as it relates to the safety of life to the Secretary of the Department in which the Coast Guard is operating. 43 U.S.C. 1333(d)(1) states that the Secretary ''shall have the authority to promulgate and enforce such reasonable regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property on the artificial islands, installations, and other devices . . . as he may deem necessary.'' As this proposed rule regulates fire prevention, protection, detection, and extinguishing equipment to ensure safety of life on these OCS installations, it falls within the scope of authority Congress granted exclusively to the Secretary. This authority has been delegated to the Coast Guard and is exercised in this rulemaking, and the States may not regulate within this category of safety equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

Finally, Congress granted the authority to regulate deepwater ports to the Secretary of Transportation. 33 U.S.C. 1509(b) states that the Secretary of Transportation ''shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.'' When the Coast Guard was an agency within the Department of Transportation, the authority to issue regulations with respect to safety on deepwater ports was delegated to the Coast Guard. See 49 CFR 1.46(s). The Homeland Security Act of 2002, Public Law 107–296, transferred the Coast Guard to the Department of Homeland Security. Pursuant to the Homeland Security Act, authorities that were delegated to the Coast Guard remained intact during this transfer by operation of law. The authority was then delegated to the Commandant of the Coast Guard through Department of Homeland Security Delegation 0170.1. Since this proposed rule regulates fire prevention, protection, detection, and extinguishing equipment to ensure safety on deepwater ports, it falls within the scope of authority that has been transferred, delegated to, and exercised by the Coast Guard. The States may not regulate within this category of safety equipment. Therefore, the rule is consistent with the principles of federalism and preemption requirements in Executive Order 13132.

While it is well settled that States may not regulate in categories in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, the Coast Guard recognizes the key role that State and local governments may have in making regulatory determinations. Additionally, for rules with implications and preemptive effect, Executive Order 13132 specifically directs agencies to consult with State and local governments during the rulemaking process.

Therefore, the Coast Guard invites State and local governments and their representative national organizations to indicate their desire for participation and consultation in this rulemaking process by submitting comments to this NPRM. In accordance with Executive Order 13132, the Coast Guard will provide a federalism impact statement to document: (1) The extent of the Coast Guard's consultation with State and local officials who submit comments to this proposed rule; (2) a summary of the nature of any concerns raised by State or local governments and the Coast Guard's position thereon; and (3) a statement of the extent to which the concerns of State and local officials have been met. We will also report to the Office of Management and Budget any written communications with the States.

*F. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

*G. Taking of Private Property*

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

*H. Civil Justice Reform*

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

*I. Protection of Children*

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

*J. Indian Tribal Governments*

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

*K. Energy Effects*

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

*L. Technical Standards*

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling

procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule uses the following new voluntary consensus standards:

- Compressed Gas Association, Inc. (CGA) Pamphlet C–6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, 2010.
- IEC 60092–504, Electrical Installations in Ships—Part 504: Special Features—Control and Instrumentation, 2001.
- NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems, 2009.
- NFPA 1964, Standard for Spray Nozzles, 2008.
- UL 8, Standard for Foam Fire Extinguishers, 2005.
- UL 154, Standard for Carbon-Dioxide Fire Extinguishers, 2005.
- UL 299, Standard for Dry Chemical Fire Extinguishers, 2002.
- UL 464, Standard for Audible Signaling Appliances, 2009.
- UL 626, Standard for 2½-Gallon Stored Pressure, Water-Type Fire Extinguishers, 2005.
- UL 711, Standard for Rating and Testing of Fire Extinguishers, 2004.
- UL 1480, Standard for Speakers for Fire Alarm, Emergency, and Commercial and Professional Use, 2003.
- UL 1971, Standard for Signaling Devices for the Hearing Impaired, 2002.
- UL 2129, Standard for Halocarbon Agent Fire Extinguishers, 2005.

This proposed rule also uses the following updated voluntary consensus standards:

- ANSI FM 3260, Approval Standard for Radiant Energy-Sensing Fire Detectors for Automatic Fire Alarm Signaling, 2000. Federal Specification ZZ–H–451G, Hose, Fire, Woven-Jacketed Rubber or Fabric-Lined, with Couplings, 1984.
- IMO Resolution A.753(18), Guidelines for the Application of Plastic Pipes on Ships, as amended by IMO Resolution MSC.313(88).
- IMO Resolution A.653(16), Recommendation on Improved Fire Test Procedures for Surface Flammability of Bulkhead, Ceiling and Deck Finish Materials.
- IMO Resolution MSC.307(88), Adoption of the International Code for the Application of Fire Test Procedures, 2010 (2010 FTP Code).
- IMO Resolution MSC.98(73), Adoption for the International Code for Fire Safety Systems (FSS Code) as amended by IMO Resolutions MSC.206(81), MSC.217(82), MSC.292(87), and MSC.311(88).
- International Convention for the Safety of Life at Sea (SOLAS), Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: Article, Annexes and Certificates. (Incorporating all Amendments in Effect from 1 July 2009) (SOLAS).
- IMO Resolution A.1021(26), Code on Alarms and Indicators, 2009.
- NFPA 10, Standard for Portable Fire Extinguishers, 2010. NFPA 13 Standard for the Installation of Sprinkler Systems, 2010.
- NFPA 72, National Fire Alarm Code, 2010.UL 19, Standard for Lined Fire Hose and Hose Assemblies, 2001.
- UL 38, Standard for Manually Activated Signaling Boxes for Fire Alarm Systems, 2008.
- UL 268, Standard for Smoke Detectors for Fire Protective Signaling Systems, 2009.
- UL 521, Standard for Heat Detectors for Fire Protective Signaling Systems, 1999.
- UL 864, Standard for Control Units and Accessories for Fire Alarm Systems, 2003.

The proposed sections that reference these standards and the locations where these standards are available are listed in 33 CFR 140.7, 149.3, and 46 CFR 25.01–3, 27.102, 28.40, 31.01–2, 34.01–15, 56.01–2, 71.25–3, 76.01–2, 91.25–7, 95.01–2, 107.115, 108.101, 114.600, 125.180, 147.7, 161.002–1, 162.027–2, 162.028–1, 162.039–1, 162.163–2, 164.105–2, 164.106–2, 164.107–2, 164.108–2, 164.109–2, 164.110–2, 164.111–2, 164.112–2, 164.117–2, 164.136–2, 164.137–2, 164.138–2, 164.139–2, 164.141–2, 164.142–2, 164.144–2, 164.146–2, 164.201–2, 164.207–2, 169.115, 175.600, 188.01–5, and 193.01–3.

If you disagree with our analysis of the voluntary consensus standards listed above or are aware of voluntary consensus standards that might apply but are not listed, please send a comment to the docket using one of the methods under **ADDRESSES**. In your comment, please explain why you disagree with our analysis and/or identify voluntary consensus standards we have not listed that might apply.

*M. Coast Guard Authorization Act Sec. 608 (46 U.S.C. 2118(a))*

Section 608 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281) adds new section 2118 to 46 U.S.C. Subtitle II (Vessels and Seamen), Chapter 21 (General). New section 2118(a) sets forth requirements for standards established for approved equipment required on vessels subject to 46 U.S.C. Subtitle II (Vessels and Seamen), Part B (Inspection and Regulation of Vessels). Those standards must be '' (1) based on performance using the best available technology that is economically achievable; and (2) operationally practical.'' *See* 46 U.S.C. 2118(a). This rulemaking proposes a revision of the standards for fire prevention, protection, detection, and extinguishing equipment regulations on vessels subject to 46 U.S.C. Subtitle II, Part B, and the Coast Guard has ensured this rule satisfies the requirements of 46 U.S.C. 2118(a), as necessary.

*N. Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is available in the docket where indicated under the ''Public Participation and Request for Comments'' section of this preamble. This proposed rule involves:

Section 2.B.b, Figure 2.1 paragraph (34)(b), (d), and (e) of the Instruction, which covers regulations concerning delegating authority, manning, documents, admeasurements, inspection, and equipping of vessels; and paragraph 6(a) of the National Environmental Policy Act: Coast Guard Procedures for Categorical Exclusions (67 FR 48243, July 23, 2002), which covers regulations concerning vessel and related facility operation safety standards because this proposed rule pertains to regulations concerning delegating authority and the inspection and equipping of vessels (and related facilities), as well as vessel operation safety standards, equipment approval, and equipment carriage requirements. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

**List of Subjects**

*33 CFR Part 140*

Continental shelf, Incorporation by reference, Investigations, Marine safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements.

*33 CFR Part 145*

Continental shelf, Fire prevention, Marine safety, Occupational safety and health.

*33 CFR Part 148*

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

*33 CFR Part 149*

Fire prevention, Harbors, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Oil pollution.

*46 CFR Part 25*

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 27*

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 28*

Alaska, Fire prevention, Fishing vessels, Incorporation by reference, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 30*

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 31*

Cargo vessels, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 32*

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

*46 CFR Part 34*

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

*46 CFR Part 50*

Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 56*

Incorporation by reference, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 70*

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 71*

Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 72*

Fire prevention, Marine safety, Occupational safety and health, Passenger vessels, Seamen.

*46 CFR Part 76*

Fire prevention, Incorporation by reference, Marine safety, Passenger vessels.

*46 CFR Part 78*

Incorporation by reference, Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

*46 CFR Part 90*

Cargo vessels, Marine safety.

*46 CFR Part 91*

Cargo vessels, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 92*

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Seamen.

*46 CFR Part 95*

Cargo vessels, Fire prevention, Incorporation by reference, Marine safety.

*46 CFR Part 107*

Incorporation by reference, Marine safety, Oil and gas exploration, Reporting and recordkeeping requirements, Vessels.

*46 CFR Part 108*

Fire prevention, Incorporation by reference, Marine safety, Occupational safety and health, Oil and gas exploration, Vessels.

*46 CFR Part 113*

Communications equipment, Fire prevention, Vessels.

*46 CFR Part 114*

Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 116*

Fire prevention, Marine safety, Passenger vessels, Seamen.

*46 CFR Part 118*

Fire prevention, Marine safety, Passenger vessels.

*46 CFR Part 122*

Marine safety, Passenger vessels, Penalties, Reporting and recordkeeping requirements.

*46 CFR Part 125*

Administrative practice and procedure, Cargo vessels, Hazardous materials transportation, Incorporation by reference, Marine safety, Seamen.

*46 CFR Part 132*

Cargo vessels, Fire prevention, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 147*

Hazardous materials transportation, Incorporation by reference, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

*46 CFR Part 159*

Business and industry, Incorporation by reference, Laboratories, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 160*

Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 161*

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 162*

Fire prevention, Incorporation by reference, Marine safety, Oil pollution, Reporting and recordkeeping requirements.

*46 CFR Part 164*

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements.

*46 CFR Part 167*

Fire prevention, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

*46 CFR Part 169*

Fire prevention, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Vessels.

*46 CFR Part 175*

Incorporation by reference, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 176*

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 177*

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 181*

Fire prevention, Marine safety, Passenger vessels.

*46 CFR Part 182*

Marine safety, Passenger vessels.

*46 CFR Part 185*

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

*46 CFR Part 188*

Incorporation by reference, Marine safety, Oceanographic research vessels.

*46 CFR Part 189*

Marine safety, Oceanographic research vessels, Reporting and recordkeeping requirements.

*46 CFR Part 190*

Fire prevention, Marine safety, Occupational safety and health, Oceanographic research vessels.

*46 CFR Part 193*

Fire prevention, Incorporation by reference, Marine safety, Oceanographic research vessels.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 140, 145, 148, and 149, and 46 CFR parts 25, 27, 28, 30, 31, 32, 34, 50, 56, 70, 71, 72, 76, 78, 90, 91, 92, 95, 107, 108, 113, 114, 116, 118, 122, 125, 132, 147, 159, 160, 161, 162, 164, 167, 169, 175, 176, 177, 181, 182, 185, 188, 189, 190, and 193 as follows:

## Title 33—Navigation and Navigable Waters

## PART 140—GENERAL

■ 1. The authority citation for part 140 continues to read as follows:

**Authority:** 43 U.S.C. 1333, 1348, 1350, 1356; Department of Homeland Security Delegation No. 0170.1.

### § 140.3 [Amended]

■ 2. Amend § 140.3 by adding, at the end of the introductory paragraph, the sentence ''The regulations in this subchapter (parts 140 through 147) have preemptive effect over state or local regulations in the same field.''.

■ 3. Revise § 140.7 to read as follows:

### § 140.7 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American National Standards Institute (ANSI), 25 West 43rd Street, 4th Floor, New York, NY 10036, (212) 642–4900, *www.ansi.org.*

(1) ANSI A10.14–1975, Requirements for Safety Belts, Harnesses, Lanyards, Lifelines, and Drop Lines for Construction and Industrial Use, IBR approved for § 142.42.

(2) ANSI/UL 1123–1987, Standard for Marine Buoyant Devices, IBR approved for § 143.405.

(3) ANSI Z41–1983, American National Standard for Personal Protection-Protective Footwear, IBR approved for § 142.33.

(4) ANSI Z87.1–1979, Practice for Occupational and Educational Eye and Face Protection, IBR approved for § 142.27.

(5) ANSI Z88.2–1980, Practices for Respiratory Protection, IBR approved for § 142.39.

(6) ANSI Z89.1–1981, Safety Requirements for Industrial Head Protection, IBR approved for § 142.30.

(c) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) IMO Assembly Resolution A.414 (XI), Code for Construction and Equipment of Mobile Offshore Drilling Units, IBR approved for §§ 143.207 and 146.205.

(2) [Reserved]

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org.*

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, (''NFPA 10''), IBR approved for § 145.01(b).

(2) [Reserved]

## PART 145—FIRE-FIGHTING EQUIPMENT

■ 4. The authority citation for part 145 continues to read as follows:

**Authority:** Sec. 633, 63 Stat. 545; sec. 4, 67 Stat. 462; 14 U.S.C. 633; 43 U.S.C. 1333.

■ 5. Revise § 145.01 to read as follows:

### § 145.01 Portable and semi-portable fire extinguishers.

(a) On all manned platforms and on all unmanned platforms where crews are continuously working on a 24-hour basis, Coast Guard-approved portable fire extinguishers and/or Coast Guard-approved semi-portable fire extinguishers must be installed and maintained. On all unmanned platforms where crews are not continuously working on a 24-hour basis, Coast Guard-approved portable fire extinguishers and/or Coast Guard-approved semi-portable fire extinguishers are required to be installed and maintained only when crews are working on them.

(b) Portable and semi-portable fire extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 140.7) as amended here:

(1) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(2) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(3) Non-rechargeable or non-refillable fire extinguishers must be inspected and maintained in accordance with NFPA 10. However, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(4) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

### § 145.05 [Removed and Reserved]

■ 6. Remove and reserve § 145.05.

■ 7. Amend § 145.10 as follows:

■ a. Revise the section heading to read as follows;
■ b. In paragraphs (a) and (b), remove the word ''shall'' and add, in its place, the word ''must'';
■ c. Add new paragraphs (c) and (d) to read as follows; and
■ d. Revise table 145.10(a) to read as follows:

**§ 145.10 Location, number, and installation of fire extinguishers.**

* * * * *

(c) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so all of the space can be protected.

(d) Table 145.10(a) of this section indicates the minimum number and size of fire extinguishers required for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 145.10(a)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Safety Areas: | | |
| Communicating corridors | 2–A | 1 in each main corridor not more than 150 ft apart. (May be located in stairways.) |
| Radio room | 20–B:C | 1 in the vicinity of the exit. |
| Accommodations: | | |
| Sleeping accommodations | 2–A | 1 in each sleeping accommodation space outfitted for 4 or more persons. |
| Service Spaces: | | |
| Galleys | 40–B:C | 1 for each 2,500 sq ft of floor space or fraction thereof. |
| Storerooms | 2–A | 1 for each 2,500 sq ft of floor space or fraction thereof. The extinguisher must be located in the vicinity of the exits, either inside or outside of spaces. |
| Machinery spaces with: | | |
| Gas-fired boilers | 40–B | 2 required. |
| | 160–B | 1 required.[1] |
| Oil-fired boilers | 40–B | 2 required. |
| | 160–B | 2 required.[1] |
| Internal combustion or gas turbine engines | 40–B | 1 for each engine.[2] |
| Electric motors or generators of open type | 40–B:C | 1 for each 2 motors or generators.[3] |

[1] Not required where a fixed extinguishing system is installed.
[2] When the installation is on the weather deck or open to the atmosphere at all times, then one 40–B extinguisher for every three engines is allowable.
[3] Small electrical appliances, such as fans, are exempt.

■ 8. Add § 145.15 to read as follows:

**§ 145.15 Location and number of fire extinguishers required for vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

(a) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] must meet the following requirements:

(1) Previously installed extinguishers with extinguishing capacities smaller than what is required in table 145.10(a) of this part need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(2) All new equipment and installations must meet the applicable requirements in this part for new vessels.

(b) [Reserved]

## PART 148—DEEPWATER PORTS: GENERAL

■ 9. The authority citation for part 148 continues to read as follows:

**Authority:** 33 U.S.C. 1504; Department of Homeland Security Delegation No. 0170.1 (75).

■ 10. Amend § 148.1 by adding, at the end of the introductory paragraph, a new sentence to read as follows:

**§ 148.1 What is the purpose of this subchapter?**

* * * The regulations in this subchapter (parts 148 through 150) have preemptive effect over state or local regulations in the same field.

## PART 149—DEEPWATER PORTS: DESIGN, CONSTRUCTION, AND EQUIPMENT

■ 11. The authority citation for part 149 is revised to read as follows:

**Authority:** 33 U.S.C. 1504, 1509; Department of Homeland Security Delegation No. 0170.1 (75).

■ 12. Add § 149.3 to read as follows:

**§ 149.3 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 149.408(a) through (d).

(2) [Reserved]

■ 13. Amend § 149.403 as follows:
■ a. Revise the section heading to read as follows; and
■ b. In paragraph (a), remove the word ''supplemental'' and add, in its place, the word ''excess''.

**§ 149.403 How can I request to use alternate or excess firefighting and fire prevention equipment or procedures?**

* * * * *

■ 14. Revise § 149.404 to read as follows:

**§ 149.404 Can I use firefighting equipment that is not Coast Guard approved?**

(a) A deepwater port may use firefighting equipment that is not Coast Guard approved as excess equipment, pursuant to § 149.403 of this subpart, if the equipment does not endanger the port or the persons aboard it in any way. This equipment must be listed and labeled by a nationally recognized testing laboratory (NRTL), as set forth in 29 CFR 1910.7, and it must be maintained in good working condition.

(b) Use of non-Coast Guard-approved fire detection systems may be acceptable as excess equipment provided that:

(1) Components are listed by an NRTL as defined in 46 CFR 161.002–2, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), with specific regard to the hazardous location installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system.

**§ 149.405 [Removed]**

■ 15. Remove § 149.405.

■ 16. Revise § 149.408 to read as follows:

**§ 149.408 What are the maintenance requirements for fire extinguishers?**

(a) Portable and semi-portable extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 149.3).

(b) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(c) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(d) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(e) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

■ 17. Revise § 149.409 to read as follows:

**§ 149.409 How many fire extinguishers are needed and how should they be installed?**

(a) Approved portable and semi-portable extinguishers must be installed in accordance with table 149.409 of this section.

(b) Semi-portable extinguishers must be located in the open so as to be readily seen.

(c) Semi-portable extinguishers must be fitted so that all portions of the space concerned may be covered.

(d) Table 149.409 of this section indicates the minimum required classification for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 149.409—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS, MINIMUM QUANTITY AND LOCATION

| Space | Classification | Minimum quantity and location |
|---|---|---|
| (a) Safety Areas: | | |
| (1) Communicating corridors | 2–A | One in each main corridor or stairway not more than 150 ft apart. |
| (2) Radio room | 20–B:C | One outside or near each radio room exit. |
| (b) Accommodation Spaces: | | |
| (1) Sleeping quarters | 2–A | One in each sleeping space that fits more than four persons. |
| (c) Service Spaces: | | |
| (1) Galleys | 40–B:C | One for each 2,500 sq ft or fraction thereof, for hazards involved. |
| (2) Storerooms | 2–A | One for each 2,500 sq ft or fraction thereof, located near each exit, either inside or outside the space. |
| (3) Paint room | 40–B | One outside each paint room exit. |
| (d) Machinery Spaces: | | |
| (1) Gas-fired boilers | 40–B:C | Two. |
| | 160–B | One.[1] |
| (2) Oil-fired boilers | 40–B:C | Two. |
| | 160–B | Two.[1] |
| (3) Internal combustion or gas turbine engines | 40–B | One for each engine.[2] |
| (4) Open electric motors and generators | 40–B:C | One for each of two motors or generators.[3] |
| (e) Helicopter Areas: | | |
| (1) Helicopter landing decks | 160–B | One at each access route. |
| (2) Helicopter fueling facility | 160–B | One at each fuel transfer facility.[4] |

[1] Not required if a fixed system is installed.

[2] If the engine is installed on a weather deck or is open to the atmosphere at all times, one 40–B extinguisher may be used for every three engines.

[3] Small electrical appliances, such as fans, are exempt.

[4] Not required if a fixed foam system is installed in accordance with 46 CFR 108.489.

(e) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so that all areas of the space can be protected.

■ 18. Revise § 149.410 to read as follows:

**§ 149.410 Location and number of fire extinguishers required for vessels constructed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(a) Previously installed extinguishers with extinguishing capacities smaller than what is required in table 149.409 of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(b) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

**Title 46—Shipping**

## PART 25—REQUIREMENTS

■ 19. The authority citation for part 25 continues to read as follows:

**Authority:** 33 U.S.C. 1903(b); 46 U.S.C. 3306, 4102, 4302; Department of Homeland Security Delegation No. 0170.1.

■ 20. Revise § 25.01–3 to read as follows:

**§ 25.01–3 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Boat and Yacht Council (ABYC), 613 Third Street, Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) Standard A–1–78, Marine LPG-Liquefied Petroleum Gas Systems, December 15, 1978, IBR approved for § 25.45–2.

(2) Standard A–22–78, Marine CNG-Compressed Natural Gas Systems, December 15, 1978, IBR approved for § 25.45–2.

(3) Standard A–16–97, Electric Navigation Lights, July 1997, IBR approved for § 25.10–3.

(c) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, 1989, IBR approved for § 25.45–2.

(2) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, (''NFPA 10''), IBR approved for § 25.30–10(a) through (d).

(3) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition, (''NFPA 13''), IBR approved for § 25.30–15(c).

(d) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096, 724–776–4841, *http://www.sae.org*.

(1) SAE J–1928, Devices Providing Backfire Flame Control for Gasoline Engines in Marine Applications, June 1989, IBR approved for § 25.35–1.

(2) [Reserved]

(e) Underwriters Laboratories (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 1111, Marine Carburetor Flame Arrestors, June 1988, IBR approved for § 25.35–1.

(2) [Reserved]

■ 21. Revise § 25.30–1 to read as follows:

**§ 25.30–1 Applicability.**

(a) The provisions of this subpart, with the exception of §§ 25.30–80 and 25.30–90 of this subpart, as applicable, apply to all vessels contracted for on or after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].

(b) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] and after November 19, 1952, must meet the requirements of 46 CFR 25.30–80.

(c) Vessels contracted for prior to November 19, 1952, must meet the requirements of 46 CFR 25.30–90.

■ 22. Revise § 25.30–10 to read as follows:

**§ 25.30–10 Portable fire extinguishers and semi-portable fire extinguishing systems.**

(a) Portable and semi-portable extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 25.01–3).

(b) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(c) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(d) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(e) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(f) Vaporizing-liquid type fire extinguishers containing carbon tetrachloride, chlorobromomethane, or other toxic vaporizing liquids are not acceptable as equipment required by this subchapter.

(g) Portable or semi-portable extinguishers, which are required on their name plates to be protected from freezing, must not be located where freezing temperatures may be expected.

(h) The use of dry chemical, stored pressure, fire extinguishers not fitted with pressure gauges or indicating devices, manufactured prior to January 1, 1965, may be permitted on motorboats and other vessels so long as such extinguishers are maintained in good and serviceable condition. The following maintenance and inspections are required for such extinguishers:

(1) When the date on the inspection record tag on the extinguishers shows that 6 months have elapsed since the last weight check ashore, then such extinguishers are no longer accepted as meeting required maintenance conditions until they are reweighed ashore, found to be in a serviceable condition, and within required weight conditions.

(2) If the weight of the container is ¼ ounce less than that stamped on the container, it must be serviced.

(3) If the outer seal or seals (which indicate tampering or use when broken) are not intact, the boarding officer or marine inspector will inspect such extinguishers to see that the frangible disc in the neck of the container is intact; and if such disc is not intact, the container must be serviced.

(4) If there is evidence of damage, use, or leakage, such as dry chemical powder observed in the nozzle or elsewhere on the extinguisher, the extinguisher must be serviced or replaced.

(i) Dry chemical extinguishers, stored pressure extinguishers, and fire extinguishers without pressure gauges or indicating devices manufactured after January 1, 1965, cannot be labeled with the marine type label described in 46 CFR 162.028–4. These extinguishers manufactured after January 1, 1965, may be carried onboard motorboats or other vessels as excess equipment.

(j) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so that all portions of the space concerned may be covered.

■ 23. Amend § 25.30–15 to

■ a. Revise the section heading;

■ b. Designate the text as paragraph (a)

■ c. Add paragraphs (b) and (c)

The changes to read as follows:

**§ 25.30–15 Fixed fire extinguishing systems.**

* * * * *

(b) If the system is a carbon-dioxide type, then it must be designed and installed in accordance with subpart 76.15 of part 76 of subchapter H (Passenger Vessels) of this chapter.

(b) If the system is an automatic sprinkler system then it must be designed and installed in accordance with Chapter 25 of NFPA 13 (incorporated by reference, see § 25.01–3).

■ 24. Amend § 25.30–20 as follows:

■ a. Remove the word ''hand'' wherever it appears.

■ b. In paragraph (a)(1), remove the word ''shall'' and add, in its place, the word ''must''; after the words ''need not carry'', remove the word ''such''; and after the words ''fire extinguishers if the construction of'', remove the words ''such motorboats'' and add, in their place, the words ''the boats'';

■ c. In table 25.30–20(a)(1), remove the text ''B–1'' and add, in its place, the text ''5–B'';

■ d. In footnote 1 of table 25.30–20(a)(1), remove the text ''B–11'' and add, in its place, the text ''20–B''; and remove the text ''B–I'' and add, in its place, the text ''5–B'';

■ e. In footnote 3 of figure 25.30–20(a1), remove the word ''Close'' and add, in its place, the word ''Closed''.

■ f. Add new paragraph (a)(3) to read as follows;

■ g. In paragraph (b), remove the word ''hand-portable'' and add, in its place, the word ''portable''.

■ h. In paragraph (c)(1), remove the word ''shall'' and add, in its place, the word ''must'';

■ i. In Table 25.30–20(b)(1), remove the text ''B–II'' and add, in its place, the text ''20–B'';

■ j. In paragraph (c)(2), remove the word ''shall'' and add, in its place, the word ''must'';

■ k. In paragraph (c)(2)(i), remove the text ''Type B–II'' and add, in its place, the text ''20–B''; and remove the word ''shall'' and add, in its place, the word ''must'';

■ l. In paragraph (c)(2)(ii), remove the text ''Type B–III semiportable'' and add, in its place, the text ''160–B semi-portable''; remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and remove the words ''fire-extinguishing'', wherever they appear and add, in their place the words ''fire extinguishing'';

■ m. In paragraph (c)(3), remove the text ''B–III'' and add, in its place, the text ''160–B'';

■ n. In paragraph (c)(4), remove the word ''semiportable'' and add, in its place, the word ''semi-portable''; and after the words ''fire extinguisher has wheels'', remove the words ''and is not required by this section'';

■ o. Add paragraph (c)(5) to read as follows; and

■ p. In paragraph (d), remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

**§ 25.30–20 Fire extinguishing equipment required.**

(a) * * *

(3) Table 25.30–20(a)(1) of this section indicates the minimum quantity and type of extinguisher to be carried. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

* * * * *

(c) * * *

(5) Table 25.30–20(b)(1) of this section indicates the minimum quantity and type of extinguisher to be carried. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

* * * * *

■ 25. Add § 25.30–80 to read as follows:

**§ 25.30–80 Location and number of fire extinguishers required for vessels constructed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(a) Previously installed extinguishers with extinguishing capacities smaller than what is required in tables 25.30–20(a)(1) and 25.30–20(b)(1) of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(b) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

## PART 27—TOWING VESSELS

■ 26. The authority citation for part 27 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 4102 (as amended by Pub. L. 104–324, 110 Stat. 3901); Department of Homeland Security Delegation No. 0170.1.

■ 27. Revise § 27.102 to read as follows:

**§ 27.102 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Boat and Yacht Council (ABYC), 613 Third Street, Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) H–25–1986, Portable Fuel Systems for Flammable Liquids, IBR approved for § 27.211.

(2) H–33–1989, Diesel Fuel Systems, IBR approved for § 27.211.

(c) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) ANSI/NFPA 302, Fire Protection Standard for Pleasure, and Commercial Motorcraft, 1998 Edition (''NFPA 302''), IBR approved for § 27.211.

(2) NFPA 750, Standard on Water Mist Fire Protection Systems, 2003 Edition (''NFPA 750''), IBR approved for § 27.101.

(3) NFPA 2001, Standard on Clean Agent Fire Extinguishing Systems, 2000 edition (''NFPA 2001''), IBR approved for § 27.101.

(d) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096–0001, 724–776–4841, *http://www.sae.org*.

(1) SAE J1475–1984, Hydraulic Hose Fitting for Marine Applications, IBR approved for § 27.211.

(2) SAE J1942–1989, Hose and Hose Assemblies for Marine Applications, IBR approved for § 27.211.

■ 28. Add § 27.103 to read as follows:

**§ 27.103 Preemption.**

The regulations in this part have preemptive effect over State or local regulations in the same field.

■ 29. Amend § 27.203 as follows:

■ a. Redesignate the introductory paragraph and paragraphs (a),(b),and (c) as (a) and (a)(1) through (a)(3), respectively;

■ b. Remove the word ''fire-protection'' wherever it appears and add, in its place, the words ''fire protection'';

■ c. In newly redesignated paragraph (a)(1), after the words ''each detector must be listed by'', remove the words ''an independent testing laboratory'' and add, in their place, the words ''a nationally recognized testing laboratory (NRTL), as defined in 46 CFR 161.002–2, for fire service'';

■ d. Redesignate paragraph (d) introductory text as paragraph (a)(4) and redesignate paragraphs (d)(1) through (d)(5) as (a)(4)(i) through (a)(4)(v), respectively;

■ e. Redesignate paragraphs (e) through (g) as paragraphs (a)(5) through (a)(7), respectively;

■ f. In newly designated paragraph (a)(7), remove the words ''Registered Professional Engineer'' and add, in their place, the words ''registered professional engineer''; and

■ g. Add new paragraph (b) to read as follows:

**§ 27.203 What are the requirements for fire detection on towing vessels?**

* * * * *

(b) In spaces other than the engine room, non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed by a nationally recognized testing laboratory (NRTL) as set forth in 29 CFR 1910.7, and is designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

**§ 27.303 [Amended]**

■ 30. In § 27.303(b)(1), remove the text ''B–V'' and add, in its place, the text ''160–B or 100 lb. $CO_2$ extinguisher, regardless of rating,''.

**§ 27.305 [Amended]**

■ 31. In § 27.305(a)(2), remove the text ''B–V'' and add, in its place, the text ''160–B or 100 lb. $CO_2$ extinguisher, regardless of rating,''.

## PART 28—REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

■ 32. The authority citation for part 28 continues to read as follows:

**Authority:** 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; Department of Homeland Security Delegation No. 0170.1.

■ 33. Revise § 28.40 to read as follows:

**§ 28.40 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Boat and Yacht Council (ABYC), 613 Third Street, Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) E–1–1972, Bonding of Direct Current Systems, IBR approved for § 28.345.

(2) E–8–1985, Alternating Current (AC) Electrical Systems on Boats, IBR approved for § 28.345.

(3) E–9–1981, Recommended Practices and Standards Covering Direct Current (DC) Electrical Systems on Boats, IBR approved for § 28.345.

(4) H–2–1989, Ventilation of Boats Using Gasoline, IBR approved for § 28.340.

(5) H–25–1986, Portable Fuel Systems for Flammable Liquids, IBR approved for § 28.335.

(6) H–33–1989, Diesel Fuel Systems, IBR approved for § 28.335.

(7) P–1–1986, Installation of Exhaust Systems for Propulsion and Auxiliary Engines, IBR approved for § 28.380.

(c) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM F 1321–92, Standard Guide for Conducting a Stability Test (Lightweight Survey and Inclining Experiment) to Determine the Light Ship Displacement and Centers of Gravity of a Vessel, IBR approved for § 28.535.

(2) [Reserved]

(d) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) Resolution A.658(16), Use and Fitting of Retro-Reflective Materials on Life-Saving Appliances, dated November 1989, IBR approved for § 28.135.

(2) [Reserved]

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) ANSI/NFPA 70, National Electric Code, 1990 Edition (''NFPA 70''), IBR approved for §§ 28.350, 28.370, and 28.865.

(2) ANSI/NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, 1989 Edition (''NFPA 302''), IBR approved for §§ 28.335, 28.340, and 28.345.

(3) ANSI/NFPA 17, Standard for Dry Chemical Extinguishing Systems, 1985 Edition (''NFPA 17'') IBR approved for § 28.330.

(4) ANSI/NFPA 17A, Standard for Wet Chemical Extinguishing Systems, 1986 Edition (''NFPA 17A''), IBR approved for § 28.330.

(f) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096, 724–776–4841, *http://www.sae.org*.

(1) SAE J 1475–1984, Hydraulic Hose Fitting for Marine Applications, IBR approved for § 28.880.

(2) SAE J 1942–1989, Hose and Hose Assemblies for Marine Applications, IBR approved for § 28.405.

(g) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 217–1985, Single and Multiple Station Smoke Detectors, IBR approved for §§ 28.325 and 28.830.

(2) UL 710–1990, Exhaust Hoods for Commercial Cooking Equipment, IBR approved for § 28.330.

■ 34. Revise § 28.155 to read as follows:

**§ 28.155 Excess fire detection and protection equipment.**

(a) Use of non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed and labeled by an independent, nationally recognized testing laboratory (NRTL) as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

(b) The regulations in this section have preemptive effect over State or local regulation within the same field.

■ 35. Amend § 28.160 as follows:

■ a. Add new paragraphs (c), (d), and (e) to read as follows; and

■ b. Revise table 28.160 to read as follows:

**§ 28.160 Portable fire extinguishers.**

* * * * *

(c) Semi-portable extinguishers must be located in the open so as to be readily seen.

(d) Table 28.160 of this section indicates the minimum required classification for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

(e) The regulations in this section have preemptive effect over State or local regulation within the same field.

TABLE 28.160—PORTABLE FIRE EXTINGUISHERS FOR VESSELS 65 FEET (19.8 METERS) OR MORE IN LENGTH

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Safety areas, communicating corridors | 2–A | 1 in each main corridor not more than 150 ft (45.7m) apart. (May be located in stairways.) |
| Pilothouse | 20–B:C | 2 in the vicinity of the exit. |
| Service spaces, galleys | 40–B:C | 1 for each 2,500 sq ft (232.2 sq m) or fraction thereof suitable for hazards involved. |
| Paint lockers | 40–B | 1 outside space in the vicinity of the exit. |
| Accessible baggage and storerooms | 2–A | 1 for each 2,500 sq ft (232.2 sq m) or fraction thereof located in the vicinity of the exits, either inside or outside the spaces |
| Workshops and similar spaces | 2–A | 1 outside the space in the vicinity of the exit. |
| Machinery spaces; Internal combustion propelling machinery | 40–B:C | 1 for each 1,000 brake horsepower or fraction thereof but not fewer than 2 or more than 6. |
| Electric propulsion motors or generator unit of open type | 40–B:C | 1 for each propulsion motor generator unit. |
| Auxiliary spaces | 40–B:C | 1 outside the space in the vicinity of the exit. |
| Internal combustion machinery | 40–B:C | 1 outside the space in the vicinity of the exit. |
| Electric emergency motors or generators | 40–B:C | 1 outside the space in the vicinity of the exit. |

■ 36. Amend § 28.325 as follows:

■ a. In the section heading, after the words ''Fire detection'', add the words ''and alarm'';

■ b. In paragraph (a), remove the words ''Part 76, subpart 76.33'', and add, in their place, the words ''part 76'';

■ c. In paragraph (b), after the text ''must meet UL 217'', add the text ''(incorporated by reference, see § 28.40)''; and

■ d. Add paragraph (c) to read as follows:

**§ 28.325 Fire detection and alarm systems.**

* * * * *

(c) The regulations in this section have preemptive effect over State or local regulation within the same field.

■ 37. Amend § 28.830 as follows:

■ a. Revise the section heading as follows;

■ b. In paragraph (a), after the words ''or a smoke actuated'', remove the words ''fire detecting'' and add, in their place, the words ''fire detection''; and after the words ''in accordance with'', remove the text ''Sec. 76.33 of this chapter'' and add, in its place, the text ''46 CFR part 76''; and

■ c. In paragraph (b), after the words ''must meet UL 217'', add the words ''(incorporated by reference, see § 28.40)''.

■ d. Add paragraph (c) to read as follows:

**§ 28.830 Fire detection and alarm systems.**

* * * * *

(c) The regulations in this section have preemptive effect over State or local regulation within the same field.

## PART 30–GENERAL PROVISIONS

■ 38. The authority citation for part 30 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; Department of Homeland Security Delegation No. 0170.1; Section 30.01–2 also issued under the authority of 44 U.S.C. 3507; Section 30.01–05 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

■ 39. Amend § 30.01–1 by adding a sentence to the end of paragraph (a) to read as follows:

**§ 30.01–1 Purpose of regulations.**

* * * The regulations in this subchapter (parts 30, 31, 32, 34, 35, 36, 38 and 39) have preemptive effect over state or local regulations in the same fields.

## PART 31—INSPECTION AND CERTIFICATION

■ 40. The authority citation for part 31 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307, 3703; 46 U.S.C. Chapter 701; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1. Section 31.10–21 also issued under the authority of Sect. 4109, Pub. L. 101–380, 104 Stat. 515.

■ 41. Add new § 31.01–2 to read as follows:

**§ 31.01–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 31.10–18(a).

(2) [Reserved]

■ 42. Revise § 31.10–18 to read as follows:

**§ 31.10–18 Firefighting equipment: General—TB/ALL.**

(a) The owner, master, or person-in-charge of a tank vessel must ensure that portable and semi-portable extinguishers are inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 31.01–2) as amended in paragraphs (a)(1) through (a)(4) of this section.

(1) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(2) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(3) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(4) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(b) The owner, master, or person-in-charge of a tank vessel must ensure that the following tests and inspections of fixed fire extinguishing equipment are made:

TABLE 31.10–18(b)—TESTING OF FIXED FIRE EXTINGUISHING SYSTEMS

| Type system | Test |
|---|---|
| Foam | Systems utilizing a soda solution must have the solution replaced. In all cases, ascertain that the powder is not caked. |
| Carbon dioxide | Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge.[1] |

[1] Cylinders must be tested and marked, and all flexible connections on fixed carbon dioxide and halon extinguishers must be tested or renewed, as required by §§ 147.60 and 147.65 of this chapter.

(c) Deck foam systems must be tested at the inspection for certification and the periodic inspection by discharging foam for approximately 15 seconds from any nozzle designated by the marine inspector. It is not required to deliver foam from all foam outlets, but all lines and nozzles must be tested with water to prove they are clear of obstruction. Before the inspection for certification and periodic inspection of deck foam systems utilizing a mechanical foam system, a representative sample of the foam concentrate must be submitted to the manufacturer who will issue a certificate indicating gravity, pH, percentage of water dilution, and solid content.

(d) At each inspection for certification, periodic inspection, and at such other times as considered necessary, the inspector must determine that all fire extinguishing equipment is in suitable condition and that the tests and inspections required by paragraphs (b) through (g) of this section have been conducted. In addition, the marine inspector may require additional tests to determine the condition of the equipment.

(e) On all fire extinguishing systems, the piping, controls, valves, and alarms must be checked by the marine inspector to determine that the system is in good operating condition.

(f) The fire main system must be operated and the pressure checked at the most remote and highest outlets by the marine inspector. All firehoses must be exposed to a test pressure equivalent to the maximum pressure to which they may be subjected, but not less than 100 psi. The marine inspector must check that the hose couplings are securely fastened in accordance with the regulations of this subchapter.

(g) Steam smothering lines must be tested with at least 50 psi of air pressure or by blowing steam through the lines at the working pressure. A survey must be conducted for detecting corrosion and defects.

## PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

■ 43. The authority citation for part 32 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703, 3719; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Subpart 32.59 also issued under the authority of Sec. 4109, Pub. L. 101–380, 104 Stat. 515.

■ 44. Revise § 32.56–1, paragraph (b) to read as follows:

**§ 32.56–1 Application—T/ALL.**

* * * * *

(b) Vessels meeting the structural fire protection requirements of SOLAS, Chapter II–2, Regulations 5, 6, 8, 9, and 11, may be considered equivalent to the provisions of this subpart.

## PART 34—FIREFIGHTING EQUIPMENT

■ 45. The authority citation for part 34 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 46. Amend § 34.01–5 as follows:

■ a. In paragraph (a), remove the word ''shall'' and add, in its place, the word ''must''; and

■ b. Add paragraph (b) to read as follows:

### § 34.01–5 Equipment installed but not required—TB/ALL.

* * * * *

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that:

(1) Components are listed and labeled by an independent, nationally recognized testing laboratory (NRTL) as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

■ 47. Revise § 34.01–15 to read as follows:

### § 34.01–15 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

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

(1) ASTM F 1121–87 (Reapproved 1993), Standard Specification for International Shore Connections for Marine Fire Applications, 1987, IBR approved for § 34.10–15.

(2) [Reserved]

(c) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition (''NFPA 13''), IBR approved for § 34.30–1.

(2) [Reserved]

■ 48. Revise § 34.30–1 to read as follows:

### § 34.30–1 Application—TB/ALL.

Automatic sprinkler systems must comply with Chapter 25 of NFPA 13 (Incorporated by reference, see § 34.01–15).

■ 49. Revise § 34.50–1 to read as follows:

### § 34.50–1 Application—TB/ALL.

(a) The provisions of this subpart, with the exception of §§ 34.50–80 and 34.50–90, must apply to all vessels contracted for on or after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].

(b) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] but on or after January 1, 1962, must meet the requirements of § 34.50–80 of this subpart.

(c) All vessels contracted for prior to January 1, 1962, must meet the requirements of § 34.50–90 of this subpart.

### § 34.50–05 [Removed].

■ 50. Remove § 34.50–05.

■ 51. Revise § 34.50–10 to read as follows:

### § 34.50–10 Location, number, and installation of fire extinguishers—TB/ALL.

(a) Approved portable and semi-portable extinguishers must be installed in accordance with table 34.50–10(a) of this section. The location of the equipment must be, in the opinion of the Officer in Charge, Marine Inspection, convenient in case of emergency. Where special circumstances exist, not covered by table 34.50–10(a) of this section, the Officer in Charge, Marine Inspection, may require additional equipment as deemed necessary for the proper protection of the vessel.

(b) For additional portable extinguishers as a substitute for sand, see § 34.55–10 of this part.

(c) Semi-portable extinguishers must be located in the open so as to be readily seen.

(d) If portable extinguishers are not located in the open or behind glass so that they may be readily seen they may be placed in enclosures together with the firehose, provided such enclosures are marked as required by § 35.40–25 of this subchapter.

(e) Portable extinguishers and their stations must be numbered in accordance with § 35.40–25 of this subchapter.

(f) Portable or semi-portable extinguishers which are required by their nameplates to be protected from freezing must not be located where freezing temperatures may be expected.

(g) Semi-portable extinguishers must be fitted with a suitable hose and nozzle, or other practicable means, so that all portions of the space concerned can be protected.

(h) Table 34.50–10(a) of this section indicates the minimum required number and type for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 34.50–10(a)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS

| Tank ships | | Area | Tank barges | |
|---|---|---|---|---|
| Quantity and location | Minimum required rating | | Minimum required rating | Quantity and location |
| **Safety Areas** | | | | |
| 1 required ..... | 20–B:C ..... | Wheelhouse and chartroom area ..... | ..... | None required. |

TABLE 34.50–10(a)—PORTABLE AND SEMI-PORTABLE EXTINGUISHERS—Continued

| Tank ships | | Area | Tank barges | |
|---|---|---|---|---|
| Quantity and location | Minimum required rating | | Minimum required rating | Quantity and location |
| 1 required in the vicinity of the exit .. | 20–B:C [1] .. | Radio room ..... | ..... | None required. |
| **Accommodation Areas** | | | | |
| 1 required in each main passageway on each deck, conveniently located, and so that no room is more than 75 ft from an extinguisher. | 2–A ..... | Staterooms, toilet spaces, public spaces, offices, etc., and associated lockers, storerooms, and pantries. | 2–A ..... | 1 required in the vicinity of the exit. |
| **Service Areas** | | | | |
| 1 required for each 2,500 sq ft or fraction thereof. | 40–B:C ..... | Galleys ..... | 40–B:C ..... | 1 required, suitable for the hazard involved. |
| 1 required for each 2,500 sq ft or fraction thereof. | 40–A:B ..... | Stores areas, including paint and lamp rooms. | ..... | None required. |
| **Machinery Area** [2] | | | | |
| 2 required [3] ..... | 40–B ..... | Spaces containing oil fired boilers, either main or auxiliary, or any fuel oil units subject to the discharge pressure of the fuel oil service pump. | 40–B ..... | 1 required.[12] |
| 1 required ..... | and 160–B[4]. | | | |
| 1 required for each 1,000 brake horsepower; not less than 2, not more than 6 [5]. | 40–B ..... | Spaces containing internal combustion or gas turbine propulsion machinery. | ..... | None required. |
| 1 required [6 7] ..... | and 120–B. | | | |
| 1 required in the vicinity of the exit [7] | 40–B ..... | Auxiliary spaces containing internal combustion or gas turbine units. | 40–B ..... | 1 required in the vicinity of the exit.[7 9 12] |
| 1 required in the vicinity of the exit[8] | 40–B:C ..... | Auxiliary spaces containing emergency generators. | ..... | None required. |
| **Cargo Areas** | | | | |
| 1 required in the lower pumproom ... | 40–B ..... | Pumprooms ..... | 40–B ..... | 1 required in the vicinity of the exit.[9 12] |
| None required ..... | ..... | Cargo tank area ..... | 40–B ..... | 2 required.[10 12 13] |
| | | | 160–B ..... | 1 required.[9 11] |
| **Spare Units** | | | | |
| (RANGE FROM 50–10) percent of required units rounded up. | 2–A ..... | ..... | 2–A ..... | (RANGE FROM 50–10) percent of required units rounded up. |
| (RANGE FROM 50–10) percent of required units rounded up. | 40–B:C ..... | ..... | 40–B:C ..... | (RANGE FROM 50–10) percent of required units rounded up. |

[1] Vessels not on an international voyage may substitute two 5–B:C rated extinguishers.
[2] A 40–B:C must be immediately available to the service generator and main switchboard areas, and further, a 40–B:C must be conveniently located not more than 50 feet walking distance from any point in all main machinery operating spaces. These extinguishers need *not* be in addition to other required extinguishers.
[3] Vessels of fewer than 1,000 GT require 1.
[4] Vessels of fewer than 1,000 GT may substitute 1 120–B:C.
[5] Only 1 required for vessels under 65 ft in length.
[6] If an oil-burning donkey boiler is fitted in the space, the 160–B:C previously required for the protection of the boiler may be substituted. Not required where a fixed carbon dioxide system is installed.
[7] Not required on vessels of fewer than 300 GT if the fuel has a flashpoint higher than 110 °F.
[8] Not required on vessels of fewer than 300 GT.
[9] Not required if fixed system installed.
[10] If no cargo pump on barge, only one 40–B:C required.
[11] Manned barges of 100 GT and over only.
[12] Not required on unmanned barges except during the transfer of cargo, or operation of barge machinery or boilers when the barge is not underway.
[13] An extinguisher brought on to unmanned barges during the transfer of cargo, or operation of barge machinery or boilers does not have to be Coast Guard approved, provided it is approved by a nationally recognized testing laboratory (NRTL) in accordance with 29 CFR 1910.7.

**§ 34.50–15 [Removed]**

■ 52. Remove § 34.50–15.

■ 53. Add § 34.50–80 to read as follows:

**§ 34.50–80 Location and number of fire extinguishers required for vessels constructed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] TB/ALL.**

Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(a) Previously installed extinguishers with extinguishing capacities smaller than as required in table 34.50–10(a) need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(b) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

## PART 50—GENERAL PROVISIONS

■ 54. The authority citation for part 50 continues to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Section 50.01–20 also issued under the authority of 44 U.S.C. 3507.

■ 55. Amend § 50.01–15 to add new paragraph (c) to read as follows:

**§ 50.01–15 Scope of regulations.**

* * * * *

(c) The regulations in this subchapter (parts 50, 52, 53, 54, 56, 57, 58, 59, and 61 through 64) have preemptive effect over state or local regulations in the same field.

## PART 56—PIPING SYSTEMS AND APPURTENANCES

■ 56. The authority citation for part 56 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j), 1509; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 57. Revise § 56.01–2 to read as follows:

**§ 56.01–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American National Standards Institute (ANSI), 25 West 43rd Street, New York, NY 10036, 212–642–4900, *http://www.ansi.org*.

(1) ANSI/ASME B1.1, 1982 Unified Inch Screw Threads (UN and UNR Thread Form), 1982 (''ANSI/ASME B1.1''), IBR approved for §§ 56.25–20 and 56.60–1.

(2) ANSI/ASME B1.20.1–1983 Pipe Threads, General Purpose (Inch), 1983 (''ANSI/ASME B1.20.1''), IBR approved for § 56.60–1.

(3) ANSI/ASME B1.20.3–1976 (Reaffirmed 1982) Dryseal Pipe Threads (Inch), 1976 (''ANSI/ASME B1.20.3''), IBR approved for § 56.60–1.

(4) ANSI/ASME B16.15–1985 [Reaffirmed 1994] Cast Bronze Threaded Fittings, Classes 125 and 250, 1985 (''ANSI/ASME B16.15''), IBR approved for § 56.60–1.

(c) American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005–4070, 202–682–8000, *http://www.api.org*.

(1) API Standard 607, Fire Test for Soft-Seated Quarter-Turn Valves, Manufacturing, Distribution and Marketing Department, Fourth Edition, 1993 (''API 607''), IBR approved for § 56.20–15.

(2) [Reserved]

(d) American Society of Mechanical Engineers (ASME) International, Three Park Avenue, New York, NY 10016–5990, 800–843–2763, *http://www.asme.org*.

(1) 2001 ASME Boiler and Pressure Vessel Code, Section I, Rules for Construction of Power Boilers, July 1, 2001 (''Section I of the ASME Boiler and Pressure Vessel Code''), IBR approved for §§ 56.15–1, 56.15–5, 56.20–1, 56.60–1, 56.70–15, and 56.95–10.

(2) ASME Boiler and Pressure Vessel Code, Section VIII, Division 1, Rules for Construction of Pressure Vessels, 1998 with 1999 and 2000 addenda (''Section VIII of the ASME Boiler and Pressure Vessel Code''), IBR approved for §§ 56.15–1, 56.15–5, 56.20–1, 56.25–5, 56.30–10, 56.30–30, 56.60–1, 56.60–2, 56.60–15, and 56.95–10.

(3) 1998 ASME Boiler & Pressure Vessel Code, Section IX, Welding and Brazing Qualifications, 1998 (''Section IX of the ASME Boiler and Pressure Vessel Code''), IBR approved for §§ 56.70–5, 56.70–20, and 56.75–20.

(4) ASME B16.1–1998 Cast Iron Pipe Flanges and Flanged Fittings, Classes 25, 125, 250 (1998) (''ASME B16.1''), IBR approved for §§ 56.60–1 and 56.60–10.

(5) ASME B16.3–1998 Malleable Iron Threaded Fittings, Classes 150 and 300, 1998 (''ASME B16.3''), IBR approved for § 56.60–1.

(6) ASME B16.4–1998 Gray Iron Threaded Fittings, Classes 125 and 250, 1998 (''ASME B16.4''), IBR approved for § 56.60–1.

(7) ASME B16.5–2003 Pipe Flanges and Flanged Fittings NPS 1/2 through NPS 24 Metric/Inch Standard, 2003 (''ASME B16.5''), IBR approved for §§ 56.25–20, 56.30–10, and 56.60–1.

(8) ASME B16.9–2003 Factory-Made Wrought Steel Buttwelding Fittings, 2003 (''ASME B16.9''), IBR approved for § 56.60–1.

(9) ASME B16.10–2000 Face-to-Face and End-to-End Dimensions of Valves, 2000 (''ASME B16.10''), IBR approved for § 56.60–1.

(10) ASME B16.11–2001 Forged Fittings, Socket-Welding and Threaded, 2001 (''ASME B16.11''), IBR approved for §§ 56.30–5; 56.60–1.

(11) ASME B16.14–1991 Ferrous Pipe Plugs, Bushings, and Locknuts with Pipe Threads, 1991 (''ASME B16.14''), IBR approved for § 56.60–1.

(12) ASME B16.18–2001 Cast Copper Alloy Solder Joint Pressure Fittings, 2001 (''ASME B16.18''), IBR approved for § 56.60–1.

(13) ASME B16.20–1998 (Revision of ASME B16.20 1993), Metallic Gaskets for Pipe Flanges: Ring-Joint, Spiral-Wound, and Jacketed, 1998 (''ASME B16.20''), IBR approved for § 56.60–1.

(14) ASME B16.21–2005 (Revision of ASME B16.21–1992) Nonmetallic Flat Gaskets for Pipe Flanges, May 31, 2005 (''ASME B16.21''), IBR approved for § 56.60–1.

(15) ASME B16.22–2001 (Revision of ASME B16.22–1995) Wrought Copper and Copper Alloy Solder Joint Pressure Fittings, Aug. 9, 2002 (''ASME B16.22''), IBR approved for § 56.60–1.

(16) ASME B16.23–2002 (Revision of ASME B16.23–1992) Cast Copper Alloy Solder Joint Drainage Fittings: DWV, Nov. 8, 2002 (''ASME B16.23''), IBR approved for § 56.60–1.

(17) ASME B16.24–2001 Cast Copper Alloy Pipe Flanges and Flanged Fittings, Class 150, 300, 400, 600, 900, 1500, and 2500, 2001 (''ASME B16.24''), IBR approved for § 56.60–1.

(18) ASME B16.25–2003 Buttwelding Ends, 2003 (''ASME B16.25''), IBR approved for §§ 56.30–5, 56.60–1, and 56.70–10.

(19) ASME B16.28–1994 Wrought Steel Buttwelding Short Radius Elbows and Returns, 1994 (''ASME B16.28''), IBR approved for § 56.60–1.

(20) ASME B16.29–2007 (Revision of ASME B16.29–2001), Wrought Copper and Wrought Copper Alloy Solder-Joint Drainage Fittings—DWV, Aug. 20, 2007 (''ASME B16.29''), IBR approved for § 56.60–1.

(21) ASME B16.34–1996 Valves—Flanged, Threaded, and Welding End, 1996 (''ASME B16.34''), IBR approved for §§ 56.20–1 and 56.60–1.

(22) ASME B16.42–1998 Ductile Iron Pipe Flanges and Flanged Fittings, Classes 150 and 300, 1998 (''ASME B16.42''), IBR approved for § 56.60–1.

(23) ASME B18.2.1–1996 Square and Hex Bolts and Screws (Inch Series), 1996 (''ASME B18.2.1''), IBR approved for §§ 56.25–20 and 56.60–1.

(24) ASME/ANSI B18.2.2–1987 Square and Hex Nuts (Inch Series), 1987 (''ASME/ANSI B18.2.2''), IBR approved for §§ 56.25–20 and 56.60–1.

(25) ASME B31.1–2001 Power Piping ASME Code for Pressure Piping, B31, 2001 (''ASME B31.1''), IBR approved for §§ 56.01–3, 56.01–5, 56.07–5, 56.07–10, 56.10–1, 56.10–5, 56.15–1, 56.15–5, 56.20–1, 56.25–7, 56.30–1, 56.30–5, 56.30–10, 56.30–20, 56.35–1, 56.50–1, 56.50–15, 56.50–40, 56.50–65, 56.50–70, 56.50–97, 56.60–1, 56.65–1, 56.70–10, 56.70–15, 56.80–5, 56.80–15, 56.95–1, 56.95–10, and 56.97–1.

(26) ASME B36.10M–2004 Welded and Seamless Wrought Steel Pipe, 2004 (''ASME B36.10M''), IBR approved for §§ 56.07–5, 56.30–20, and 56.60–1.

(27) ASME B36.19M–2004 Stainless Steel Pipe, 2004 (''ASME B36.19M''), IBR approved for §§ 56.07–5 and 56.60–1.

(28) ASME SA–675, Specification for Steel Bars, Carbon, Hot-Wrought, Special Quality, Mechanical Properties, 1998 (''ASME SA–675''), IBR approved for § 56.60–2.

(e) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org.*

(1) ASTM A 36/A 36M–97a, Standard Specification for Carbon Structural Steel (''ASTM A 36''), IBR approved for § 56.30–10.

(2) ASTM A 47–90, Standard Specification for Ferritic Malleable Iron Castings, 1995 (''ASTM A 47''), IBR approved for § 56.60–1.

(3) ASTM A 53–98, Standard Specification for Pipe, Steel, Black and Hot-Dipped, Zinc-Coated, Welded and Seamless (''ASTM Specification A 53'' or ''ASTM A 53''), IBR approved for § 56.10–5, 56.60–1.

(4) ASTM A 106–95, Standard Specification for Seamless Carbon Steel Pipe for High-Temperature Service (''ASTM A 106''), IBR approved for § 56.60–1.

(5) ASTM A 126–95, Standard Specification for Gray Iron Castings for Valves, Flanges, and Pipe Fittings (''ASTM A 126''), IBR approved for § 56.60–1.

(6) ASTM A 134–96, Standard Specification for Pipe, Steel, Electric-Fusion (Arc)-Welded (Sizes NPS 16 and Over) (''ASTM A 134''), IBR approved for § 56.60–1.

(7) ASTM A 135–97c, Standard Specification for Electric-Resistance-Welded Steel Pipe (''ASTM A 135''), IBR approved for § 56.60–1.

(8) ASTM A 139–96, Standard Specification for Electric-Fusion (Arc)-Welded Steel Pipe (NPS 4 and Over) (''ASTM A 139''), IBR approved for § 56.60–1.

(9) ASTM A 178/A 178M–95, Standard Specification for Electric-Resistance-Welded Carbon Steel and Carbon-Manganese Steel Boiler and Superheater Tubes (''ASTM A 178''), IBR approved for § 56.60–1.

(10) ASTM A 179/A 179M–90a, Standard Specification for Seamless Cold-Drawn Low-Carbon Steel Heat-Exchanger and Condenser Tubes, 1996 (''ASTM A 179''), IBR approved for § 56.60–1.

(11) ASTM A 182/A 182M–97c, Standard Specification for Forged or Rolled Alloy-Steel Pipe Flanges, Forged Fittings, and Valves and Parts for High-Temperature Service (''ASTM A–182''), IBR approved for § 56.50–105.

(12) ASTM A 192/A 192M–91, Standard Specification for Seamless Carbon Steel Boiler Tubes for High-Pressure Service, 1996 (''ASTM A 192''), IBR approved for § 56.60–1.

(13) ASTM A 194/A 194M–98b, Standard Specification for Carbon and Alloy Steel Nuts for Bolts for High Pressure or High Temperature Service, or Both (''ASTM A–194''), IBR approved for § 56.50–105.

(14) ASTM A 197–87, Standard Specification for Cupola Malleable Iron, 1992 (''ASTM A 197''), IBR approved for § 56.60–1.

(15) ASTM A 210/A 210M–96, Standard Specification for Seamless Medium-Carbon Steel Boiler and Superheater Tubes (''ASTM A 210''), IBR approved for § 56.60–1.

(16) ASTM A 213/A 213M–95a, Standard Specification for Seamless Ferritic and Austenitic Alloy-Steel Boiler, Superheater, and Heat-Exchanger Tubes (''ASTM A 213''), IBR approved for § 56.60–1.

(17) ASTM A 214/A 214M–96, Standard Specification for Electric-Resistance-Welded Carbon Steel Heat-Exchanger and Condenser Tubes (''ASTM A 214''), IBR approved for § 56.60–1.

(18) ASTM A 226/A 226M–95, Standard Specification for Electric-Resistance-Welded Carbon Steel Boiler and Superheater Tubes for High-Pressure Service (''ASTM A 226''), IBR approved for § 56.60–1.

(19) ASTM A 234/A 234M–97, Standard Specification for Piping Fittings of Wrought Carbon Steel and Alloy Steel for Moderate and High Temperature Service (''ASTM A 234''), IBR approved for § 56.60–1.

(20) ASTM A 249/A 249M–96a, Standard Specification for Welded Austenitic Steel Boiler, Superheater, Heat-Exchanger, and Condenser Tubes (''ASTM A 249''), IBR approved for § 56.60–1.

(21) ASTM A 268/A 268M–96, Standard Specification for Seamless and Welded Ferritic and Martensitic Stainless Steel Tubing for General Service (''ASTM A 268''), IBR approved for § 56.60–1.

(22) ASTM A 276–98, Standard Specification for Stainless Steel Bars and Shapes (''ASTM A 276''), IBR approved for § 56.60–2.

(23) ASTM A 307–97, Standard Specification for Carbon Steel Bolts and Studs, 60,000 PSI Tensile Strength (''ASTM A 307''), IBR approved for § 56.25–20.

(24) ASTM A 312/A 312M–95a, Standard Specification for Seamless and Welded Austenitic Stainless Steel Pipes (''ASTM A–312'' or ''ASTM A 312''), IBR approved for §§ 56.50–105 and 56.60–1.

(25) ASTM A 320/A 320M–97, Standard Specification for Alloy/Steel Bolting Materials for Low-Temperature Service (''ASTM A–320''), IBR approved for § 56.50–105.

(26) ASTM A 333/A 333M–94, Standard Specification for Seamless and Welded Steel Pipe for Low-Temperature Service (''ASTM A–333'' or ''ASTM A 333''), IBR approved for §§ 56.50–105 and 56.60–1.

(27) ASTM A 334/A 334M–96, Standard Specification for Seamless and Welded Carbon and Alloy-Steel Tubes for Low-Temperature Service (''ASTM A–334'' or ''ASTM A 334''), IBR approved for §§ 56.50–105 and 56.60–1.

(28) ASTM A 335/A 335M–95a, Standard Specification for Seamless Ferritic Alloy-Steel Pipe for High-

Temperature Service (''ASTM A 335''), IBR approved for § 56.60–1.

(29) ASTM A 350/A 350M–97, Standard Specification for Carbon and Low-Alloy Steel Forgings, Requiring Notch Toughness Testing for Piping Components (''ASTM A–350''), IBR approved for § 56.50–105.

(30) ASTM A 351/A 351M–94a, Standard Specification for Castings, Austenitic, Austenitic-Ferritic (Duplex), for Pressure-Containing Parts (''ASTM A–351''), IBR approved for § 56.50–105.

(31) ASTM A 352/A 352M–93, Standard Specification for Steel Castings, Ferritic and Martensitic, for Pressure-Containing Parts, Suitable for Low-Temperature Service, 1998 (''ASTM A–352''), IBR approved for § 56.50–105.

(32) ASTM A 358/A 358M–95a, Standard Specification for Electric-Fusion-Welded Austenitic Chromium-Nickel Alloy Steel Pipe for High-Temperature Service (''ASTM A 358''), IBR approved for § 56.60–1.

(33) ASTM A 369/A 369M–92, Standard Specification for Carbon and Ferritic Alloy Steel Forged and Bored Pipe for High-Temperature Service (''ASTM A 369''), IBR approved for § 56.60–1.

(34) ASTM A 376/A 376M–96, Standard Specification for Seamless Austenitic Steel Pipe for High-Temperature Central-Station Service (''ASTM A 376''), IBR approved for §§ 56.60–1 and 56.60–2.

(35) ASTM A 395/A 395M–98, Standard Specification for Ferritic Ductile Iron Pressure-Retaining Castings for Use at Elevated Temperatures (''ASTM A 395''), IBR approved for §§ 56.50–60, 56.60–1, and 56.60–15.

(36) ASTM A 403/A 403M–98, Standard Specification for Wrought Austenitic Stainless Steel Piping Fittings (''ASTM A 403''), IBR approved for § 56.60–1.

(37) ASTM A 420/A 420M–96a, Standard Specification for Piping Fittings of Wrought Carbon Steel and Alloy Steel for Low-Temperature Service (''ASTM A–420'' or ''ASTM A 420''), IBR approved for §§ 56.50–105 and 56.60–1.

(38) ASTM A 520–97, Standard Specification for Supplementary Requirements for Seamless and Electric-Resistance-Welded Carbon Steel Tubular Products for High-Temperature Service Conforming to ISO Recommendations for Boiler Construction (''ASTM A 520''), IBR approved for § 56.60–1.

(39) ASTM A 522/A 522M–95b, Standard Specification for Forged or Rolled 8 and 9% Nickel Alloy Steel Flanges, Fittings, Valves, and Parts for Low-Temperature Service (''ASTM A–522''), IBR approved for § 56.50–105.

(40) ASTM A 536–84, Standard Specification for Ductile Iron Castings, 1993 (''ASTM A 536''), IBR approved for § 56.60–1.

(41) ASTM A 575–96, Standard Specification for Steel Bars, Carbon, Merchant Quality, M-Grades (''ASTM A 575''), IBR approved for § 56.60–2.

(42) ASTM A 576–90b, Standard Specification for Steel Bars, Carbon, Hot-Wrought, Special Quality, 1995 (''ASTM A 576''), IBR approved for § 56.60–2.

(43) ASTM B 16–92, Standard Specification for Free-Cutting Brass Rod, Bar, and Shapes for Use in Screw Machines (''ASTM B 16''), IBR approved for § 56.60–2.

(44) ASTM B 21–96, Standard Specification for Naval Brass Rod, Bar, and Shapes (''ASTM B 21''), IBR approved for § 56.60–2.

(45) ASTM B 26/B 26M–97, Standard Specification for Aluminum-Alloy Sand Castings (''ASTM B 26''), IBR approved for § 56.60–2.

(46) ASTM B 42–96, Standard Specification for Seamless Copper Pipe, Standard Sizes (''ASTM B 42''), IBR approved for § 56.60–1.

(47) ASTM B 43–96, Standard Specification for Seamless Red Brass Pipe, Standard Sizes (''ASTM B 43''), IBR approved for § 56.60–1.

(48) ASTM B 68–95, Standard Specification for Seamless Copper Tube, Bright Annealed (''ASTM B 68''), IBR approved for § 56.60–1.

(49) ASTM B 75–97, Standard Specification for Seamless Copper Tube (''ASTM B 75''), IBR approved for § 56.60–1.

(50) ASTM B 85–96, Standard Specification for Aluminum-Alloy Die Castings (''ASTM B 85''), IBR approved for § 56.60–2.

(51) ASTM B 88–96, Standard Specification for Seamless Copper Water Tube (''ASTM B 88''), IBR approved for § 56.60–1.

(52) ASTM B 96–93, Standard Specification for Copper-Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels (''ASTM B 96''), IBR approved for § 56.60–2.

(53) ASTM B 111–95, Standard Specification for Copper and Copper-Alloy Seamless Condenser Tubes and Ferrule Stock (''ASTM B 111''), IBR approved for § 56.60–1.

(54) ASTM B 124–96, Standard Specification for Copper and Copper Alloy Forging Rod, Bar, and Shapes (''ASTM B 124''), IBR approved for § 56.60–2.

(55) ASTM B 134–96, Standard Specification for Pipe, Steel, Electric-Fusion (Arc)-Welded (Sizes NPS 16 and Over) (''ASTM B 134''), IBR approved for § 56.60–1.

(56) ASTM B 161–93, Standard Specification for Nickel Seamless Pipe and Tube (''ASTM B 161''), IBR approved for § 56.60–1.

(57) ASTM B 165–93, Standard Specification of Nickel-Copper Alloy (UNS NO4400) Seamless Pipe and Tube (''ASTM B 165''), IBR approved for § 56.60–1.

(58) ASTM B 167–97a, Standard Specification for Nickel-Chromium-Iron Alloys (UNS NO6600, NO6601, NO6603, NO6690, NO6025, and NO6045) Seamless Pipe and Tube (''ASTM B 167''), IBR approved for § 56.60–1.

(59) ASTM B 171–95, Standard Specification for Copper-Alloy Plate and Sheet for Pressure Vessels, Condensers, and Heat Exchangers (''ASTM B 171''), IBR approved for § 56.60–2.

(60) ASTM B 210–95, Standard Specification for Aluminum and Aluminum-Alloy Drawn Seamless Tubes (''ASTM B 210''), IBR approved for § 56.60–1.

(61) ASTM B 234–95, Standard Specification for Aluminum and Aluminum-Alloy Drawn Seamless Tubes for Condensers and Heat Exchangers (''ASTM B 234''), IBR approved for § 56.60–1.

(62) ASTM B 241/B 241M–96, Standard Specification for Aluminum and Aluminum-Alloy Seamless Pipe and Seamless Extruded Tube (''ASTM B 241''), IBR approved for § 56.60–1.

(63) ASTM B 280–97, Standard Specification for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service (''ASTM B 280''), IBR approved for § 56.60–1.

(64) ASTM B 283–96, Standard Specification for Copper and Copper-Alloy Die Forgings (Hot-Pressed) (''ASTM B 283''), IBR approved for § 56.60–2.

(65) ASTM B 315–93, Standard Specification for Seamless Copper Alloy Pipe and Tube (''ASTM B 315''), IBR approved for § 56.60–1.

(66) ASTM B 361–95, Standard Specification for Factory-Made Wrought Aluminum and Aluminum-Alloy Welding Fittings (''ASTM B 361''), IBR approved for § 56.60–1.

(67) ASTM B 858M–95, Standard Test Method for Determination of Susceptibility to Stress Corrosion Cracking in Copper Alloys Using an Ammonia Vapor Test (''ASTM B 858M''), IBR approved for § 56.60–2.

(68) ASTM D 635–97, Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Plastics

in a Horizontal Position(''ASTM D 635''), IBR approved for § 56.60–25.

(69) ASTM D 1785–96b, Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Pipe, Schedules 40, 80, and 120. (''ASTM D 1785''), IBR approved for § 56.60–25.

(70) ASTM D 2241–96b, Standard Specification for Poly (Vinyl Chloride) (PVC) Pressure-Rated Pipe (SDR Series) (''ASTM D 2241''), IBR approved for § 56.60–25.

(71) ASTM D 2464–96a, Standard Specification for Threaded Poly (Vinyl Chloride) (PVC) Plastic Pipe Fittings Schedule 80 (''ASTM D 2464''), IBR approved for § 56.60–25.

(72) ASTM D 2466–97, Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Pipe Fittings, Schedule 40 (''ASTM D 2466''), IBR approved for § 56.60–25.

(73) ASTM D 2467–96a, Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Pipe Fittings, Schedule 80 (ASTM D 2467''), IBR approved for § 56.60–25.

(74) ASTM D 2665–97b, Standard Specification for Poly (Vinyl Chloride) (PVC) Plastic Drain, Waste, and Vent Pipe and Fittings (''ASTM D 2665''), IBR approved for § 56.60–25.

(75) ASTM D 2863–95, Standard Test Method for Measuring the Minimum Oxygen Concentration to Support Candle-like Combustion of Plastics (Oxygen Index) (''ASTM D 2863''), IBR approved for § 56.60–25.

(76) ASTM E 23–96, Standard Test Methods for Notched Bar Impact Testing of Metallic Materials (''ASTM E 23''), IBR approved for § 56.50–105.

(77) ASTM F 682–82a, Standard Specification for Wrought Carbon Steel Sleeve-Type Pipe Couplings, 1993 (''ASTM F 682''), IBR approved for § 56.60–1.

(78) ASTM F 1006–86, Standard Specification for Entrainment Separators for Use in Marine Piping Applications, 1992 (''ASTM F 1006''), IBR approved for § 56.60–1.

(79) ASTM F 1007–86, Standard Specification for Pipe-Line Expansion Joints of the Packed Slip Type for Marine Application, 1996 (''ASTM F 1007''), IBR approved for § 56.60–1.

(80) ASTM F 1020–86, Standard Specification for Line-Blind Valves for Marine Applications, 1996 (''ASTM F 1020''), IBR approved for § 56.60–1.

(81) ASTM F 1120–87, Standard Specification for Circular Metallic Bellows Type Expansion Joints for Piping Applications, 1993 (''ASTM F 1120''), IBR approved for § 56.60–1.

(82) ASTM F 1123–87, Standard Specification for Non-Metallic Expansion Joints, 1993 (''ASTM F 1123''), IBR approved for § 56.60–1.

(83) ASTM F 1139–88, Standard Specification for Steam Traps and Drains, 1993 (''ASTM F 1139''), IBR approved for § 56.60–1.

(84) ASTM F 1172–88, Standard Specification for Fuel Oil Meters of the Volumetric Positive Displacement Type, 1993 (''ASTM F 1172''), IBR approved for § 56.60–1.

(85) ASTM F 1173–95, Standard Specification for Thermosetting Resin Fiberglass Pipe and Fittings to be Used for Marine Applications (''ASTM F 1173''), IBR approved for § 56.60–1.

(86) ASTM F 1199–88, Standard Specification for Cast (All Temperature and Pressures) and Welded Pipe Line Strainers, 1993 (150 psig and 150 Degrees F Maximum) (''ASTM F 1199''), IBR approved for § 56.60–1.

(87) ASTM F 1200–88, Standard Specification for Fabricated (Welded) Pipe Line Strainers, 1993 (Above 150 psig and 150 Degrees F) (''ASTM F 1200''), IBR approved for § 56.60–1.

(88) ASTM F 1201–88, Standard Specification for Fluid Conditioner Fittings in Piping Applications above 0 Degrees F, 1993 (''ASTM F 1201''), IBR approved for § 56.60–1.

(89) ASTM F 1387–93, Standard Specification for Performance of Mechanically Attached Fittings (''ASTM F 1387''), IBR approved for § 56.30–25.

(90) ASTM F 1476–95a, Standard Specification for Performance of Gasketed Mechanical Couplings for Use in Piping Applications (''ASTM F 1476''), IBR approved for § 56.30–35.

(91) ASTM F 1548–94, Standard Specification for the Performance of Fittings for Use with Gasketed Mechanical Couplings, Used in Piping Applications (''ASTM F 1548''), IBR approved for § 56.30–35.

(f) Expansion Joint Manufacturers Association Inc. (EJMA), 25 North Broadway, Tarrytown, NY 10591, *http://www.ejma.org*.

(1) Standards of the Expansion Joint Manufacturers Association, 1980, IBR approved for § 56.60–1.

(2) [Reserved]

(g) Fluid Controls Institute Inc. (FCI), 31 South Street, Suite 303, Morristown, NJ 07960, 216–241–7333, *http://www.fluidcontrolsinstitute.org*.

(1) FCI 69–1, Pressure Rating Standard for Steam Traps, IBR approved for § 56.60–1.

(2) [Reserved]

(h) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London, SE1 7SR United Kingdom, +44 (0)20 7735 7611, *www.imo.org*.

(1) Resolution A.753(18), Guidelines for the Application of Plastic Pipes on Ships, as amended by IMO Resolution MSC.313(88) (''Resolution A. 753(18)''), IBR approved for § 56.60–25(a).

(2) [Reserved]

(i) International Organization for Standardization (ISO), Case Postal 56, CH–1211 Geneva 20 Switzerland, +41 22 749 01 11, *http://www.iso.org*.

(1) ISO 15540 Ships and Marine Technology-Fire Resistance of Hose Assemblies-Test Methods, First Edition, Aug. 1, 1999, IBR approved for § 56.60–25.

(2) [Reserved]

(j) Instrument Society of America (ISA), 67 Alexander Drive, Research Triangle Park, NC 27709, 919–549–8411, *http://www.isa.org*.

(1) ISA–S75.02, 1996, IBR approved for § 56.20–15.

(2) [Reserved]

(k) Manufacturers Standardization Society of the Valve and Fittings Industry, Inc. (MSS), 127 Park Street NE., Vienna, VA 22180, 703–281–6613, *http://mss-hq.org*.

(1) SP–6–2001, Standard Finishes for Contact Faces of Pipe Flanges and Connecting-End Flanges of Valves and Fittings, 2001, IBR approved for §§ 56.25–10 and 56.60–1.

(2) SP–9–2001, Spot Facing for Bronze, Iron and Steel Flanges, 2001, IBR approved for § 56.60–1.

(3) SP–25–1998, Standard Marking System for Valves, Fittings, Flanges and Unions, 1998, IBR approved for §§ 56.15–1, 56.20–5, and 56.60–1.

(4) SP–44–1996, Steel Pipe Line Flanges, Reaffirmed 2001, IBR approved for § 56.60–1.

(5) SP–45–2003, Bypass and Drain Connections, 2003, 56.20–20; IBR approved for § 56.60–1.

(6) SP–51–2003, Class 150LW Corrosion Resistant Cast Flanges and Flanged Fittings, 2003, IBR approved for § 56.60–1.

(7) SP–53–95, Quality Standard for Steel Castings and Forgings for Valves, Flanges and Fittings and Other Piping Components–Magnetic Particle Examination Method, 1995, IBR approved for § 56.60–1.

(8) SP–55–2001, Quality Standard for Steel Castings for Valves, Flanges and Fittings and Other Piping Components–Visual Method, 2001, IBR approved for § 56.60–1.

(9) SP–58, Pipe Hangers and Supports–Materials, Design and Manufacture, 1993, IBR approved for § 56.60–1.

(10) SP–61–2003, Pressure Testing of Steel Valves, 2003, IBR approved for § 56.60–1.

(11) SP–67, Butterfly Valves, 1995, IBR approved for § 56.60–1.

(12) SP–69, Pipe Hangers and Supports–Selection and Application, 1996, IBR approved for § 56.60–1.

(13) SP–72, Ball Valves with Flanged or Butt-Welding Ends for General Service, 1987, IBR approved for § 56.60–1.

(14) SP–73 (R 96), Brazing Joints for Copper and Copper Pressure Fittings, 1991, IBR approved for § 56.60–1.

(15) SP–83, Class 3000 Steel Pipe Unions, Socket Welding and Threaded, 1995, IBR approved for § 56.60–1.

(l) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096, 724–776–4841, *http://www.sae.org.*

(1) J1475 (1996), Surface Vehicle Hydraulic Hose Fittings for Marine Applications, June 1996, IBR approved for § 56.60–25(b).

(2) J1942 (1997), Standards Hose and Hose Assemblies for Marine Applications, May 1997, IBR approved for § 56.60–25.

■ 58. Amend § 56.60–25 as follows:

■ a. Revise paragraph (a) to read as follows;

■ b. In paragraphs (b)(1) and (b)(6), remove the words ''(incorporated by reference; see 46 CFR 56.01–2)'' and add, in their place, the words ''(incorporated by reference, see § 56.01–2 of this part)'';

■ c. Revise paragraph (b)(5) to read as follows; and

■ d. In paragraphs (c) and (d), remove the word ''shall'' and add, in its place, the word ''must''.

**§ 56.60–25 Non-metallic materials.**

(a) Plastic pipe installations must be in accordance with IMO Resolution A.753(18) (incorporated by reference, see § 56.01–2) and the following supplemental requirements.

(1) Plastic pipe and associated fittings must be approved to approval series 164.141 as follows:

(i) All piping, except pipe used on open decks, in cofferdams, void spaces, or ducts, must meet the flame spread requirements of Appendix 3 of IMO Resolution A.753(18).

(ii) Where fire endurance is required in Appendix 4 of IMO Resolution A.753(18) the pipe must, at a minimum, be approved as meeting the fire endurance level required in Appendix 4. Ratings of ''0'' in Appendix 4 indicate that no fire endurance test is required. Ratings of ''N/A'' or ''X'' indicate that plastic pipe is not permitted.

(iii) Piping in accommodation, service and control spaces must be approved for use in those spaces.

(2) Plastic pipe that has not been approved for use in accommodation, service and control spaces is permitted in a concealed space in an accommodation, service or control space, such as behind ceilings or linings or between double bulkheads if—

(i) The piping is enclosed in a trunk or duct constructed of ''A'' class divisions; or

(ii) An approved smoke detection system is fitted in the concealed space and each penetration of a bulkhead or deck and each installation of a draft stop is made in accordance with IMO Resolution A.753(18) to maintain the integrity of fire divisions.

(3) Requests for the use of plastic pipe for non-vital systems, as defined in 46 CFR 56.07–5, containing non-flammable or non-combustible liquids in locations that do not require fire endurance testing, as indicated in Appendix 4 of IMO Resolution A.753(18), must be submitted to the Marine Safety Center for review. The proposed piping must meet the following requirements:

(i) The length of pipe must be 30 inches or less;

(ii) The pipe must be contained within the space and does not penetrate any bulkhead, overhead or deck; and

(iii) Material specifications must be provided with the installation proposal.

(4) Plastic pipe fitting and bonding techniques must follow the manufacturer's installation guidelines. Bonders must hold certifications required by the manufacturer's guidelines and provide documentation of current certification to the Marine Inspector when requested.

(5) Systems identified by 46 CFR 56.97–40(a)(1) through 46 CFR 56.97–40(c) that contain plastic piping must be tested to 1.5 MAWP as required by 46 CFR 56.97–40(a).

(6) Plastic pipe used outboard of the required metallic shell valve in any piping system penetrating the vessel's shell (see § 56.50–95(f) of this part) must have the same fire endurance as the metallic shell valve. Where the shell valve and the plastic pipe are in the same unmanned space, the valve must be operable from above the freeboard deck.

(7) Pipe that is to be used for potable water must bear the NSF Mark of the National Sanitation Foundation International.

(8) Plastic pipe must also comply with appropriate requirements for specific uses and arrangements of pipe given elsewhere in this part.

(b) * * *

(5) Nonmetallic flexible hose must have factory-assembled end fittings requiring no further adjustment or field attachable fittings. Hose end fittings must comply with SAE J1475 (incorporated by reference, see § 56.01–2). Field attachable fittings must be installed following the manufacturer's recommended practice. If special equipment is required, such as crimping machines, it must be of the type and design specified by the manufacturer. A hydrostatic test of each hose assembly must be conducted in accordance with § 56.97–5 of this part.

* * * * *

## PART 70—GENERAL PROVISIONS

■ 59. The authority citation for part 70 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1; Section 70.01–15 also issued under the authority of 44 U.S.C. 3507.

**§ 70.01–1 [Amended]**

■ 60. Amend to add, at the end of § 70.01–1, the sentence ''The regulations in this subchapter (parts 70, 71, 72, 76, 77, 78, and 80) have preemptive effect over State or local regulations in the same field.''

## PART 71—INSPECTION AND CERTIFICATION

■ 61. The authority citation for part 71 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3205, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 62. Add new § 71.25–3 to read as follows:

**§ 71.25–3 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 71.25–20(a).

(2) [Reserved]

■ 63. Amend § 71.25–20 as follows:

■ a. Revise section heading, paragraphs (a) introductory text and (a)(1) to read as follows;

■ b. Remove Table 71.25–20(a)(1);

■ c. In paragraphs (a)(2) and (a)(4), remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';

■ d. In Table 71.25–20(a)(2), remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';

■ e. In paragraph (a)(3), remove the word ''detecting'' wherever it appears and add, in its place, the word ''detection''; and remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and

■ f. In paragraph (a)(4), remove the words ''fire hose'' and add, in their place, the word ''firehose''.

**§ 71.25–20 Fire detection and extinguishing equipment.**

(a) At each annual inspection, the inspector must ensure that the following tests and inspections of fire detection and extinguishing equipment have been conducted:

(1) All portable fire extinguishers and semi-portable fire extinguishing systems must be maintained in accordance with NFPA 10, chapter 7 (incorporated by reference, see § 71.25–3). Chapter 7 requires persons performing annual and periodic maintenance, and recharging to be certified. The Coast Guard requires that the servicing persons be properly licensed to perform fire extinguisher maintenance as required by local authorities having jurisdiction. Monthly inspections required by NFPA 10 may be conducted by members of the crew.

* * * * *

## PART 72—CONSTRUCTION AND ARRANGEMENT

■ 64. The authority citation for part 72 continues to read as follows:

**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 65. Revise § 72.05–1 to read as follows:

**§ 72.05–1 Application.**

(a) The provisions of this subpart apply to the following vessels:

(1) All vessels of 100 gross tons or more.

(2) All vessels with overnight accommodations for more than 150 passengers.

(3) All vessels on an international voyage.

(b) The provisions of this subpart, with the exception of § 72.05–90 of this subpart, apply to all vessels noted in paragraph (a) of this section contracted for on or after May 26, 1965. Such vessels contracted for prior to May 26, 1965, must meet the requirements of § 72.05–90 of this subpart.

(c) Vessels meeting the structural fire protection requirements of SOLAS, Chapter II–2, Regulations 5, 6, 8, 9, and 11, when combined with the stair requirements in § 72.05–20 may be considered equivalent to the provisions of this subpart. (d) Vessels regulated under subchapter K of this chapter which carry more than 600 passengers or with overnight accommodations for more than 49 passengers must also meet the requirements for stairways, ladders and elevators in § 72.05–20 of this subpart (see 46 CFR 116.438(a)).

## PART 76—FIRE PROTECTION EQUIPMENT

■ 66. The authority citation for part 76 continues to read as follows:

**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 67. Revise § 76.01–2 to read as follows:

**§ 76.01–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications, IBR approved for § 76.10–10(c).

(2) [Reserved]

(c) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) International Convention for the Safety of Life at Sea (SOLAS), Consolidated Text of the International Convention for the Safety of Life at Sea, 1974, and its Protocol of 1988: Article, Annexes and Certificates. (Incorporating all Amendments in Effect from 1 July 2009) (SOLAS), IBR approved for §§ 76.27–1(b) and 76.27–70(a).

(2) International Code for Fire Safety Systems (FSS Code), 2007 Edition IBR approved for §§ 76.27–1(b) and 76.27–70(a).

(3) IMO Resolution A.1021(26), Code on Alarms and Indicators, IBR approved for § 76.27–70(j).

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition, (''NFPA 13''), IBR approved for §§ 76.25–1 and 76.25–90.

(2) [Reserved]

(e) Navy Publications and Forms Center, Customer Service Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120.

(1) Federal Specification ZZ–H–451G, Hose, Fire, Woven-Jacketed Rubber or Fabric-Lined, with Couplings, IBR approved for § 76.10–10(n).

(2) [Reserved]

(f) Underwriters Laboratories Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 19 Standard for Lined Fire Hose and Hose Assemblies (UL 19), IBR approved for § 76.10–10(n).

(2) [Reserved]

■ 68. Revise § 76.01–5 to read as follows:

**§ 76.01–5 Equipment installed but not required.**

(a) Where extinguishing systems or equipment are not required, but are installed, the system or equipment and its installation must meet the requirements of this part.

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that:

(1) Components are listed by a nationally recognized testing laboratory (NRTL) as that term is defined in 46 CFR 161.002–2, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

■ 69. Revise § 76.05–1 to read as follows:

**§ 76.05–1 Fire detection and alarm systems.**

(a) Approved fire detection and alarm systems must be installed on the following vessels as set forth in § 76.27 of this part:

(1) Any vessel on an international voyage.

(2) Any vessel of more than 150 feet in length having sleeping accommodations for passengers.

(3) Any vessel of 150 feet or less in length, not on an international voyage, having sleeping accommodations for 50 or more passengers. Vessels in this category are not required to have a fire detection system in the cargo spaces.

(b) The arrangements and details of the fire detection systems must be as set forth in subparts 76.25 and 76.33 of this part.

■ 70. Revise § 76.05–5 to read as follows:

**§ 76.05–5 Manual alarm system.**

(a) An approved manual alarm system must be installed in all vessels as set forth in § 76.27 of this part.

**§ 76.05–10 [Amended]**

■ 71. In § 76.05–10(a), remove the word ''shall'' and add, in its place, the word ''must''.

■ 72. Revise § 76.05–20 to read as follows:

**§ 76.05–20 Fixed fire extinguishing systems.**

Approved fire extinguishing systems must be installed, as required by table 76.05–20 on all self-propelled vessels and on all barges with sleeping accommodations for more than six persons. Previously approved installations may be retained as long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

TABLE 76.05–20—REQUIRED FIXED EXTINGUISHING SYSTEMS

| Space | Fixed extinguishing systems |
|---|---|
| **Safety areas** | |
| Wheelhouse or fire-control room | None required.[1] |
| Stairway and elevator enclosures | None required.[1] |
| Communication corridors | None required.[1] |
| Lifeboat embarkation and lowering stations | None required. |
| Radio room | None required.[1] |
| **Accommodations** | |
| Staterooms, toilet spaces, isolated pantries, etc | None required.[1] |
| Offices, lockers, and isolated storerooms | None required.[1] |
| Public spaces | None required.[1] |
| Open decks or enclosed promenades | None required. |
| **Service spaces** | |
| Galleys | None required.[1] |
| Main pantries | None required.[1] |
| Motion picture booths and film lockers | None required.[1, 2] |
| Paint and lamp rooms | Carbon dioxide.[3] |
| Inaccessible baggage, mail, and specie rooms and storerooms | Carbon dioxide.[3] |
| Accessible baggage, mail, and specie rooms and storerooms | None required.[1] |
| Refrigerated storerooms | None required. |
| Carpenter, valet, photographic, and printing shops, sales rooms, etc | None required.[1] |
| **Machinery spaces** | |
| Coal fired boilers: Bunker and boiler space | None required.[1] |
| Oil fired boilers: Spaces containing oil fired boilers either main or auxiliary, their fuel oil service pumps, and/or such other fuel oil units as the heaters, strainers, valves, manifolds, etc., that are subject to the discharge pressure of the fuel oil service pumps, together with adjacent spaces to which oil can drain. | Carbon dioxide or foam.[4] |
| Internal combustion or gas turbine propelling machinery spaces | Carbon dioxide.[5] |
| Electric propulsive motors or generators of open type | None required. |
| Enclosed ventilating systems for motors and generators of electric propelling machinery | Carbon dioxide (in ventilating system).[7] |
| Auxiliary spaces, internal combustion or gas turbine | Carbon dioxide.[7] |
| Auxiliary spaces, electric motors or generators. | None required. |
| Auxiliary spaces, steam | None required. |
| Trunks to machinery spaces | None required. |
| Fuel tanks | None required.[8] |
| **Cargo spaces** | |
| Inaccessible during voyage (combustible cargo), including trunks (excluding tanks) | Carbon dioxide.[3] |
| Accessible during voyage (combustible cargo) | Automatic or manual sprinkler system. |

TABLE 76.05–20—REQUIRED FIXED EXTINGUISHING SYSTEMS—Continued

| Space<br>Safety areas | Fixed extinguishing systems |
|---|---|
| Vehicular deck (except where no overhead deck is 30 feet in length or less) | Manual sprinkler. |
| Cargo oil tanks | Carbon dioxide or foam.[3] |
| Specially suitable for vehicles | Carbon dioxide, automatic or manual sprinkler system. |

[1] Vessels of 100 GT or more contracted for on or before May 27, 1936, and having combustible joiner work must be fitted with an automatic sprinkler system, except in relatively incombustible spaces.
[2] Sprinkler heads may be attached to a potable water system provided electrical or pneumatic detecting is installed.
[3] On vessels contracted for prior to January 1, 1962, a steam smothering system may be accepted. However, although existing steam smothering systems may be repaired, replaced, or extended, no new system contracted for on or after January 1, 1962, will be permitted.
[4] Protection of auxiliary boilers, fuel oil units, valves, and manifolds not required on vessels contracted for prior to November 19, 1952.
[5] Not required on vessels of less than 300 GT (except on an international voyage) using fuel with a flashpoint higher than 110 °F, where the space is normally manned.
[6] Not required on vessels contracted for prior to November 19, 1952.
[7] Not required on vessels of less than 300 GT or on vessels contracted for prior to November 19, 1952, except where fuel, including starting fuel, has a flashpoint of 110 °F or less.
[8] Where fuel having a flashpoint of 110 °F or lower is used the space containing the fuel tanks must be protected by a carbon dioxide system.

**§ 76.10–5 [Amended]**

■ 73. Amend § 76.10–5 as follows:

■ a. In paragraph (a), remove the word ''shall'' and add, in its place, the word ''must''; and

b. In table 76.10–5(a), footnote 1, remove the words ''75 feet of 1½-inch hose and 5/8-inch nozzles may be used where specified'' and add, in their place, the words ''Except as allowed''.

■ 74. Revise § 76.10–10 to read as follows:

**§ 76.10–10 Fire station hydrants, hose and nozzles-T/ALL.**

(a) The size of fire hydrants, hoses, and nozzles, and the length of hose required, must be as noted in table 76.10–5(a) of this subpart.

(b) On vessels of more than 1,500 gross tons, the 2½-inch hose and hydrants specified in Table 76.10–5(a) may be replaced with 1½ hose and hydrants as follows:

(1) The hydrants in interior locations may have wye connections for 1½-inch hose. In these cases, the hose must be 75 feet in length, and only one hose will be required at each fire station; however, if every interior space can be reached by a 50-foot hose then 50-foot hoses may be installed at each interior fire hydrant; and

(2) The hydrants for external locations may consist of two 1½-inch outlets, each with a 1½-inch hose supplied through a wye connection as a substitute.

(c) On vessels of 500 gross tons or more, there must be at least one shore connection to the fire main available to each side of the vessel in an accessible location. Suitable cut-out valves and check valves must be provided. Suitable adaptors also must be provided for furnishing the vessel's shore connections with couplings mating those on the shore fire lines. Vessels of 500 gross tons or more on an international voyage must be provided with at least one international shore connection complying with ASTM F 1121 (incorporated by reference, see § 76.01–2). Facilities must be available, enabling an international shore connection to be used on either side of the vessel.

(d) Fire hydrants must be of sufficient number and so located that any part of the vessel, other than main machinery spaces, so that they are accessible to the passengers or crew while the vessel is being navigated.. For the purpose of this requirement, all watertight doors and all doors in main vertical zone bulkheads and stairway enclosures must be closed, although hose ports may be installed in doors, other than watertight doors and doors in main vertical zone bulkheads, for the passage of the hose. All areas of the main machinery spaces and cargo holds must be capable of being reached by at least two streams of water, each of which must be from a single length of hose from separate outlets. This requirement need not apply to shaft alleys containing no assigned space for the stowage of combustibles. Fire hydrants must be numbered as required by § 78.47–20 of this subchapter.

(e) All parts of the fire main located on exposed decks must either be protected against freezing or be fitted with cut-out valves and drain valves so that the entire exposed parts of such piping may be shut off and drained in freezing weather. Except when closed to prevent freezing, such valves must be sealed open.

(f) The outlet at each fire hydrant must be provided with a cock or valve fitted in such a position that the firehose may be removed while the fire main is under pressure. In addition, the outlet must be limited to any position from the horizontal to the vertical pointing downward, so that the hose will lead horizontally or downward to minimize the possibility of kinking.

(g) Each fire hydrant must have at least one length of firehose, a spanner wrench, and a hose rack or other device for stowing the hose.

(h) Firehoses must be connected to the outlets at all times. However, on open decks where no protection is afforded to the hose in heavy weather, or where the hose may be liable to damage from the handling of cargo, the hose may be temporarily removed from the hydrant and stowed in an accessible nearby location.

(i) A firehose must not be used for any purpose other than fire extinguishing and fire drills.

(j) Each firehose on each hydrant must have a combination solid stream and water spray firehose nozzle that meets the requirements in 46 CFR, subpart 162.027. Firehose nozzles previously approved under subpart 162.027 of this chapter may be retained so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(k) Straight stream firehose nozzles approved under 46 CFR 162.027 must have low-velocity water spray applicators for—

(1) Two firehoses within the accommodation and service areas; and

(2) Each firehose within propulsion machinery space containing an oil-fired boiler, internal combustion machinery, or an oil fuel unit on a vessel on an international voyage or on any vessel of 1,000 gross tons or more. The length of each applicator must be not more than 1.8 meters (6 feet).

(l) Fixed brackets, hooks, or other means for stowing an applicator must be next to each fire hydrant that has an

applicator under paragraph (k) of this section.

(m) Fire hydrants, nozzles, and other fittings must have threads to accommodate the hose connections noted in paragraph (l) of this section.

(n) Firehose and couplings must be as follows:

(1) Fire station hydrant connections must be brass, bronze, or other equivalent metal. Couplings must either—

(i) Use National Standard (NS) firehose coupling threads for the 1½-in (38-mm) and 2½-in (64-mm) hose sizes, i.e., 9 threads per inch for a 1½-in hose, and 7½ threads per inch for a 2½-in hose; or

(ii) Be a uniform design for each hose diameter throughout the vessel.

(2) Each section of firehose must be a lined commercial firehose that conforms to UL 19 (incorporated by reference, see 76.01–2). A hose that bears the label of Underwriters Laboratories, Inc. as a lined firehose is accepted as conforming to this requirement.

■ 75. Amend § 76.25–1 to read as follows:

**§ 76.25–1 Application.**

Automatic sprinkler systems must comply with Chapter 25 of NFPA 13 (incorporation by reference, see § 76.01–2).

**§§ 76.25–5 through 76.25–35 [Removed]**

■ 76. Remove §§ 76.25–5 through 76.25–35.

■ 77. Revise subpart 76.27, consisting of §§ 76.27–1 through 76.27–90, to read as follows:

**Subpart 76.27—Fire Detection and Alarm System, Details**

Sec.

76.27–1 Application.
76.27–5 General.
76.27–10 Operation.
76.27–15 Detectors.
76.27–20 Alarm indicators.
76.27–25 Power and circuitry.
76.27–30 Zoning.
76.27–35 Installation.
76.27–70 Application of SOLAS and FSS Code.
76.27–80 Installations contracted for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].
76.27–90 Installations contracted for prior to November 19, 1952.

## Subpart 76.27—Fire Detection and Alarm System, Details

**§ 76.27–1 Application.**

(a) Where a fire detection and alarm system is installed, the provisions of this subpart, with the exception of §§ 76.27–80 and 76.27–90 of this subpart, apply to all installations contracted for on or after [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE]. Installations contracted for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] must meet the requirements of § 76.27–80 of this subpart. Installations contracted for prior to November 19, 1952, must meet the requirements of § 76.27–90 of this subpart.

(b) The design, manufacture, installation, and operation of fire detection and alarm systems must be in accordance with either—

(1) Sections 76.27–5 through 76.27–35 of this subpart; or

(2) SOLAS Chapter II–2, Regulation 7 (incorporated by reference, see § 76.01–2) and FSS Code Chapter 9 (incorporated by reference, see § 76.01–2) as detailed in § 76.27–70 of this part.

**§ 76.27–5 General.**

(a) Detectors, manual alarm stations, control panels, cabinets, alarms, and other notifying devices must be of approved types.

(b) The fire detection and alarm system must be capable of immediate operation at all times that the vessel is in service.

(c) The fire detection and alarm system must control and monitor input signals for all connected detectors and manual pull stations or call points.

(d) The fire detection and alarm system must provide fire or fault output signals to the pilothouse or fire control station.

(e) The fire detection and alarm system must notify crew and passengers of a fire when appropriate.

(f) The fire detection and alarm system must be so arranged and installed that the presence of a fire in any of the protected spaces will be automatically registered visibly and audibly in the pilothouse or fire control station. The visible notice must indicate the zone in which the alarm originated. On vessels of more than 150 feet in length, there must also be an audible alarm in the engine room.

**§ 76.27–10 Operation.**

(a) Means to manually acknowledge all alarm and fault signals must be provided at the control panel. The audible alarm on the control panel may be manually silenced. The control panel must clearly distinguish between normal, alarm, acknowledged alarm, fault, and silence conditions.

(b) The activation of any detector or manual pull station must cause an audible and visual fire detection alarm signal at the control panel. If the alarm signal has not been acknowledged within 2 minutes, an audible fire alarm must be automatically sounded throughout the crew accommodations and service spaces, control stations, and manned machinery spaces.

(c) A fire detection and alarm system must automatically reset to a normal operating condition after alarm and fault situations are cleared.

(d) Detectors in certain spaces, such as workshops during hot work and ro-ro spaces during on- and off-loading, may be disabled. The system must be restored automatically to normal surveillance after a predetermined time. Spaces must be manned when any detectors are disabled. Detectors in all other spaces must remain operational.

(e) In fire detection and alarm systems with addressable detectors and manual pull stations, every fault (such as an open circuit, short circuit, or ground fault) must be monitored and must not prevent the continued individual identification of the remaining detectors and manual pull stations.

(f) In fire detection and alarm systems with addressable detectors and manual alarm stations, the initiation of the first fire detector and resulting alarm must not prevent any other detector from responding.

(g) Fire detection and alarm systems without addressable detectors and manual alarm stations must identify the zone that contains the activated detector or station upon activation of a detector or manual pull station.

(h) Fire detection and alarm systems may output signals to other fire safety systems including, but not limited to, paging systems, fire alarm or public address systems, fan stops, fire doors, fire dampers, sprinkler systems, smoke extraction systems, low-location lighting systems, fixed local application fire extinguishing systems, and closed circuit television systems.

(i) Fire detection and alarm systems may accept signals from other safety systems. For example, a signal initiated from actuation of an automatic sprinkler valve may be sent to a fire detection and alarm system.

(j) The fire detection and alarm system may be connected to a decision management system provided that—

(1) The decision management system is compatible with the fire detection and alarm system;

(2) The decision management system can be disconnected without affecting the performance of the fire detection and alarm system; and

(3) Any malfunction of the interfaced and connected decision management equipment must not render the fire detection and alarm system ineffective.

**§ 76.27–15 Detectors.**

(a) Detectors must be responsive to heat, smoke, or other products of combustion, flame, or any combination of these factors. Detectors responsive to other indicators of incipient fires may be used if approved.

(b) Detectors must be capable of being triggered or tested and restored to service without the replacement of any component.

(c) Heat detectors must be rated not lower than 130 °F (54 °C) and not higher than 172 °F (78 °C). The operating temperature of heat detectors located in spaces of high normal ambient temperatures may be up to 260 °F (130 °C). The operating temperatures of heat detectors in saunas may be up to 284 °F (140 °C).

(d) Fire detectors fitted in passenger cabins must also emit, or cause to be emitted, an audible alarm within the cabin when activated.

(e) The required sensitivity and other performance criteria of detectors must be as set forth in 46 CFR 161.002.

**§ 76.27–20 Alarm indicators.**

(a) Audible alarms must generate sound pressure levels as set forth in 46 CFR 161.002 and must—

(1) Be at least 75 dBA as measured at the sleeping position in cabins;

(2) Be at least 10 dBA above ambient noise levels existing during normal operation with the ship under way in moderate weather when measured at a point 5 feet (1.5 meters) above the finished floor and at least 3 feet (1 meter) from the source;

(3) Not exceed 120 dBA; and

(4) The sound pressure level must be measured in the third octave band about the fundamental frequency.

(b) Visual alarms must generate light of an intensity and period as set forth in 46 CFR 161.002.

(c) All audible and visual alarms must be audible and visible throughout the spaces they are intended to alert.

**§ 76.27–25 Power and circuitry.**

(a) The power supply and emergency power supply for all fire detection and alarm systems must be in accordance with 46 CFR, subchapter J (Electrical Engineering). At the end of the required period for which the fire detection and alarm system must remain operable under emergency power, the system must remain capable of operating all audible and visual fire alarm signals for an additional period of 30 minutes.

(b) All wiring and electrical circuits and equipment must be in accordance with 46 CFR, subchapter J (Electrical Engineering).

(c) All fire detection and alarm systems must monitor power supplies and circuits necessary for the operation of the system during loss of power and fault conditions.

**§ 76.27–30 Zoning.**

(a) The fire detection system must be divided into separate zones to restrict the area covered by any particular alarm signal.

(b) The fire detection zone must not include spaces in more than one main vertical zone, except on cabin balconies.

(c) The fire detection zone must not include spaces on more than one deck, except—

(1) Adjacent and communicating spaces on different decks at the ends of the vessel having a combined ceiling area of not more than 3,000 sq ft;

(2) Isolated rooms or lockers in such spaces as mast houses, wheelhouse top, etc., which are easily communicable with the area of the fire detecting circuit to which they are connected; and

(3) Systems with addressable detectors and manual alarm stations that can have their status individually determined.

(d) Any fire detection zone with non–addressable detectors and manual pull stations must not contain more than 25 protected rooms or spaces.

**§ 76.27–35 Installation.**

(a) Detectors must be located in all spaces except those having little or no fire risk such as void spaces with no stowage of combustibles, private bathrooms, public toilets, fire extinguishing medium storage rooms, deck spaces, and enclosed promenades that are naturally ventilated by permanent openings.

(b) The detectors must be located on the overhead in the space protected at a minimum distance of 18 in (0.5 m) away from bulkheads, except in corridors, lockers, and stairways. Positions near beams and ventilation ducts, or other positions where patterns of air flow could adversely affect performance should be avoided. Where liable to physical damage, the detector must be suitably protected.

(c) Detectors must be located in accordance with spacing requirements as tested and approved.

(d) Detectors in stairways must be located at least at the top level of the stairs and at every second level beneath.

(e) There must be at least one manual alarm station in each zone.

(f) Manual alarm stations must be located in main passageways, stairway enclosures, public spaces, or similar locations where they will be readily available and easily seen in case of need.

(g) A sufficient number of manual alarm stations must be employed to enable a person escaping from any space to find a manual alarm station on his or her normal escape route.

(h) Cables that form part of a fire detection and alarm system must be arranged to avoid galleys and machinery and other high fire risk spaces except where it is necessary to provide for fire detection and alarms in such spaces or to connect to an appropriate power supply.

(i) Clear information about the installation and operation of a fire detection and alarm system must be displayed on or adjacent to its control panels.

(j) The audible alarms must be identified as required by § 78.47–13 of this subchapter.

(k) The entire main vertical zone containing an atrium must be protected throughout with smoke detectors.

**§ 76.27–70 Application of SOLAS and FSS Code.**

When the design, manufacture, installation, and operation of a fire detection and alarm system is to be in accordance with SOLAS Chapter II–2, Part C, Regulation 7 and FSS Code Chapter 9 (incorporated by reference, see § 76.01–2) as allowed by § 76.27–1(b)(2) of this subpart, the following requirements apply:

(a) The periodic testing of fire detection and alarm systems required in SOLAS Chapter II–2, Regulation 7.3.2 must be conducted as part of the annual inspection mandated in subpart 71.25 of this subchapter.

(b) Control stations must be included among the spaces to be protected by a fire detection and alarm system under SOLAS Chapter II–2, Regulation 7.5.3.

(c) The Commanding Officer of the U.S. Coast Guard Marine Safety Center will determine whether a cargo space in a passenger vessel is inaccessible and whether or not it is reasonable to provide fire detection for the space under SOLAS Chapter II–2, Regulation 7.6.

(d) The Commanding Officer of the U.S. Coast Guard Marine Safety Center will determine whether or not there is risk of fire originating in concealed and inaccessible places that otherwise would require access of a fire patrol under SOLAS Chapter II–2, Regulation 7.8.2.

(e) Any detectors operated by factors other than heat, smoke, or other products of combustion, or flame as addressed in FSS Code Chapter 9.2.3.1.1, may be used if they are approved types.

(f) Notwithstanding the provisions of FSS Code Chapter 9.2.3.1.2, the required sensitivity and other performance

criteria of smoke detectors must be as set forth in 46 CFR 161.002.

(g) Notwithstanding the provisions of FSS Code Chapter 9.2.3.1.3, the required sensitivity and other performance criteria of heat detectors must be as set forth in 46 CFR 161.002.

(h) As addressed in FSS Code Chapter 9.2.4.1.3, when a fire detection and alarm system does not include means for identifying each detector individually, no section of detectors and manually operated call points may include more than 25 enclosed spaces.

(i) Notwithstanding the spacing set forth in FSS Code Chapter 9, Table 9.1, fire detectors must be placed in accordance with spacing requirements as tested and approved.

(j) Footnotes to SOLAS Chapter II–2, Regulation 7.9 and FSS Code Chapter 9.2.51 refer to the Code on Alarms and Indicators, 2009, as adopted by IMO Resolution A.1021(26) (incorporated by reference, see § 76.01–2). The provisions of the Code on Alarms and Indicators are recommended but not required under the option in § 76.27–1(b)(2) of this subpart.

**§ 76.27–80 Installations contracted for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

Installations contracted for on or after November 19, 1952 and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(a) Location and spacing of detectors. (1) The detectors must be located close to the overhead in the space protected. Where liable to physical damage, the detector must be suitably protected.

(2) Unless specifically approved otherwise, every spot on the overhead of a protected space must be within 10 feet of a detector. Where beams or girders extend below the ceiling, or where the ceiling is installed at more than one level, the detectors must be so located as to be most effective.

(b) Operation and installation. (1) The system must be so arranged and installed that the presence of a fire in any of the protected spaces will be automatically registered visibly and audibly in the pilothouse or fire control station. The visible notice must indicate the zone in which the alarm originated. On vessels of more than 150 ft in length, there must also be an audible alarm in the engine room.

(2) The detectors, the fire detection cabinet, and alarms must be of an approved type.

(3) In general, the detectors, must be rated not lower than 135 °F and not higher than 165 °F. However, in spaces where a high ambient temperature may be expected, detectors must be rated not lower than 175 °F and not higher than 225 °F.

(4) The fire detection system must be used for no other purpose, except that it may be incorporated with the manual alarm system.

(5) All wiring and electrical circuits and equipment must meet the applicable requirements of 46 CFR, subchapter J (Electrical Engineering) of this chapter.

(6) A framed chart or diagram must be installed in the wheelhouse or control station adjacent to the detecting cabinet indicating the location of the various detecting zones and giving instructions for the operation, maintenance, and testing of the system. This chart, or a separate card or booklet to be kept near the chart, must have tabulated spaces for the date and signature of the licensed officer of the vessel who must witness or conduct the periodic tests.

(7) The audible alarms must be identified as required by § 78.47–13 of this subchapter.

(c) Zoning. (1) The fire detection system must be divided into separate zones to restrict the area covered by any particular alarm signal.

(2) All spaces in a fire detection zone must be accessible from one to another without leaving the deck involved. All doors in watertight subdivision bulkheads and main vertical zone bulkheads must be assumed closed for the purpose of this requirement.

(3) The fire detection zone must not include spaces on more than one deck, except—

(i) Adjacent and communicating spaces on different decks at the ends of the vessel having a combined ceiling area of not more than 3,000 sq ft;

(ii) Isolated rooms or lockers in such spaces as mast houses, wheelhouse top, etc., which are easily communicable with the area of the fire detection circuit to which they are connected; and

(iii) Systems with indicators for individual spaces.

(4) The fire detection zone must not contain more than 50 protected rooms or spaces.

(d) Repair of existing systems. (1) If the status of the approval for the system is other than ''Former—Do not use'', the system may be repaired by the following means—

(i) Repair in kind using the same components as installed and listed on the approved drawings;

(ii) Repair using equivalent components from the authorized component list for the type approval for that system;

(iii) Repair using equivalent components from the authorized component list for the type approval for another fire detection system, provided that the replacement devices are compatible with the installed system; and

(iv) Repair using devices that are currently type approved, provided that the replacement devices are compatible with the installed system.

(2) Any changes to the system that will result in the fire detection system not complying with the approved drawings require the drawings to be revised and submitted to the Marine Safety Center for review.

TABLE 76.27–80—INSTALLATIONS

| Space | Detecting systems |
|---|---|
| **Safety areas** | |
| Wheelhouse or fire-control room | None required.[1] |
| Stairway and elevator enclosures | None required.[1] |
| Communication corridors | None required.[1] |
| Lifeboat embarkation and lowering stations | None required. |
| Radio room | None required.[1] |
| **Accommodations** | |
| Staterooms, toilet spaces, isolated pantries, etc | None required.[1] |
| Offices, lockers, and isolated storerooms | Electric, pneumatic, or automatic sprinkling.[1] |

TABLE 76.27–80—INSTALLATIONS—Continued

| Space | Detecting systems |
|---|---|
| Public spaces | None required with 20-minute patrol. Electric, pneumatic, or automatic sprinkling with 1 hour patrol.[1] |
| Open decks or enclosed promenades | None required. |
| **Service spaces** | |
| Galleys | None required.[1] |
| Main pantries | None required.[1] |
| Motion picture booths and film lockers | Electric, pneumatic, or automatic sprinkling.[1 2] |
| Paint and lamp rooms | Smoke detecting.[3] |
| Inaccessible baggage, mail, and specie rooms and storerooms | Smoke detecting.[3] |
| Accessible baggage, mail, and specie rooms and storerooms | Electric, pneumatic, or automatic sprinkling. |
| Refrigerated storerooms | None required. |
| Carpenter, valet, photographic, and printing shops, sales rooms, etc | Electric, pneumatic, or automatic sprinkling. |
| **Machinery spaces** | |
| Coal fired boilers: Bunker and boiler space | None required. |
| Oil fired boilers: Spaces containing oil fired boilers either main or auxiliary, their fuel oil service pumps, and/or such other fuel oil units as the heaters, strainers, valves, manifolds, etc., that are subject to the discharge pressure of the fuel oil service pumps, together with adjacent spaces to which oil can drain. | None required. |
| Internal combustion or gas turbine propelling machinery spaces | None required. |
| Electric propulsive motors or generators of open type | None required. |
| Enclosed ventilating systems for motors and generators of electric propelling machinery | None required. |
| Auxiliary spaces, internal combustion or gas turbine | None required. |
| Auxiliary spaces, electric motors or generators | None required. |
| Auxiliary spaces, steam | None required. |
| Trunks to machinery spaces | None required. |
| Fuel tanks | None required. |
| **Cargo spaces** | |
| Inaccessible during voyage (combustible cargo), including trunks (excluding tanks) | Smoke detecting. |
| Accessible during voyage (combustible cargo) | Smoke detecting, electric, pneumatic or automatic sprinkling. |
| Vehicular deck (except where no overhead deck is 30 feet in length or less) | None required. |
| Cargo oil tanks | None required. |
| Specially suitable for vehicles | Smoke detecting, electric, pneumatic or automatic sprinkling. |

[1] Vessels of 100 GT or more contracted for on or before May 27, 1936, and having combustible joiner work must be fitted with an automatic sprinkler system, except in relatively incombustible spaces.
[2] Sprinkler heads may be attached to a sanitary system provided electrical or pneumatic detecting is installed.
[3] On vessels contracted for prior to January 1, 1962, a steam smothering system may be accepted. However, although existing steam smothering systems may be repaired, replaced, or extended, no new system contracted for on or after January 1, 1962, will be permitted.

**§ 76.27–90 Installations contracted for prior to November 19, 1952.**

(a) Installations contracted for prior to November 19, 1952, must meet the following requirements:

(1) Existing arrangements, materials, and equipment previously approved will be considered satisfactory so long as they meet the minimum requirements of this paragraph, and they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection. Minor repairs and alterations may be made to the same standards as the original installation.

(2) The details of the systems must be in general agreement with §§ 76.27–5 through 76.27–15 of this subpart insofar as is reasonable and practicable.

(b) [Reserved]

## Subpart 76.30—Pneumatic Fire Detection System, Details

■ 78. Revise Subpart 76.30 heading to read as set forth above.

## Subpart 76.30—Pneumatic Fire Detection System, Details

■ 79. Revise § 76.30–1 to read as follows:

**§ 76.30–1 Application.**

(a) Where a pneumatic fire detection system is installed, the provisions of this subpart, with the exception of § 76.30–90, must apply to all installations contracted for on or after November 19, 1952, and prior to [2 YEARS AND 180 DAYS AFTER THE DATE OF PUBLICATION OF FINAL RULE]. Installations contracted for prior to November 19, 1952, must meet the requirements of § 76.30–90 of this subpart.

(b) [Reserved]

**§ 76.30–5 [Amended]**

■ 80. In § 76.30–5, remove the word ''detecting'' wherever it appears and add, in its place, the word '' detection''; and remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

**§ 76.30–10 [Amended]**

■ 81. In § 76.30–10, remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

**§ 76.30–15 [Amended]**

■ 82. Amend § 76.30–15 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';
■ b. In paragraph (a), after the words ''On vessels'', remove the word ''over'' and add, in its place, the words ''greater than'';
■ c. In paragraph (c), after the words ''at a temperature rise of approximately'', remove the text ''40 degrees F'' and add, in its place, the text ''40 °F''; and
■ d. In paragraph (d), remove the word ''detecting'' and add, in its place, the word ''detection''.

**§ 76.30–90 [Amended]**

■ 83. Amend § 76.30–90 as follows:
■ a. In paragraph (a) introductory text, remove the word ''shall'' and add, in its place, the word ''must'';
■ b. In paragraph (a)(1), remove the word ''shall'' and add, in its place, the word ''will''; and
■ c. In paragraph (a)(2), remove the word ''shall'' and add, in its place, the word ''must''; and after the words ''in general agreement with'', remove the text ''§§ 76.30–5 through 76.30–15'' and add, in its place, the text ''§§ 76.27–5 through 76.27–35 of this subchapter''.

## Subpart 76.33—Smoke Detection System, Details

■ 84. Revise subpart 76.33 heading to read as set forth above.
■ 85. Revise § 76.33–1 to read as follows:

**§ 76.33–1 Application.**

(a) Where a smoke detection system is installed, the provisions of this subpart, with the exception of § 76.33–90 of this subpart, applies to all installations contracted for on or after November 19, 1952, and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE]. Installations contracted for prior to November 19, 1952, must meet the requirements of § 76.33–90 of this subpart.

(b) Vessels must comply with the requirements of § 76.33–20(c) of this subpart not later than [5 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE].

**§ 76.33–5 [Amended]**

■ 86. In § 76.33–5, remove the word ''detecting'' wherever it appears and add, in its place, the word ''detection''; and remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

**§ 76.33–10 [Amended]**

■ 87. In § 76.33–10, remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

**§ 76.33–15 [Amended]**

■ 88. Amend § 76.33–15 as follows:
■ a. Remove the word ''detecting'' wherever it appears and add, in its place, the word ''detection'';
■ b. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and
■ c. In paragraph (e), remove the word ''tapes'' and add, in its place, the word ''traps''; and remove the word ''moisutre'' and add, in its place, the word ''moisture''.
■ 89. Amend § 76.33–20 as follows:
■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';
■ b. In paragraph (a), after the words ''On vessels'', remove the word ''over'' and add, in its place, the words ''greater than;
■ c. Revise paragraph (c) to read as follows; and
■ d. In paragraphs (d) and (h), remove the word ''detecting'' and add, in its place, the word ''detection''.

**§ 76.33–20 Operation and installation.**

* * * * *

(c) No exhaust from the detecting cabinet may be discharged in the vicinity of the cabinet to permit the detection of fire by odor. Instead, the exhaust must be directed to the outside. Vessels must comply with this requirement not later than (5 YEARS AFTER DATE OF PUBLICATION OF FINAL RULE).

* * * * *

**§ 76.33–90 [Amended]**

■ 90. Amend § 76.33–90 as follows:
■ a. In paragraph (a) introductory text, remove the word ''shall'' and add, in its place, the word ''must'';
■ b. In paragraph (a)(1), remove the word ''shall'' and add, in its place, the word ''will''; and
■ c. In paragraph (a)(2), remove the word ''shall'' and add, in its place, the word ''must''; and after the words ''general agreement with'', remove the text ''§§ 76.33–5 through 76.33–15'' and add, in its place, the text ''§§ 76.27–5 through 76.27–35''.

**§ 76.35–1 [Amended]**

■ 91. Amend § 76.35–1 as follows:
■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and
■ b. In paragraph (a), after the text ''on or after November 19, 1952'', add the text '', and prior to [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE]''.
■ 92. Amend § 76.35–5 to revise paragraph (a) to read as follows:

**§ 76.35–5 Zoning.**

(a) The zoning of the manual alarm system must meet the same requirements as for the fire detection system set forth in § 76.27–15(d) of this part.

* * * * *

**§ 76.35–10 [Amended]**

■ 93. Amend § 76.35–10 as follows:
■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and
■ b. In section heading and paragraphs (a) and (c), remove the word ''boxes'' wherever it appears and add, in its place, the word ''stations''; and remove the word ''box'' wherever it appears and add, in its place, the word ''station''.

**§ 76.35–15 [Amended]**

■ 94. Amend § 76.35–15 as follows:
■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and
■ b. In paragraph (c), remove the word ''detecting'' and add, in its place, the word ''detection''.
■ 95. Revise § 76.50–1 to read as follows:

**§ 76.50–1 Application.**

(a) The provisions of this subpart, with the exception of §§ 76.50–80 and 76.50–90, as applicable, apply to all vessels contracted for on or after November 19, 1952.

(b) Vessels contracted for prior to [180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] and on or after November 19, 1952, must meet the requirements of § 76.50–80 of this subpart.

(c) Vessels contracted for prior to November 19, 1952, must meet the requirements of § 76.50–90 of this subpart.

**§ 76.50–5 [Reserved]**

■ 96. Remove and reserve § 76.50–5.
■ 97. Revise § 76.50–10 to read as follows:

**§ 76.50–10 Location.**

(a) Approved portable and semi-portable extinguishers must be installed in accordance with table 76.50–10(a) of this section.

(b) Table 76.50–10(a) indicates the minimum required number and type of extinguisher for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 76.50–10(a)—CARRIAGE OF PORTABLE AND SEMI-PORTABLE FIRE EXTINGUISHERS

| Space | Fire extinguishing | |
|---|---|---|
| | Minimum required rating | Quantity and location |
| Safety area: [1] | | |
| Wheelhouse or fire control room | 20–B:C | 1 of each classification on vessels over 1,000 GT. (Not required in both spaces.) (Multiple classifications may be recognized.) |
| Stairway and elevator enclosures | | None required. |
| Communicating corridors | 2–A | 1 in each main corridor in each main vertical zone. (May be located in stairway enclosures.) |
| Lifeboat embarkation and lowering stations | | None required. |
| Radio room | 20–B:C [3] | 2 in the vicinity of the exit.[2] |
| Accommodations: [1] | | |
| Staterooms, toilet spaces, isolated pantries, etc | | None required. |
| Offices, lockers, and isolated storerooms | | None required. |
| Public spaces | 2–A | 1 for each 2,500 sq ft or fraction thereof located in vicinity of the exits, except that none are required for spaces under 500 sq ft. |
| Open decks or enclosed promenades | | None required. |
| Service spaces: | | |
| Galleys | 40–B:C | 1 for each 2,500 sq ft or fraction thereof suitable for hazards involved. |
| Main pantries | 2–A | 1 for each 2,500 sq ft or fraction thereof located in the vicinity of the exits. |
| Motion picture booths and film lockers | 10–B:C [3] | 1 outside in the vicinity of the exit. |
| Paint and lamp rooms | 40–B | 1 outside space in the vicinity of the exit. |
| Inaccessible baggage, mail, and specie rooms, and storerooms | | None required. |
| Accessible baggage, mail, and specie rooms, and storerooms | 2–A | 1 for each 2,500 sq ft or fraction thereof located in the vicinity of the exits, either inside or outside the spaces. |
| Refrigerated storerooms | 2–A | 1 for each 2,500 sq ft or fraction thereof located in the vicinity of the exits, outside the spaces. |
| Carpenter, valet, photographic, printing shops sales rooms, etc | 2–A | 1 outside the space in the vicinity of the exit. |
| Machinery spaces: | | |
| Coal-fired boilers: Bunker and boiler space | | None required. |
| Oil-fired boilers: Spaces, containing oil fired boilers, either main or auxiliary, or their fuel oil units. | 40–B | 2 required.[3] |
| | 160–B | 1 required.[4] |
| Internal combustion or gas turbine propelling machinery spaces | 40–B | 1 for each 1,000 brake horsepower, but not less than 2 or more than 6. |
| | 120–B | 1 required.[5] |
| Electric propulsive motors or generators of open type | 40–B:C | 1 for each propulsion motor or generator unit. |
| Enclosed ventilating systems for motors and generators of electric propelling machinery | | None required. |
| Auxiliary spaces, internal combustion or gas turbine | 40–B | 1 outside the space in the vicinity of the exit.[6] |
| Auxiliary spaces, electric emergency motors or generators | 40–B:C | 1 outside the space in the vicinity of the exit.[6] |
| Auxiliary spaces, steam | | None required. |
| Trunks to machinery spaces | | None required. |
| Fuel tanks | | None required. |
| Cargo spaces: | | |
| Inaccessible during voyage, including trunks (excluding tanks) | | None required. |

TABLE 76.50–10(a)—CARRIAGE OF PORTABLE AND SEMI-PORTABLE FIRE EXTINGUISHERS—Continued

| Space | Fire extinguishing | |
|---|---|---|
| | Minimum required rating | Quantity and location |
| Accessible during voyage | 2–A | 1 for each 1,200 sq ft or fraction thereof. |
| Vehicular spaces (covered by a sprinkler system) | 40–B | 1, plus 1 for each 6,000 sq ft or fraction thereof. |
| Vehicular spaces (not covered by a sprinkler system) | 40–B | 1, plus 1 for each 1,500 sq ft or fraction thereof.[7] |
| Cargo oil tanks | | None required. |
| Spare units | 2–A | (RANGE FROM 50–10) percent of the required number for public spaces rounded up. |
| | 40–B | (RANGE FROM 50–10) percent of the required number for cargo spaces rounded up. |
| | 40–B:C | 1. |

[1] In any case, on vessels of 150 feet in length and over, there must be at least two 2–A units on each passenger deck.
[2] For vessels on an international voyage, substitute 1 20–B:C in the vicinity of the exit.
[3] Vessels of less than 1,000 GT and not on an international voyage require 1.
[4] Vessels of less than 1,000 GT and not on an international voyage may substitute 1 160–B.
[5] If an oil-burning donkey boiler is fitted in the space, the 160–B previously required for the protection of the boiler room may be substituted. Not required on vessels of less than 300 GT if the fuel has a flashpoint of 110 °F or lower except those on an international voyage.
[6] Not required on vessels of less than 300 GT if the fuel has a flashpoint higher than 110 °F.
[7] Two 5–B units may be substituted for 1 20–B unit.
The location of the equipment must be to the satisfaction of the Officer in Charge, Marine Inspection. Nothing in this paragraph should be construed as limiting the Officer in Charge, Marine Inspection, from requiring such additional equipment as he or she deems necessary for the proper protection of the vessel.

(c) Semi-portable fire extinguishing systems must be located in the open so as to be readily seen.

(d) If portable fire extinguishers are not located in the open or behind glass so that they may be readily seen, they may be placed in enclosures together with the firehose, provided such enclosures are marked as required by § 78.47–20 of this subchapter.

(e) Portable fire extinguishers and their stations must be numbered in accordance with § 78.47–30 of this subchapter.

(f) Portable or semi-portable extinguishers, which are required on their nameplates to be protected from freezing, must not be located where freezing temperatures may be expected.

**§ 76.50–15 [Removed]**

■ 98. Remove § 76.50–15.

■ 99. Amend § 76.50–20 as follows:

■ a. Revise the section heading to read as follows;

■ b. In paragraphs (a) and (b), remove the text ''size III, IV, and V'' and add, in its place, the text ''semi-portable''; and

■ c. Add paragraph (c) to read as follows:

**§ 76.50–20 Semi-portable fire extinguishers.**

* * * * *

(c) Each semi-portable extinguisher must be fitted with a suitable hose and nozzle, or other practicable means, so that all areas of the space can be protected.

■ 100. Add § 76.50–80 to read as follows:

**§ 76.50–80 Locations and number of fire extinguishers required for vessels constructed prior to [180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

(a) Vessels contracted for prior to [180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(1) Previously installed extinguishers with extinguishing capacities smaller than are required in Table 76.50–10(a) of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection; and

(2) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

(b) [Reserved]

## PART 78—OPERATIONS

■ 101. The authority citation for part 78 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3306, 6101; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 102. Revise § 78.47–13 to read as follows:

**§ 78.47–13 Fire and automatic sprinkler alarm indicators.**

(a) The fire detection, alarm, and automatic sprinkler indicators in the engine room must be identified by at least 1-inch red lettering as ''FIRE ALARM'' or ''SPRINKLER ALARM'' as appropriate. Where such alarm indicators on the bridge or in the fire control station do not form a cabinet, the indicators must be suitably identified as above.

(b) [Reserved]

## PART 90—GENERAL PROVISIONS

■ 103. The authority citation for part 90 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

**§ 90.01–1 [Amended]**

■ 104. Amend § 90.01–1 to add, after the last sentence, the sentence ''The regulations in this subchapter (parts 90, 91, 92, 93, 95, 96, 97, 98, and 105) have preemptive effect over State or local regulation within the same fields. ''

## PART 91—INSPECTION AND CERTIFICATION

■ 105. The authority citation for part 91 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3205, 3306, 3307; 46 U.S.C. Chapter 701; Executive Order 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; Executive Order 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 106. Add § 91.25–7 to read as follows:

### § 91.25–7 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org.*

(1) NFPA 10 Standard for Portable Fire Extinguishers, 2010 Edition (NFPA 10''), IBR approved for § 91.25–20(a).

(2) [Reserved]

■ 106. Amend § 91.25–20 as follows:

■ a. Revise section heading and paragraph (a)(1) to read as follows; and

■ b. In paragraphs (a)(2), (a)(3), (a)(4), and Table 91.25–20(a)(2), remove the word ''shall'' wherever it appears and add, in its place, the word ''must''.

### § 91.25–20 Fire extinguishing equipment.

(a) * * *

(1) Portable and semi-portable extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 91.25–7) as amended here:

(i) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(ii) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iii) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iv) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

* * * * *

## PART 92—CONSTRUCTION AND ARRANGEMENT

■ 108. The authority citation for part 92 continues to read as follows:

**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 109. Amend § 92.07–1 as follows:

■ a. In paragraph (a), following the text ''of § 92.07–90,'', remove the word ''shall''; and following the text ''4,000 gross tons'', remove the words ''and over'' and add, in their place, the words ''or more''; and following the text ''to January 1, 1962,'' remove the word ''shall'' and add, in its place, the word ''must'';

■ b. In paragraph (b), following the text ''of § 92.07–90,'', remove the word ''shall''; and following the text ''300 gross tons'', remove the words ''and over'' and add, in their place, the words ''or more''; and following the text ''to January 1, 1962,'' remove the word ''shall'' and add, in its place, the word ''must''; and

■ c. Revise paragraph (c) to read as follows:

### § 92.07–1 Application.

* * * * *

(c) Vessels meeting the structural fire protection requirements of SOLAS, Chapter II–2, Regulations 5, 6, 8, 9, and 11, may be considered equivalent to the provisions of this subpart.

## PART 95—FIRE PROTECTION EQUIPMENT

■ 110. The authority citation for part 95 continues to read as follows:

**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 111. Amend § 95.01–1 as follows:

■ a. In paragraph (a), remove the word ''shall''; and

■ b. Revise paragraph (b) to read as follows:

### § 95.01–1 General.

* * * * *

(b) Equipment installed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] as required by § 95.05–1(b) of this part may remain in service so long as it is maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

■ 112. Revise § 95.01–2 to read as follows:

### § 95.01–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

(1) ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications, IBR approved for § 95.10–10.

(2) [Reserved]

(c) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) International Code for Fire Safety Systems (FSS Code), 2007 Edition, IBR approved for § 95.05–3(a) and (b).

(2) [Reserved]

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02269–9101, 800–344–3555, *http://www.nfpa.org*.

(1) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition (''NFPA 13''), IBR approved for § 95.30–1.

(2) [Reserved]

(e) Navy Publications and Forms Center, Customer Service Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120.

(1) Federal Specification ZZ–H–451G, Hose, Fire, Woven-Jacketed Rubber or Fabric-Lined, with Couplings, IBR approved for § 95.10–10(n).

(2) [Reserved]

(f) Underwriters Laboratories Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 19–2001, Standard for Lined Fire Hose and Hose Assemblies (UL–19), IBR approved for § 95.10–10(n).

(2) [Reserved]

■ 113. Amend § 95.01–5 as follows:

■ a. In paragraph (a), after the words ''Where fire'', remove the words ''detecting or'', and remove the word ''shall'' and add, in its place, the word ''must''; and

■ b. Add new paragraph (b) to read as follows:

**§ 95.01–5 Equipment installed but not required.**

* * * * *

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed and labeled by an independent, nationally recognized testing laboratory as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

## Subpart 95.05—Fire Detection and Extinguishing Equipment

■ 114. Revise the heading in subpart 95.05 to read as set forth above.

■ 115. Revise § 95.05–1 to read as follows:

**§ 95.05–1 Fire detection, manual alarm, and supervised patrol systems.**

(a) Fire detection, manual alarm, and supervised patrol systems are not required except in special cases; but if installed, the systems must meet the applicable requirements of 46 CFR, part 76 of subchapter H (Passenger Vessels) of this chapter.

(b) In each compartment containing explosives, and in adjacent cargo compartments, there must be provided a smoke detection system. When used, sample extraction smoke detection systems must meet the requirements in § 95.05–3 of this part.

(c) Enclosed spaces which are ''specially suitable for vehicles'' must be fitted with a fire detection and alarm system.

■ 116. Add new § 95.05–3 to read as follows:

**§ 95.05–3 Sample extraction smoke detection systems.**

(a) For vessels contracted for on or after [180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], a sample extraction smoke detection system must be installed in accordance with chapter 10 of the FSS Code (incorporated by reference, see § 95.01–2).

(b) Periodically, the FSS Code defers to ''the Administration.'' For U.S. flag vessels, ''the Administration'' is the United States Coast Guard. The following requirements are provided for the provisions of Chapter 10 that defer to the Administration:

(1) For sequential scanning systems under FSS Code, chapter 10, paragraph 2.1.2, a satisfactory overall response time will be achieved by limiting the maximum allowable interval to 2 minutes.

(2) Under the FSS Code, chapter 10, paragraph 2.2.2, fans of sufficient capacity to provide a satisfactory overall response time will signal an alarm within 3 minutes upon introduction of smoke at the most remote accumulator on a vehicle deck and within 5 minutes upon introduction of smoke at the most remote accumulator in container and general cargo holds.

(3) Means provided to isolate smoke accumulators from liquid or refrigerated cargoes must be to the satisfaction of the Commanding Officer of the U.S. Coast Guard Marine Safety Center.

(4) Notwithstanding anything to the contrary in FSS Code chapter 10, periodic testing of sample extraction smoke detection systems must be conducted as part of the annual inspection and include inspection of all piping, valves, controls and alarms, and by introduction of smoke into the accumulators.

■ 117. Amend § 95.10–5 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';

■ b. Revise Table 95.10–5(a) to read as follows;

■ c. In paragraph (b), after the words ''On vessels of 1,000 gross tons'', remove the words ''and over'' and add, in their place, the words ''or more''; and

■ d. In paragraph (h), after the words ''the installation of a total flooding'', remove the words ''carbon dioxide'' and add, in their place, the words ''fixed fire extinguishing''.

**§ 95.10–5 Fire pumps.**

* * * * *

TABLE 95.10–5(a)—FIRE PUMP SYSTEM REQUIREMENTS

| Gross tons | | Minimum number of pumps | Hose and hydrant size, inches | Nozzle orifice size, inches | Length of hose feet |
|---|---|---|---|---|---|
| Over | Not over | | | | |
| ..... | 100 | [1] 1 | [1] 1½ | [1] ½ | [1] 50 |
| 100 ..... | 1,000 | 1 | 1½ | ⅝ | 50 |
| 1,000 ..... | 1,500 | 2 | 1½ | ⅝ | 50 |
| 1,500 ..... | | 2 | [2] 2½ | [2] ⅞ | [2] 50 |

[1] On vessels of 65 feet in length or less, ¾-inch hose of a good commercial grade together with a commercial garden hose nozzle may be used. The pump may be hand operated and the length of hose must be sufficient to assure coverage of all parts of the vessel.

[2] A 1½-inch hose that is 75 feet in length with a ⅝-inch nozzle may be used where specified by § 95.10–10(b) of this subpart for interior locations and 50 feet of 1½-inch hose may be used in exterior locations on vessels in other than ocean or coastwise service. For vessels on ocean or coastwise service, two 1½-inch outlets, each provided with one 1½-inch hose supplied through a wye connection may be substituted.

■ 118. Amend § 95.10–10 as follows:
■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';
■ b. Remove the words ''fire hose'' wherever they appear and add, in their place, the word ''firehose''.
■ c. Revise paragraph (b) to read as follows;
■ d. In paragraph (c), remove the words ''and over'' wherever they appear and add, in their place, the words ''or more'';
■ e. In paragraph (g), after the words ''at least one length of firehose, a spanner'', add the word ''wrench''; and
■ f. In paragraph (n)(3), following the word ''Underwriters'' remove the text ''''' wherever it appears; and following the text ''Standard 19 or Federal Specification ZZ–H–451G'', add the text ''(incorporated by reference, see § 95.01–2)''.

**§ 95.10–10 Fire hydrants and hose.**

* * * * *

(b) Instead of the 2½-in hose and hydrants specified in table 95.10–5(a) of this subpart, on vessels of more than 1,500 gross tons:

(1) The hydrants in interior locations may have wye connections for 1½-in hoses. In these cases, the hose must be 75 ft in length, and only one hose will be required at each fire station; however, if all such stations can be satisfactorily served with 50-ft lengths, a 50-ft hose may be used; and

(2) The hydrants for exterior locations may substitute two 1½-in outlets, each with a 1½-in hose supplied through a wye connection.

* * * * *

■ 119. Revise § 95.30–1 to read as follows:

**§ 95.30–1 Application.**

Automatic sprinkler systems must comply with Chapter 25 of NFPA 13 (incorporated by reference, see § 95.01–2).

■ 120. Revise § 95.50–1 to read as follows:

**§ 95.50–1 Application.**

(a) The provisions of this subpart, with the exception of §§ 95.50–80 and 95.50–90, as applicable, apply to all vessels, other than unmanned barges and fishing vessels, contracted for on or after November 19, 1952.

(b) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] and on or after November 19, 1952, must meet the requirements of § 95.50–80 of this subpart.

(c) Vessels contracted for prior to November 19, 1952, must meet the requirements of § 95.50–90 of this subpart.

**§ 95.50–5 [Reserved]**

■ 121. Remove and reserve § 95.50–5.
■ 122. Revise § 95.50–10 to read as follows:

**§ 95.50–10 Location.**

(a) Approved portable fire extinguishers and semi-portable fire extinguishing systems must be installed in accordance with Table 95.50–10(a) of this section. The location of the equipment must be to the satisfaction of the Officer in Charge, Marine Inspection. Nothing in this paragraph should be construed as limiting the Officer in Charge, Marine Inspection, from requiring such additional equipment as he or she deems necessary for the proper protection of the vessel.

(b) Table 95.50–10(a) indicates the minimum required number and type of extinguisher for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 95.50–10(a)—PORTABLE FIRE EXTINGUISHER AND SEMI-PORTABLE FIRE EXTINGUISHING SYSTEMS

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| *Safety areas:*[1] | | |
| Wheelhouse or fire control room | | None required. |
| Stairway and elevator enclosures | | None required. |
| Communicating corridors | 2–A | 1 in each main corridor not more than 150 ft apart. (May be located in stairways.) |
| Lifeboat embarkation and lowering stations | | None. |
| Radio room | 20–B:C[2] | 2 required in the vicinity of the exit.[2] |
| *Accommodations:*[1] | | |
| Staterooms, toilet spaces, public spaces, offices, lockers, isolated storerooms, pantries, open decks, etc. | | None required. |
| *Service spaces:*[1] | | |
| Galleys | 40–B:C | 1 for each 2,500 sq ft or fraction thereof suitable for hazards involved. |
| Paint and lamp rooms | 40–B | 1 outside space in the vicinity of the exit. |
| Accessible baggage, mail, specie rooms, and storerooms | 2–A | 1 for each 2,500 sq ft or fraction thereof located in the vicinity of the exits, either inside or outside the spaces. |
| Carpenter shop and similar spaces | 2–A | 1 outside the space in the vicinity of the exit. |
| *Machinery spaces:* | | |
| Coal-fired boilers: Bunker and boiler space | | None required. |
| Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel-oil units. | 40–B | 2 required.[3] |
| | 160–B | 1 required.[4] |
| Internal combustion or gas turbine propelling machinery spaces. | 40–B | 1 for each 1,000 brake horsepower; not less than 2 but not more than 6.[5] |
| | 120–B | 1 required.[6 7] |
| Electric propulsive motors or generators of an open type | 40–B:C | 1 for each propulsion motor or generator unit. |
| Enclosed ventilating systems for motors and generators of electric propelling machinery. | | None required. |
| *Auxiliary spaces:* | | |
| Internal combustion or gas turbine | 40–B | 1 outside the space in the vicinity of the exit.[7] |
| Electric emergency motors or generators | 40–B:C | 1 outside the space in the vicinity of the exit.[8] |
| Steam | | None required. |
| Trunks to machinery spaces | | None required. |

TABLE 95.50–10(a)—PORTABLE FIRE EXTINGUISHER AND SEMI-PORTABLE FIRE EXTINGUISHING SYSTEMS—Continued

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Fuel tanks | | None required. |
| *Cargo spaces:* | | |
| Inaccessible during voyage, including trunks and cargo tanks. | | None required. |
| Accessible during voyage | | None required. |
| Spare Units | | |
| | 2–A | (RANGE FROM 50–10) percent of the total number required rounded up. |
| | 40–B:C | (RANGE FROM 50–10) percent of the total number required rounded up. |
| | 20–B:C | 1 |

[1] For motorboats, the total number of portable fire extinguishers required for safety areas, accommodation spaces, and service spaces must be one 20–B for motorboats of less than 50 GT and two 20–B ratings for motorboats of 50 GT or more.
[2] For vessels on an international voyage, substitute one 20–C in the vicinity of the exit.
[3] Vessels of less than 1,000 gross tons require one.
[4] Vessels of less than 1,000 gross tons may substitute one 160–B.
[5] Only one is required for motorboats.
[6] If an oil-burning donkey boiler fitted in space, the 160–B previously required for the protection of the boiler may be substituted. Not required where a fixed carbon dioxide system is installed.
[7] Not required on vessels of less than 300 gross tons if the fuel has a flashpoint higher than 110 °F.
[8] Not required on vessels of less than 300 gross tons.

(c) Semi-portable fire extinguishing systems must be located in the open so as to be readily seen.

(d) If portable fire extinguishers are not located in the open or behind glass so that they may be readily seen, they may be placed in enclosures together with the firehose, provided such enclosures are marked as required by § 97.37–15 of this subchapter.

(e) Portable fire extinguishers and their stations must be numbered in accordance with § 97.37–23 of this subchapter.

(f) Portable or semi-portable extinguishers, which are required on their nameplates to be protected from freezing, must not be located where freezing temperatures may be expected.

**§ 95.50–15 [Removed]**

■ 123. Remove § 95.50–15.

■ 124. Amend § 95.50–20 as follows:

■ a. Revise the section heading to read as follows;

■ b. In paragraph (a), remove the text ''size III, IV, and V'' and add, in its place, the text ''semi-portable'';

■ c. In paragraph (b), remove the text ''size III, IV, or V'' and add, in its place, the text ''semi-portable''; and

■ d. Add paragraph (c) to read as follows:

**§ 95.50–20 Semi-portable fire extinguishers.**

* * * * *

(c) Semi-portable extinguishers must be fitted with suitable hoses and nozzles, or other practicable means, so that all areas of the space can be protected.

■ 125. Add § 95.50–80 to read as follows:

**§ 95.50–80 Location and number of fire extinguishers required for vessels constructed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

(a) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] must meet the following requirements:

(1) Previously installed extinguishers with extinguishing capacities smaller than what is required in table 95.50–10(a) of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(2) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

(b) [Reserved]

## PART 107—INSPECTION AND CERTIFICATION

■ 126. The authority citation for part 107 continues to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 3306, 3307; 46 U.S.C. 3316; Department of Homeland Security Delegation No. 0170.1; § 107.05 also issued under the authority of 44 U.S.C. 3507.

■ 127. Revise § 107.01 to read as follows:

**§ 107.01 Purpose of subchapter.**

This subchapter prescribes rules for the design, construction, equipment, inspection and operation of mobile offshore drilling units operating under the U.S. flag. The regulations in this subchapter (parts 107 through 109) have preemptive effect over State or local regulation within the same fields.

■ 128. Revise § 107.115 to read as follows:

**§ 107.115 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org.*

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 107.235(a).

(2) [Reserved]

■ 129. Amend § 107.235 as follows:

■ a. Revise section heading and paragraph (a) to read as follows;

■ b. Remove Table 107.235

**§ 107.235 Servicing of portable fire extinguishers, semi-portable fire extinguishers and fixed fire extinguishing systems.**

(a) Portable and semi-portable extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 107.115) as amended here:

(1) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(2) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, or person-in-charge or a designated member of the crew.

(3) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(4) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures were conducted.

* * * * *

## PART 108—DESIGN AND EQUIPMENT

■ 130. The authority citation for part 108 continues to read as follows:

**Authority:** 43 U.S.C. 1333; 46 U.S.C. 3102, 3306; Department of Homeland Security Delegation No. 0170.1.

■ 131. Revise § 108.101 to read as follows:

**§ 108.101 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) *American Society for Testing and Materials (ASTM),* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, IBR approved for § 108.500.

(2) ASTM F 1014–92, Standard Specification for Flashlights on Vessels, IBR approved for § 108.497.

(3) ASTM F 1121–87 (1993), Standard Specification for International Shore Connections for Marine Fire Applications, IBR approved for § 108.427.

(c) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London, SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org*.

(1) Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, November 17, 1983, IBR approved for § 108.105.

(2) Resolution A.649(16), Code for the Construction and Equipment of Mobile Offshore Drilling Units (MODU Code), October 19, 1989 with amendments of June 1991, IBR approved for § 108.503.

(3) Resolution A.658(16), Use and Fitting of Retro-reflective Materials on Life-saving Appliances, November 20, 1989, IBR approved for §§ 108.645 and 108.649.

(4) Resolution A.760(18), Symbols Related to Life-saving Appliances and Arrangements, November 17, 1993, IBR approved for §§ 108.646, 108.647, 108.649, and 108.655.

(d) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition (''NFPA 13''), IBR approved for § 108.430.

(2) [Reserved]

**§ 108.405 [Amended]**

■ 132. Amend § 108.405(a)(1) to add, after the words ''Be approved by the Commandant'' add the words ''in accordance with 46 CFR 161.002''.

■ 133. Revise § 108.430 to read as follows:

**§ 108.430 General.**

Automatic sprinkler systems must comply with Chapter 25 of NFPA 13 (incorporated by reference, see § 108.101).

■ 134. Revise § 108.491 to read as follows:

**§ 108.491 General.**

(a) Each portable and semi-portable fire extinguisher on a unit must be approved under subpart 162.028 or 162.039 of this chapter.

(b) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] must meet the following requirements:

(1) Previously installed extinguishers with extinguishing capacities smaller than what is required in Table 108.495 of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(2) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

■ 135. Revise § 108.495 to read as follows:

**§ 108.495 Locations and number of fire extinguishers required.**

Table 108.495 of this section indicates the minimum required number and type of fire extinguishers for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 108.495—CARRIAGE OF PORTABLE FIRE EXTINGUISHERS

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Safety Areas: | | |
| Wheelhouse and control room | 20–B:C | 2 in the vicinity of the exit. |

TABLE 108.495—CARRIAGE OF PORTABLE FIRE EXTINGUISHERS—Continued

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Stairway and elevator enclosure | ..... | None required. |
| Corridors | 2–A ..... | 1 in each corridor not more than 150 ft (45 m) apart. (May be located in stairways.) |
| Lifeboat embarkation and lowering stations | ..... | None required. |
| Radio room | 10–B:C ..... | 2 in the vicinity of the exit. |
| Accommodations: | | |
| Staterooms, toilet spaces, public spaces, offices, lockers, small storerooms, pantries, open decks, and similar spaces. | ..... | None required. |
| Service Spaces: | | |
| Galleys | 40–B:C ..... | 1 for each 2,500 sq ft (232.2 sq m) or fraction thereof suitable for the hazards involved. |
| Paint and lamp rooms | 40:B ..... | 1 outside each room in the vicinity of the exit. |
| Storerooms | 2–A ..... | 1 for each 2,500 sq ft (232.2 sq m) or fraction thereof located in the vicinity of the exits, either inside or outside the spaces. |
| Workshop and similar spaces | 20B:C ..... | 1 outside each space in the vicinity of the exit. |
| Machinery Spaces: | | |
| Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel oil units. | 40–B ..... | 2 required in each space. |
| | 160–B ..... | 1 required in each space. See note 1. |
| Internal combustion or gas turbine propelling machinery spaces. | 40–B ..... | 1 for each 1,000 brake horsepower but not less than 2 and not more than 6 in each space. |
| | 120–B ..... | 1 required in each space. See note 1. |
| Motors or generators of electric propelling machinery that do not have an enclosed ventilating system. | 40–B:C ..... | 1 for each motor or generator. |
| Motors and generators of electric propelling machinery that have enclosed ventilating systems. | ..... | None required. |
| Auxiliary Spaces: | | |
| Internal combustion engines or gas turbine | 40–B ..... | Outside the space containing engines or turbines in the vicinity of the exit. |
| Electric emergency motors or generators | 40–B:C ..... | 1 outside the space containing motors or generators in the vicinity of the exit. |
| Steam driven auxiliary machinery | ..... | None required. |
| Trunks to machinery spaces | ..... | None required. |
| Fuel tanks | ..... | None required. |
| Miscellaneous areas: | | |
| Helicopter landing decks | 160–B ..... | 1 at each access route. |
| Helicopter fueling facilities | 160–B ..... | 1 at each fuel transfer facility. See note 2. |
| Drill floor | 40–B:C ..... | 2 required. |
| Cranes with internal combustion engines | 40–B:C ..... | 1 required. |
| Spare units | 2–A ..... | (RANGE FROM 50–10) percent of the total required rounded up. |
| | 40–B:C ..... | (RANGE FROM 50–10) percent of the total required rounded up. |

[1] Not required where a fixed gas extinguishing system is installed.
[2] Not required where a fixed foam system is installed in accordance with § 108.489 of this subpart.

■ 136. Amend § 108.496 as follows:

■ a. Revise the section heading to read as follows;

■ b. In paragraph (a), remove the text ''size III, IV, and V'' and add, in its place, the text ''semi-portable''; and after the words ''except a wheeled'', remove the words ''size V'' and add, in their place, the word ''semi-portable'';

■ c. In paragraph (b) introductory text, remove the word ''semiportable'' and add, in its place, the word ''semi-portable'';

■ d. In paragraph (b)(1), remove the text ''size V'';

■ e. In paragraph (b)(2), remove the text ''size III, IV, and V''; and

■ f. Add paragraph (c) to read as follows:

**§ 108.496 Semi-portable fire extinguishers.**

* * * * *

(c) Semi-portable extinguishers must be fitted with suitable hoses and nozzles, or other practicable means, so that all areas of the space can be protected.

## PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

■ 137. The authority citation for part 113 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; Department of Homeland Security Delegation No. 0170.1.

■ 138. Revise § 113.05–7 to read as follows:

**§ 113.05–7 Environmental tests.**

(a) Communication, alarm system, control, and monitoring equipment, with the exception of fire and smoke detection and alarm systems, must meet the environmental tests of—

(1) Section 4–9–7, Table 9, of ABS Steel Vessel Rules (incorporated by reference, see § 110.10–1) or the applicable ENV category of Lloyd's Register Type Approval System—Test Specification Number 1 (incorporated by reference, see § 110.10–1); and

(2) IEC 60533 (incorporated by reference, see § 110.10–1) as appropriate.

(b) Components of smoke detection and alarm systems must be tested in accordance with 46 CFR 161.002.

## PART 114—GENERAL PROVISIONS

■ 139. The authority citation for part 114 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703; Pub. L. 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1; § 114.900 also issued under 44 U.S.C. 3507.

■ 140. Revise § 114.100 to read as follows:

### § 114.100 Purpose.

The purpose of this subchapter is to implement applicable sections of Subtitle II of Title 46, United States Code, which require the inspection and certification of small passenger vessels. The regulations in this subchapter (parts 114 through 122) have preemptive effect over State or local regulation within the same fields.

■ 141. Amend § 114.400 to revise the definition of the term ''Open to the atmosphere'' to read as follows:

### § 114.400 Definitions of terms used in this subchapter.

* * * * *

*Open to the atmosphere* means a compartment that has at least 0.342 square meters of open area directly exposed to the atmosphere for each cubic meter (15 square inches for each cubic foot) of net compartment volume.

* * * * *

■ 142. Revise § 114.600 to read as follows:

### § 114.600 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Operating and Environmental Standards (CG–OES), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) *American Boat and Yacht Council (ABYC),* 613 Third Street, Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) A–1–93—Marine Liquefied Petroleum Gas (LPG) Systems, IBR approved for § 121.240.

(2) A–3–93—Galley Stoves, IBR approved for § 121.200.

(3) A–7–70—Boat Heating Systems, IBR approved for § 121.200.

(4) A–22–93—Marine Compressed Natural Gas (CNG) Systems, IBR approved for § 121.240.

(5) H–25–94—Portable Gasoline Fuel Systems for Flammable Liquids, IBR approved for § 119.458.

(6) P–1–93—Installation of Exhaust Systems for Propulsion and Auxiliary Engines, IBR approved for §§ 116.405, 119.425, and 119.430.

(c) *American Bureau of Shipping (ABS),* ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org*.

(1) Rules for Building and Classing Aluminum Vessels, 1975, IBR approved for § 116.300.

(2) Rules for Building and Classing Steel Vessels, 1995, IBR approved for §§ 119.410 and 120.360.

(3) Rules for Building and Classing Steel Vessels Under 61 Meters (200 Feet) in Length, 1983, IBR approved for § 116.300.

(4) Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 1995, IBR approved for § 116.300.

(5) Guide for High Speed Craft, 1997, IBR approved for § 116.300.

(d) *American National Standards Institute (ANSI),* 25 West 43rd Street, New York, NY 10036, 212–642–4900, *http://www.ansi.org*.

(1) A 17.1–1984, including supplements A 17.1a and b–1985, Safety Code for Elevators and Escalators, IBR approved for § 120.540.

(2) B 31.1–1986, Code for Pressure Piping, Power Piping, IBR approved for § 119.710.

(3) Z 26.1–1977, including 1980 supplement, Safety Glazing Materials For Glazing Motor Vehicles Operating on Land Highways, IBR approved for § 116.1030.

(e) *ASTM International (formerly American Society for Testing and Materials),* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM B 96–93, Standard Specification for Copper-Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels, IBR approved for § 119.440.

(2) ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus, IBR approved for § 114.400.

(3) ASTM B 122/B 122M–95, Standard Specification for Copper-Nickel-Tin Alloy, Copper-Nickel-Zinc Alloy (Nickel Silver), and Copper-Nickel Alloy Plate, Sheet, Strip, and Rolled Bar, IBR approved for § 119.440.

(4) ASTM B 127–98, Standard Specification for Nickel-Copper Alloy (UNS NO4400) Plate, Sheet, and Strip, IBR approved for § 119.440.

(5) ASTM B 152–97a, Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar, IBR approved for § 119.440.

(6) ASTM B 209–96, Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate, IBR approved for § 119.440.

(7) ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, IBR approved for § 114.400.

(8) ASTM D 635–97, Standard Test Method for Rate of Burning and/or Extent and Time of Burning of Plastics in a Horizontal Position, IBR approved for § 119.440.

(9) ASTM D 2863–95, Standard Test Method for Measuring the Minimum Oxygen Concentration to Support Candle-like Combustion of Plastics (Oxygen Index), IBR approved for § 119.440.

(10) ASTM E 84–98, Standard Test Method for Surface Burning Characteristics of Building Materials, IBR approved for §§ 116.405, 116.422, and 116.423.

(11) ASTM E 648–97, Standard Test Method for Critical Radiant Flux of Floor-Covering Systems Using a Radiant Heat Energy Source, IBR approved for §§ 114.400 and 116.423.

(12) ASTM E 662–97, Standard Test Method for Specific Optical Density of Smoke Generated by Solid Materials, IBR approved for §§ 114.400 and 116.423.

(f) *Institute of Electrical and Electronics Engineers, Inc. (IEEE),* IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08854, 800–678–4333, *http://www.ieee.org*.

(1) Standard 45–1977—Recommended Practice for Electrical Installations on Shipboard, IBR approved for § 120.340.

(2) [Reserved]

(g) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR United Kingdom, +44 (0)20 7735 7611, *www.imo.org*.

(1) Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-Saving Appliances and Arrangements—

Resolution A.520(13), dated 17 November 1983, IBR approved for § 114.540.

(2) Resolution A.658(16), Use and Fitting of Retro-Reflective Materials on Life-Saving Appliances, Resolution A.658(16), dated 20 November 1989, IBR approved for § 122.604.

(3) Resolution A.688(17), Fire Test Procedures For Ignitability of Bedding Components, Resolution A.688(17) dated 06 November 1991, IBR approved for § 116.405.

(4) Resolution A.760(18), Symbols Related to Life-Saving Appliances and Arrangements, Resolution A.760(18) dated 17 November 1993, IBR approved for § 122.604.

(h) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 115.810.

(2) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition (''NFPA 13''), IBR approved for §§ 116.439 and 116.440.

(3) ANSI/NFPA 17, Standard for Dry Chemical Extinguishing Systems, 1994 Edition (''NFPA 17''), IBR approved for § 118.425.

(4) ANSI/NFPA 17A, Standard for Wet Chemical Extinguishing Systems, 1994 Edition (''NFPA 17A''), IBR approved for § 118.425.

(5) ANSI/NFPA 70, National Electrical Code (NEC), 1996 Edition (''NFPA 70''), IBR approved for §§ 120.320(e) and (d), 120.340, and 120.372.

(6) NFPA 92B, Standard for Smoke Management Systems in Malls, Atria, and Large Areas, 1995 Edition (''NFPA 92B''), IBR approved for § 116.440.

(7) NFPA 261, Standard Method of Test For Determining Resistance of Mock-up Upholstered Furniture Material Assemblies to Ignition by Smoldering Cigarettes, 1994 Edition (''NFPA 261''), IBR approved for §§ 114.400 and 116.423.

(8) ANSI/NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, 1994 Edition (''NFPA 302''), Chapter 6, IBR approved for §§ 121.200 and 121.240.

(9) NFPA 306, Standard for the Control of Gas Hazards on Vessels, 1993 Edition (''NFPA 306''), IBR approved for § 115.710.

(10) NFPA 701, Standard Methods of Fire Tests for Flame-Resistant Textiles and Films, 1996 Edition (''NFPA 701''), IBR approved for § 116.423.

(11) NFPA 1963, Standard for Fire Hose Connections, 1993 Edition (''NFPA 1963''), IBR approved for § 118.320.

(i) Underwriters Laboratories Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 19–2001, Standard for Lined Fire Hose and Hose Assemblies (UL 19), IBR approved for § 118.320.

(2) UL 174–1989, as amended through June 23, 1994, Household Electric Storage Tank Water Heaters, IBR approved for § 119.320.

(3) UL 486A–1992, Wire Connectors and Soldering Lugs For Use With Copper Conductors, IBR approved for § 120.340.

(4) UL 489–1995, Molded-Case Circuit Breakers and Circuit Breaker Enclosures, IBR approved for § 120.380.

(5) UL 595–1991, Marine Type Electric Lighting Fixtures, IBR approved for § 120.410.

(6) UL 710–1990, as amended through September 16, 1993, Exhaust Hoods For Commercial Cooking Equipment, IBR approved for § 118.425.

(7) UL 723–1993, as amended through April 20, 1994, Surface Burning Characteristics of Building Materials, IBR approved for §§ 114.400, 116.422, 116.423, and 116.425.

(8) UL 1056–1989, Fire Test of Upholstered Furniture, IBR approved for § 116.423.

(9) UL 1058–1989, as amended through April 19, 1994, Halogenated Agent Extinguishing System Units, IBR approved for § 118.410.

(10) UL 1102–1992, Non integral Marine Fuel Tanks, IBR approved for § 119.440.

(11) UL 1104–1981, as amended through May 4, 1988, Marine Navigation Lights, IBR approved for § 120.420.

(12) UL 1110–1988, as amended through May 16, 1994, Marine Combustible Gas Indicators, IBR approved for § 119.480.

(13) UL 1453–1988, as amended through June 7, 1994, Electric Booster and Commercial Storage Tank Water Heaters, IBR approved for § 119.320.

(14) UL 1570–1995, Fluorescent Lighting Fixtures, IBR approved for § 120.410.

(15) UL 1571–1995, Incandescent Lighting Fixtures, IBR approved for § 120.410.

(16) UL 1572–1995, High Intensity Discharge Lighting Fixtures, IBR approved for § 120.410.

(17) UL 1573–1995, Stage and Studio Lighting Units, IBR approved for § 120.410.

(18) UL 1574–1995, Track Lighting Systems, IBR approved for § 120.410.

## PART 116—CONSTRUCTION AND ARRANGEMENT

■ 143. The authority citation for part 116 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277, Department of Homeland Security Delegation No. 0170.1.

■ 144. Amend § 116.400 to add paragraph (c) to read as follows:

**§ 116.400 Application.**

* * * * *

(c) Vessels meeting the structural fire protection requirements of SOLAS, Chapter II–2, Regulations 5, 6, 8, 9, and 11, may be considered equivalent to the provisions of this subpart.

■ 145. Amend § 116.440 as follows:

■ a. In paragraph (a) introductory text, remove the text ''(1000 square feet) or 20%'' and add, in its place, the text ''(1,000 square feet) or 20 percent'';

■ b. In paragraph (a)(3), remove the word ''shall'' and add, in its place, the word ''must'';

■ c. In paragraph (b), remove the text ''Sec. 76.33'' and add, in its place, the text ''§ 76.27'';

■ d. In paragraph (c), after the words ''an automatic sprinkler system meeting NFPA 13'', add the words ''(incorporated by reference, see § 114.600)''; and

■ e. Revise paragraph (d)(2) to read as follows:

**§ 116.440 Atriums.**

* * * * *

(d) * * *

(2) The smoke extraction system may be designed in accordance with the principles of NFPA 92B (incorporated by reference, see § 114.600).

* * * * *

## PART 118—FIRE PROTECTION EQUIPMENT

■ 146. The authority citation for part 118 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 147. Amend § 118.115 as follows:

■ a. In paragraph (a), after the words ''Except as otherwise required by paragraphs'', remove the words ''(b) and (c) of this section'' and add, in their place, the words ''(b), (c), and (d) of this section''; and

■ b. Revise paragraph (d) to read as follows:

**§ 118.115 Applicability to existing vessels.**

* * * * *

(d) For vessels contracted for prior to [30 DAYS AFTER DATE OF

PUBLICATION OF FINAL RULE], extinguishers with extinguishing capacities smaller than what is required in Table 118.500(a) of this part need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the OCMI. All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

■ 148. Revise § 118.120 to read as follows:

**§ 118.120 Equipment installed but not required.**

(a) Fire extinguishing equipment installed on a vessel in excess of the requirements of §§ 118.400 and 118.500 of this subchapter must be designed, constructed, installed, and maintained in a manner acceptable to the Commandant.

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed and labeled by a nationally recognized testing laboratory (NRTL) as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

■ 149. Amend § 118.310 as follows:

■ a. Remove the words ''fire hose'' wherever they appear and add, in their place, the word ''firehose''; and

■ b. Add paragraph (e) to read as follows:

**§ 118.310 Fire main and hydrants.**

* * * * *

(e) On vessels constructed after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], spanner wrenches must be provided for each 1½-inch hose installation.

■ 150. Amend § 118.400 as follows:

■ a. In paragraph (b)(3), remove the text ''B–II'' and add, in its place, the text ''40–B'';

■ b. In paragraphs (b)(5)(i), (b)(5)(ii), and (b)(5)(iii), remove the word ''shall'' and add, in its place, the word ''must'';

■ c. In paragraph (c) introductory text, after the words ''must be equipped with a'', remove the words ''fire detecting system'' and add, in its place, the words ''fire detection and alarm system'', and after the words ''that is installed in accordance with'', remove the text ''§ 76.27'' and add, in its place, the text ''part 76'';

■ d. In paragraph (d), remove the text ''Sec. 118.425 of this part'' and add, in its place, the text '' § 118.425 of this subpart'';

■ e. Revise paragraph (e) to read as follows;

■ f. In paragraph (f), after the words ''a manual alarm system that meets the requirements in'', remove the words ''§ 76.35'' and add, in their place, the words ''part 76'';

■ g. Revise paragraph (g) to read as follows; and

■ h. In paragraph (h), after the words ''that meets the requirements of'', remove the words ''§ 76.23'' and add, in their place, the words ''part 76''.

**§ 118.400 Where required.**

* * * * *

(e) Except for continuously manned operating stations as allowed by paragraph (f) of this section, each accommodation space, control space, and service space must be fitted with the following systems:

(1) A smoke actuated fire detection system of a type approved by the Commandant that is installed in accordance with 46 CFR part 76 in subchapter H of this chapter; and

(2) A manual alarm system that meets the requirements in 46 CFR part 76 in subchapter H of this chapter.

* * * * *

(g) An enclosed vehicle space must be fitted with an automatic sprinkler system that meets the requirements of 46 CFR part 76 in subchapter H of this chapter; and

(1) A fire detection system of a type approved by the Commandant that is installed in accordance with 46 CFR part 76 in subchapter H of this chapter; or

(2) A smoke detection system of a type approved by the Commandant that is installed in accordance with 46 CFR part 76 in subchapter H of this chapter.

**§ 118.410 [Amended]**

■ 151. Amend § 118.410 as follows:

■ a. In paragraph (f)(5)(i), after the words ''must be equal to the gross volume of the system'', add the words ''in cubic meters'', remove the number ''160'' and add, in its place, the number ''.624'', and remove the number ''192'' and add, in its place, the number ''.749''; and

■ b. In paragraph (f)(6)(i), remove the number ''480'' and add, in its place, the number ''1.88''.

■ 152. Revise § 118.500 to read as follows:

**§ 118.500 Required number, type, and location.**

(a) Each portable fire extinguisher on a vessel must be of a type approved by the Commandant. The minimum number of portable fire extinguishers required on a vessel must be acceptable to the cognizant OCMI, but must be not less than the minimum number required by Table 118.500(a) of this section and other provisions of this section.

(b) Table 118.500(a) of this section indicates the minimum required number and type of extinguisher for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 118.500(a)—REQUIRED PORTABLE FIRE EXTINGUISHERS

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Operating station | 10–B:C | 1. |
| Machinery space | 40–B:C | 1 in the vicinity of the exit. |
| Open vehicle deck | 40–B | 1 for every 10 vehicles. |
| Accommodation space | 2–A | 1 each for each 2,500 sq ft or fraction thereof. |
| Galley | 40–B:C | 1. |
| Pantry, concession stand | 2–A | 1 in the vicinity of the exit. |

(c) A vehicle deck without a fixed sprinkler system and exposed to weather must have one 40–B portable fire extinguisher for every 10 vehicles, located near an entrance to the space.

(d) The frame or support of each semi-portable fire extinguisher permitted by paragraph (c) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

## PART 122—OPERATIONS

■ 153. The authority citation for part 122 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 154. Amend § 122.612 as follows:
■ a. Revise paragraphs (d) and (e) to read as follows;
■ b. Remove paragraph (g);
■ c. Redesignate paragraph (h) as paragraph (g); and
■ d. In newly redesignated paragraph (g), after the words ''or as otherwise required by the'', remove the word ''cognizant'', and following the words ''installed, that agent'' remove the word ''shall'' and add, in its place, the word ''must''.

### § 122.612 Fire protection equipment.

* * * * *

(d) A manual fire alarm pull station must be conspicuously marked as such in clearly legible letters, and include brief, clear instructions for operation.

(e) An indicator for a fire detection and alarm system must be conspicuously marked in clearly legible letters ''FIRE ALARM''.

* * * * *

## PART 125—GENERAL

■ 155. The authority citation for part 125 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3307; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1.

■ 156. Amend § 125.100 to add paragraph (f) to read as follows:

### § 125.100 Applicability.

* * * * *

(f) The regulations in this subchapter have preemptive effect over State or local regulations in the same field.

■ 157. Revise § 125.180 to read as follows:

### § 125.180 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org*.

(1) Rules for Building and Classing Steel Vessels Under 61 Meters (200 Ft) in Length (1983), IBR approved for § 127.210.

(2) Rules for Building and Classing Steel Vessels (1995), IBR approved for §§ 127.210 and 129.360.

(3) Rules for Building and Classing Aluminum Vessels (1975), IBR approved for § 127.210.

(4) Rules for Building and Classing Mobile Offshore Drilling Units (1994), IBR approved for §§ 133.140 and 133.150.

(c) American National Standards Institute (ANSI), 25 West 43rd St., New York, NY 10036, 212–642–4900, *http://www.ansi.org*.

(1) B 31.1–1986, Code for Pressure Piping, Power Piping, IBR approved for § 128.240.

(2) Z 26.1–1977 (including 1980 Supplement), Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, IBR approved for § 127.430.

(d) American Society of Mechanical Engineers (ASME) International, Three Park Avenue, New York, NY 10016–5990, 800–843–2763, *http://www.asme.org*.

(1) Boiler and Pressure Vessel Code Section I, Power Boilers, July 1989 with 1989 addenda, IBR approved for § 128.240.

(2) [Reserved]

(e) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, IBR approved for § 128.310.

(2) [Reserved]

(f) American Boat and Yacht Council, Inc. (ABYC), 613 Third St. #10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) A–3–1993, Galley Stoves, IBR approved for § 129.550.

(2) A–7–1970, Recommended Practices and Standards Covering Boat Heating Systems, IBR approved for § 129.550.

(3) E–1–1972, Bonding of Direct-Current Systems, IBR approved for § 129.120.

(4) E–8–1994, Alternating-Current (AC) Electrical Systems on Boats, IBR approved for § 129.120.

(5) E–9–1990, Direct-Current (DC) Electrical Systems on Boats, IBR approved for § 129.120.

(g) Institute of Electrical and Electronics Engineers (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08855, 800–678–4333, *http://www.ieee.org*.

(1) No. 45–1977, Recommended Practice for Electric Installations on Shipboard, IBR approved for § 129.340.

(2) [Reserved]

(h) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org*.

(1) Resolution A.520(13), Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-saving Appliances and Arrangements, dated 17 November 1983, IBR approved for § 133.40.

(2) Resolution A.658(16), Use and Fitting of Retro-Reflective Materials on Life-saving Appliances, dated November 20, 1989, IBR approved for §§ 131.855, 131.875, and 133.70.

(3) Resolution A.760(18), Symbols Related to Life-Saving Appliances and Arrangements, dated November 17, 1993, IBR approved for §§ 131.875, 133.70, and 133.90.

(4) International Convention for the Safety of Life at Sea (SOLAS), Consolidated Edition, 1992, IBR approved for § 133.90.

(i) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) ANSI/NFPA 70, National Electrical Code, 2011 Edition (''NFPA 70''), IBR approved for §§ 129.320, 129.340, and 129.370.

(2) NFPA 306, Control of Gas Hazards on Vessels,1993 Edition (''NFPA 306''), IBR approved for § 126.160.

(3) NFPA 1963, Fire Hose Connections, 1993 Edition (''NFPA 1963''), IBR approved for § 132.130.

(4) ANSI/NFPA 302, Fire Protection Standard for Pleasure and Commercial

Motor Craft, 2010 Edition (''NFPA 302''), IBR approved for § 129.550.

(j) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 19–2001, Standard for Lined Fire Hose and Hose Assemblies (UL 19), IBR approved for § 132.130.

(2) UL 486A–1992, Wire Connectors and Soldering Lugs for Use with Copper Conductors, IBR approved for § 129.340.

(3) UL 489–1995, Molded-Case Circuit Breakers and Circuit-Breaker Enclosures, IBR approved for § 129.380.

(4) UL 57–1976, Electric Lighting Fixtures, IBR approved for § 129.410.

(5) UL 595–1991, Marine-Type Electric Lighting Fixtures, IBR approved for § 129.410.

(6) UL 1570–1995, Fluorescent Lighting Fixtures, IBR approved for § 129.410.

(7) UL 1571–1995, Incandescent Lighting Fixtures, IBR approved for § 129.410.

(8) UL 1572–1995, High Intensity Discharge Lighting Fixtures, IBR approved for § 129.410.

(9) UL 1573–1995, Stage and Studio Lighting Units, IBR approved for § 129.410.

(10) UL 1574–1995, Track Lighting Systems, IBR approved for § 129.410.

## PART 132—FIRE-PROTECTION EQUIPMENT

■ 158. The authority citation for part 132 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3307; Department of Homeland Security Delegation No. 0170.1.

**§ 132.210 [Removed]**

■ 159. Remove § 132.210.

■ 160. Amend § 132.220 as follows:

■ a. In paragraph (a), remove the word ''semiportable'' and add, in its place, the word ''semi-portable'';

■ b. Revise table 132.220 to read as follows;

■ c. Redesignate paragraphs (b) through (f) as paragraphs (c) through (g), respectively;

■ d. Add new paragraph (b) to read as follows;

■ e. In newly redesignated paragraphs (c) and (g), remove the word ''semiportable'' and add, in its place, the word ''semi-portable''; and

■ f. In newly redesignated paragraph (e), remove the words ''fire hose'' and add, in their place, the word ''firehose''.

**§ 132.220 Installation.**

* * * * *

TABLE 132.220—REQUIRED PORTABLE AND SEMI-PORTABLE FIRE EXTINGUISHERS

| Space | Minimum required rating | Number and placement |
|---|---|---|
| Safety areas: Communicating passageways | 2–A | 1 in each main passageway, not more than 45.7 m (150 ft) apart (permissible in stairways). |
| Pilothouse | 20–B:C | 2 in the vicinity of the exit. |
| Service spaces: Galleys | 40–B:C | 1 for each 230 sq m (2,500 sq ft) or fraction thereof, suitable for hazards involved. |
| Paint lockers | 40–B | 1 outside space, in the vicinity of the exit. |
| Accessible baggage and storerooms | 2–A | 1 for each 230 sq m (2,500 sq ft) or fraction thereof, located in the vicinity of the exits, either inside or outside spaces. |
| Workshops and similar spaces | 2–A | 1 outside space in the vicinity of the exit. |
| Machinery spaces: Internal-combustion propulsion-machinery | 40–B:C | 1 for each 1,000 brake horsepower, but not fewer than 2 and more than 6. |
| | 120–B | 1 required.[1] [2] |
| Electric propulsion motors or generators of open type | 40–B:C | 1 for each propulsion motor or generator unit. |
| Auxiliary spaces: Internal combustion | 40–B | 1 outside space in the vicinity of the exit.[2] |
| Electric motors and emergency generators | 40–B:C | 1 outside space in the vicinity of the exit.[2] |
| Spares: | | |
| | 2–A | 10 percent of the required number rounded up. |
| | 40–B:C | 10 percent of the required number rounded up. |

[1] Not required where a fixed gaseous fire extinguishing system is installed.
[2] Not required on vessels of less than 300 GT.

(b) Table 132.220 of this section indicates the minimum required number and type of extinguishers for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

* * * * *

**§ 132.230 [Removed and Reserved]**

■ 161. Remove and reserve § 132.230.

■ 162. Revise § 132.240 to read as follows:

**§ 132.240 Stowage of semi-portable fire extinguishers.**

The frame or support of each semi-portable fire extinguisher must be secured to prevent the extinguisher from shifting in heavy weather.

■ 163. Add § 132.250 to read as follows:

**§ 132.250 Locations and number of fire extinguishers required for vessels constructed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

(a) Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(1) Previously installed extinguishers with extinguishing capacities smaller than are required in Table 132.220 of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(2) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

■ 164. Revise § 132.340 to read as follows:

**§ 132.340 Equipment installed although not required.**

(a) A vessel may install fire extinguishing equipment beyond that required by this subchapter, unless the excess equipment in any way endangers the vessel or the persons aboard. This equipment must be listed and labeled by an independent, nationally recognized testing laboratory (NRTL) as that term is defined in 46 CFR 161.002–2, and must be designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance.

(b) Use of non-approved fire detection systems may be acceptable as excess equipment, provided that—

(1) Components are listed and labeled by an NRTL as that term is defined in 46 CFR 161.002–2, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

## PART 147—HAZARDOUS SHIPS' STORES

■ 165. The authority citation for part 147 continues to read as follows:

**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 166. Amend § 147.1 by revising paragraph (d) to read as follows:

### § 147.1 Purpose and applicability.

* * * * *

(d) The regulations in this subchapter (46 CFR parts 147, 147A, and 148) have preemptive effect over State or local regulations in the same field.

■ 167. Revise § 147.7 to read as follows:

### § 147.7 Incorporation by reference.

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) American Boat and Yacht Council, Inc. (ABYC), 613 Third St., Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org.*

(1) ABYC H–25–81, Portable Fuel Systems and Portable Containers for Flammable Liquids, May 12, 1981, IBR approved for § 147.45.

(2) [Reserved]

(c) American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc. (ASHRAE), Publication Sales Department, 1791 Tullie Circle NE., Atlanta, GA 30329.

(1) ANSI/ASHRAE 34–78, Number Designation of Refrigerants, approved 1978, IBR approved for § 147.90.

(2) [Reserved]

(d) Compressed Gas Association, Inc. (CGA), 4221 Walney Road, 5th Floor, Chantilly, Virginia 20151, 703–788–2700, *http://www.cganet.com.*

(1) CGA Pamphlet C–6, Standards for Visual Inspection of Steel Compressed Gas Cylinders, 10th edition, March, 2010, IBR approved for § 147.65(b).

(2) [Reserved]

(e) National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org.*

(1) NFPA 12A, Standard on Halon 1301 Fire Extinguishing Systems, 2009 Edition (''NFPA 12A''), IBR approved for § 147.65(b).

(2) [Reserved]

(f) Public Health Service (PHS), Department of Health and Human Services (DHHS), Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, 866–512–1800, *http://www.gpo.gov.*

(1) PHS, DHHS Publication No. 84–2024, The Ship's Medicine Chest and Medical Aid at Sea, revised 1984, IBR approved for § 147.105.

(2) [Reserved]

(g) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com.*

(1) UL 30, Standard for Metal Safety Cans, 7th Ed., March 11, 1985, revised March 12, 1985 and March 3, 1987, IBR approved for § 147.45.

(2) UL 1185, Standard for Portable Marine Fuel Tanks, Second Edition, March 13, 1978, revised July 6, 1984, IBR approved for § 147.45.

(3) UL 1313, Standard for Nonmetallic Safety Cans for Petroleum Products, 1st Ed., March 15, 1982, revised January 3, 1984 and March 22, 1985, IBR approved for § 147.45.

(4) UL 1314, Standard for Special-Purpose Containers, 1st Ed., July 7, 1983, revised February 7, 1984 and September 23, 1986, IBR approved for § 147.45.

■ 168. Revise § 147.65 to read as follows:

### § 147.65 Carbon dioxide and halon fire extinguishing systems.

(a) Carbon dioxide cylinders forming part of a fixed fire extinguishing system must be maintained as follows:

(1) Cylinders must be retested at least every 12 years. If a cylinder is discharged and more than 5 years have elapsed since the last test, it must be retested before recharging.

(2) Carbon dioxide cylinders must be rejected for further service when they—

(i) Leak;

(ii) Are dented, bulging, severely corroded, or otherwise in a weakened condition;

(iii) Have lost more than 5 percent of their tare weight; or

(iv) Have been involved in a fire.

(3) Cylinders which have contained gas agents for fixed fire extinguishing systems and have not been tested within 5 years must not be used to contain another compressed gas onboard a vessel, unless the cylinders are retested and re-marked in accordance with § 147.60(a)(3) and (a)(4) of this subpart.

(4) Flexible connections between cylinders and distribution piping of semi-portable or fixed carbon dioxide fire extinguishing systems and discharge hoses in semi-portable carbon dioxide fire extinguishing systems must be replaced or tested at a pressure of 6.9 MPa (1,000 psig). At test pressure, the pressure must not drop at a rate greater than 1.03 MPa (150 psi) per minute for a 2-minute period. The test must be performed when the cylinders are retested.

(b) Halon cylinders forming part of a fixed fire extinguishing system must be maintained as follows:

(1) The agent weight must be ascertained annually by one of the methods identified in paragraphs (b)(2) through (b)(4) of this section. Measured weights or liquid levels must be recorded and compared with the recommended fill levels and previous readings. If cylinder weight or liquid level, adjusted for temperature, shows a 5 percent loss of pressure, the cylinder must be refilled. If cylinder pressure, adjusted for temperature, shows a 10 percent loss of pressure, the cylinders must be refilled.

(2) The cylinders may be removed from the mounting racks and weighed.

(3) The contents of cylinders fitted with integral floating dipstick liquid level indicators may be measured with the dipstick indicator.

(4) With approval of the cognizant Officer in Charge, Marine Inspection (OCMI), liquid level indication measures such as ultrasonic/audiogauging or radioisotope gauging

may be used, provided that all of the following conditions are met:

(i) Measurement equipment is calibrated for the cylinder wall thickness and halon liquid.

(ii) Calibration is verified by weighing the cylinders that indicate the lowest levels of halon in each release group, but in no case less than 10 percent of the inspected cylinders in each release group.

(iii) The acceptable liquid level is identified by the original system installer or coincides with all other cylinder liquid levels of the same release group.

(iv) Measurements are made by personnel skilled in ultrasonic/audiogauging or radioisotope gauging techniques.

(5) Effective 12 years after commissioning of the system or 5 years after the last hydrostatic test, whichever is later, the following inspections must be completed every 5 years:

(i) Cylinders continuously in service without discharging must be removed from mounting racks and given a complete external visual inspection. The inspection must be conducted in accordance with the CGA Pamphlet C–6 (incorporated by reference, see § 147.7).

(ii) The volume of agent must be ascertained either by removing and weighing the cylinder or by floating liquid level indicators, integral with the cylinder construction, taking into account adjustments necessary for cylinder temperature and pressure.

(6) Flexible connections between cylinders and distribution piping of fixed halon fire extinguishing systems must be:

(i) Visually inspected for damage, corrosion, or deterioration every year and replaced if found unserviceable; and

(ii) Inspected and tested in accordance with NFPA 12A, paragraph 6.3.1 (incorporated by reference, see § 147.7) except that hydrostatic testing must be performed every 12 years instead of every 5 years.

(7) During any inspection, cylinders must be removed from service if they—

(i) Leak;

(ii) Are dented, bulging, severely corroded, or otherwise in a weakened condition; or

(iii) Have been involved in a fire.

(c) Cylinders that have contained carbon dioxide or halon and have not been tested within 5 years must not be used to contain another compressed gas onboard a vessel, unless the cylinder is retested and re-marked in accordance with § 147.60(a)(3) and (a)(4) of this subpart.

## PART 159—APPROVAL OF EQUIPMENT AND MATERIALS

■ 169. The authority citation for part 159 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703; 49 CFR 1.45, 1.46; Section 159.001–9 also issued under the authority of 44 U.S.C. 3507.

■ 170. Revise § 159.001–1(b) to read as follows:

**159.001–1 Purpose.**

* * * * *

(b) The regulations in this subchapter (parts 159 through 164) have preemptive effect over State or local regulations in the same field.

■ 171. Amend § 159.001–3 to add the definitions of ''Marine Equipment Directive (MED)'' and ''Mutual Recognition Agreement (MRA)'', in alphabetical order, as follows:

**§ 159.001–3 Definitions.**

* * * * *

*Marine Equipment Directive (MarED)* means the European Community Council Directive 96/98/EC of December 20, 1996 on marine equipment, as amended.

* * * * *

*Mutual Recognition Agreement (MRA)* means an agreement between the United States and other Maritime Administrations or organized associations, such as the European Community and the European Free Trade Association that specifies equipment approval and monitoring processes through which parties of the MRA agree to approve equipment on behalf of all parties. An MRA allows reciprocal approval and acceptance of equipment between all parties.

* * * * *

■ 172. Add subpart 159.003 to read as follows:

**Subpart 159.003—Approvals Under Mutual Recognition Agreements (MRA)**

Sec.

159.003–1 Purpose.
159.003–3 Acceptance of foreign approvals under an MRA.
159.003–5 Approval by the Coast Guard under an MRA.
159.003–7 Multiple approval numbers.
159.003–9 Products covered by MRAs.

### Subpart 159.003—Approvals Under Mutual Recognition Agreements (MRA)

**§ 159–003–1 Purpose.**

This subpart contains the procedures for obtaining Coast Guard approval under a Mutual Recognition Agreement.

**§ 159–003–3 Approvals issued by a foreign authority under a Mutual Recognition Agreement (MRA).**

A Coast Guard approval issued by a foreign authority under an effective MRA is acceptable for any application where the regulations in this chapter require Coast Guard approval.

**§ 159–003–5 Approval by the Coast Guard under a Mutual Recognition Agreement (MRA).**

(a) Manufacturers must specify in writing that foreign approval under an MRA is requested.

(b) The Coast Guard Certificate of Approval will clearly identify that the product is approved to the foreign requirements under the MRA.

**§ 159–003–7 Multiple approval numbers.**

A product will not be issued a Coast Guard approval number by the Coast Guard if it already holds a Coast Guard approval number issued by a foreign authority under a Mutual Recognition Agreement.

**§ 159–003–9 Products covered by Mutual Recognition Agreements (MRAs).**

A complete list of equipment and materials approved by the Coast Guard under an MRA, as well as detailed information on marking and identifying items approved by foreign authorities under an MRA, is available online at *http://cgmix.uscg.mil/Equipment/Default.aspx.*

■ 173. Amend § 159.010–3 to revise paragraph (a)(2) to read as follows:

**§ 159.010–3 Independent laboratory: Standards for acceptance.**

(a) * * *

(2) Possess or have access to the apparatus, facilities, personnel, and calibrated instruments that are necessary to inspect and test the equipment or material under the applicable subpart. In addition, for testing conducted on or after July 1, 2012, on equipment subject to SOLAS requirements, they must have ISO/IEC 17025:2005 accreditation from an accreditation body that is a full member of the International Laboratory Accreditation Cooperation (ILAC) or a recognized accreditation body by the National Cooperation for Laboratory Accreditation (NACLA);

* * * * *

## PART 160—LIFESAVING EQUIPMENT

■ 174. The authority citation for part 160 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 3703 and 4302; E.O. 12234; 45 FR 58801; 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46; and Department of Homeland Security Delegation No. 0170.1.

### Subpart 160.900 [Removed]

■ 175. Remove subpart 160.900.

## PART 161—ELECTRICAL EQUIPMENT

■ 176. The authority citation for part 161 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

### Subpart 161.002—Fire Detection Systems

■ 177. Revise the heading for subpart 161.002 to read as set forth above.

■ 178. Revise § 161.002–1 to read as follows:

#### § 161.002–1 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Lifesaving and Fire Safety Division (CG–ENG–4), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) FM Global, ATTN: Librarian, 1151 Boston-Providence Turnpike, Norwood, MA 02062, 877–364–6726, *http://www.fmglobal.com*.

(1) ANSI FM 3260, American National Standard for Radiant Energy-Sensing Fire Detectors for Automatic Fire Alarm Signaling, February 2004, IBR approved for § 161.002–6(b).

(2) [Reserved]

(c) International Electrotechnical Commission (IEC), 3, Rue de Varembe, Geneva, Switzerland, +41 22 919 02 11, *http://www.iec.ch/*.

(1) IEC 60092–504, Electrical Installations in Ships—Part 504: Special Features—Control and Instrumentation, 2001 (''IEC 60092–504''), IBR approved for § 161.002–6(c) and (d).

(2) [Reserved]

(d) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org*.

(1) International Code for Fire Safety Systems (FSS Code), 2007 Edition, IBR approved for § 161.002–15(b).

(2) [Reserved]

(e) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 72, National Fire Alarm Code, 2010 Edition (''NFPA 72''), IBR approved for § 161.002–10(b).

(2) [Reserved]

(f) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 38, Standard for Manual Signaling Boxes for Fire Alarm Systems, 2008, IBR approved for § 161.002–6(b).

(2) UL 268, Standard for Smoke Detectors for Fire Protective Signaling Systems, 2009, IBR approved for § 161.002–6(b).

(3) UL 464, Standard for Audible Signaling Appliances, 2009, IBR approved for § 161.002–6(b).

(4) UL 521, Standard for Heat Detectors for Fire Protective Signaling Systems, 1999, IBR approved for § 161.002–6(b).

(5) UL 864, Standard for Control Units and Accessories for Fire Alarm Systems, 2003, IBR approved for §§ 161.002–6(b) and 161.002–15(d).

(6) UL 1480, Standard for Speakers for Fire Alarm, Emergency, and Commercial and Professional Use, 2003, IBR approved for § 161.002–6(b).

(7) UL 1971, Standard for Signaling Devices for the Hearing Impaired, 2002, IBR approved for § 161.002–6(b).

■ 179. Revise § 161.002–2 to read as follows:

#### § 161.002–2 Definitions.

In this subpart, the term:

*Device* means individual components (e.g. detectors, control panels, alarms, etc.) that are used to comprise a fire detection system. Devices may receive Coast Guard approval in accordance with § 161.002–19 of this subpart.

*Fire detection or fire detection and alarm systems system* means a complete detection system that is designed to give warning of the presence of fire or smoke in the protected spaces. A complete system includes normal and emergency power supplies, control units, remote annunciator panels, fire detectors and/or smoke detectors, manual pull stations, and audible and visual alarms, which are distinct from the alarms of any other system not indicating fire.

*Listed* means equipment or materials included in a list published by an organization that is an accepted independent laboratory, as defined in 46 CFR 159.010, or a nationally recognized testing laboratory, as set forth in 29 CFR 1910.7, whose listing states that either the equipment or material meets appropriate designated standards.

*Nationally recognized testing laboratory (NRTL)* means an organization that the Occupational Safety and Health Administration (OSHA) has recognized as meeting the requirements in 29 CFR 1910.7. These requirements are for the capability, control programs, complete independence, and reporting and complaint-handling procedures to test and certify specific types of products for workplace safety. This means, in part, that an organization must have the necessary capability both as a product safety testing laboratory and as a product certification body to receive OSHA recognition as an NRTL.

*Sample extraction smoke detection systems* means systems that collect and analyze air samples from protected spaces in order to detect products of combustion. A complete system includes a control unit, a blower box, accumulators, and a piping system with associated fittings.

#### § 161.002–3 [Removed and Reserved]

■ 180. Remove and reserve § 161.002–3.

■ 181. Revise § 161.002–4 to read as follows:

#### § 161.002–4 General requirements.

(a) The purpose of fire detection systems is to give warning of the presence of fire in the protected spaces. To meet this end, the basic requirements of these systems are reliability, sturdiness, simplicity of design, ease of servicing, and the ability to withstand shipboard shock and vibration and the adverse effects of sea humidity. All fire detection systems must be designed, constructed, tested, marked, and installed according to the applicable standards as incorporated by reference in § 161.002–1 of this subpart and 46 CFR, subchapter J (Electrical Engineering) of this chapter.

(b) Approvals for detection systems issued before [180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] will remain valid until [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].

(c) Detection systems installed, with a valid approval, before [2 YEARS AND 180 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE] may be maintained onboard vessels and repaired as indicated in 46 CFR 76.27–80(d).

■ 182. Add new § 161.002–6 to read as follows:

**§ 161.002–6 Testing Requirements.**

(a) Devices must be tested and listed for fire service by an accepted independent laboratory, as accepted in accordance with § 159.010 of this subchapter, or by a NRTL as set forth in 29 CFR 1910.7.

(b) Each fire detection device must comply with the following standards (incorporated by reference, see § 161.002–1) as appropriate:

(1) Control units—UL 864, Standard for Control Units and Accessories for Fire Alarm Systems, 2003.

(2) Heat detectors—UL 521, Standard for Heat Detectors for Fire Protective Signaling Systems, 1999.

(3) Smoke detectors—UL 268, Standard for Smoke Detectors for Fire Protective Signaling Systems, 2009.

(4) Flame detectors—ANSI FM 3260, American National Standard for Radiant Energy-Sensing Fire Detectors for Automatic Fire Alarm Signaling, February 2004.

(5) Audible alarms—UL 464, Standard for Audible Signaling Appliances, 2009 or UL 1480, Standard for Speakers for Fire Alarm, Emergency, and Commercial and Professional Use, 2003.

(6) Visual alarms—UL 1971, Standard for Signaling Devices for the Hearing Impaired, 2002.

(7) Manual Signaling Boxes—UL 38, Standard for Manual Signaling Boxes for Fire Alarm Systems, 2008.

(c) All devices must be tested by an accepted independent laboratory, as defined in § 159.010 of this subchapter, to meet the marine environment testing requirements in Table 161.002–6(c) of this section. The test parameters are found in IEC 60092–504 (incorporated by reference, see § 161.002–1).

TABLE 161.002–6(c)—MARINE ENVIRONMENTAL TESTING REQUIREMENTS

| IEC 60092–504 Environmental type test | Category 1 | Category 2 | Category 3 |
|---|---|---|---|
| | All spaces not Category 2 or 3 | Open deck or open to weather | Spaces containing navigation or communication equipment |
| 1—Visual inspection | X | X | X |
| 2—Functional test | X | X | X |
| 3—High voltage test | X | X | X |
| 4a—Power supply variations | X | X | X |
| 4b—Power supply failure | X | X | X |
| 5—Insulation resistance | X | X | X |
| 6—Cold with gradual temp. change | X (5 °C) | X (−25 °C) | X (5 °C) |
| 7—Dry heat with gradual temp. change | X (55 °C) | X (55 °C) | X (55 °C) |
| 8—Damp heat, cyclic | X | X | X |
| 9—Salt mist | ..... | X | ..... |
| 10—Vibration (sinusoidal) | X | X | X |
| 11b—Inclination, dynamic | X[1] | X[1] | X[1] |
| 13—Electrostatic discharge | X | X | X |
| 14—Electromagnetic field | X | X | X |
| 15—Conducted low frequency | X | X | X |
| 16(a)—Conducted radio frequency (3 V rms) | X | ..... | ..... |
| 16(b)—Conducted radio frequency (10 V r.m.s.) | ..... | X | X |
| 17—Burst/fast transients | X | X | X |
| 18—Surge/slow transients | X | X | X |
| 19(a)—Radiated emission (general power) | X | ..... | ..... |
| 19(b)—Radiated emission (bridge and deck zone) | ..... | X | X |
| 20(a)—Conducted emission (general power) | X | ..... | ..... |
| 20(b)—Conducted emission (bridge and deck zone) | ..... | X | X |

[1] This test only needs to be completed if the device is in a location with moving mechanical parts.

(d) All fire detection system control units and remote annunciators must have enclosure protection as outlined in part 5 of IEC 60092–504 (incorporated by reference, see § 161.002–1) if the requirements exceed those of 46 CFR 111.01–9 of subchapter J. Otherwise, 46 CFR 111.01–9 must be complied with.

■ 183. Revise § 161.002–8 to read as follows:

**§ 161.002–8 Fire detection systems, general requirements.**

(a) *General.* A fire detection system must consist of a power supply; a control unit on which visible and audible fire and trouble signaling indicators are located; fire and/or smoke detectors; and fire and/or smoke detector circuits, as required, originating from the control unit. Power failure alarm devices may be separately housed from the control unit and may be combined with other power failure alarm systems when specifically approved.

(b) [Reserved]

■ 184. Revise § 161.002–9 to read as follows:

**§ 161.002–9 Fire detection system, power supply.**

The power supply for a fire detection system must meet the requirements of § 113.10–9 of 46 CFR, subchapter J (Electrical Engineering) of this chapter.

■ 185. Revise § 161.002–10 to read as follows:

**§ 161.002–10 Fire detection system control unit.**

(a) *General.* The fire detection system control unit must meet the requirements of § 111.01–9 of 46 CFR, subchapter J (Electrical Engineering) of this chapter.

(b) *Electrical supervision—Circuits.* The circuits must comply with Chapter 23 of NFPA 72 (incorporated by reference, see § 161.002–1), and must be Class A or Class X pathway.

**§ 161.002–12 [Removed]**

■ 186. Remove § 161.002–12.

**§ 161.002–14 [Removed]**

■ 187. Remove § 161.002–14.

■ 188. Revise § 161.002–15 to read as follows:

**§ 161.002–15 Sample extraction smoke detection systems.**

(a) *General.* The sample extraction smoke detection system must consist of a means for continuously exhausting an air sample from the protected spaces and testing the air for contamination with smoke, together with visual and audible alarms for indicating the presence of smoke.

(b) *Design.* The sample extraction smoke detection system must be designed and capable of being installed in accordance with 46 CFR, subchapter J (Electrical Engineering) of this chapter and the FSS Code (incorporated by reference, see § 161.002–1).

(c) *Power Supply.* The power supply for the sample extraction smoke detection system must meet the requirements of § 113.10–9 of 46 CFR, subchapter J (Electrical Engineering) of this chapter.

(d) *Control Unit Standards.* The control unit must be listed by either a NRTL as set forth in 29 CFR 1910.7 or an independent laboratory that is accepted by the Commandant under part 159 of this chapter. The listing must be to the standards specified in 2.2.6 of Chapter 10 of the annex of IMO Resolution MSC.292(87), or UL 864 (incorporated by reference, see § 161.002–1).

■ 189. Amend § 161.002–18 as follows:

■ a. Revise the section heading to read as follows;

■ b. In paragraph (a) introductory text, remove the text ''(CG–521)'' and add, in its place, the text ''(CG–ENG–4)'';

■ c. In paragraph (a)(2), after the words ''including information concerning installation,'', add the words ''maintenance, limitations,'';

■ d. Revise paragraph (a)(3) to read as follows;

■ e. Redesignate paragraph (a)(4) as paragraph (a)(5);

■ f. Add new paragraph (a)(4) to read as follows;

■ g. In newly redesignated paragraph (a)(5), remove the word ''annunicator'' and add, in its place, the word ''annunciator'';

■ h. In paragraph (c) introductory text, remove the word ''shall'' and add, in its place, the word ''must''; and after the words ''in paragraphs'' remove the text ''(a)(4)(i) through (a)(4)(iii)'' and add, in its place, the text ''(a)(5)(i) through (a)(5)(iii)'';

■ i. In paragraph (d)(2), after the word ''paragragh'', remove the text ''(a)(4)'' and add, in its place, the text ''(a)(5)'';

■ j. In paragraph (d)(3), remove the words ''the testing and listing or certification of fire-protective systems indicating compliance with the standards and compatibility with the system'' and add, in their place, the words ''or an NRTL as set forth in 29 CFR 1910.7 is required to document compliance with § 161.002–6 of this subpart.''; and

■ k. In paragraph (e), after the words ''in paragraphs'' remove the text ''(a)(4)(i) through (a)(4)(iii)'' and add, in its place, the text ''(a)(5)(i) through (a)(5)(iii)''.

**§ 161.002–18 System method of applications for type approval.**

(a) * * *

(3) Proof of listing the system devices meeting the requirements of § 161.002–4(a) of this subpart.

(4) One copy of the complete test report(s) meeting the requirements of § 161.002–6 of this subpart generated by an independent laboratory accepted by the Commandant under part 159 of this chapter or an NRTL as set forth in 29 CFR 1910.7. A current list of Coast Guard accepted laboratories may be obtained from the following Web site: *http://cgmix.uscg.mil/*. A current list of NRTLs may be obtained from the following Web site: *http://www.osha.gov/dts/otpca/nrtl/index.html*.

* * * * *

■ 190. Add § 161.002–19 to read as follows:

**§ 161.002–19 Device method of application for type approval.**

(a) The manufacturer must submit the following material to Commandant (CG–ENG–4), U.S. Coast Guard Headquarters, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509:

(1) A formal written request that the device be reviewed for approval.

(2) Three copies of the device's instruction manual, including information concerning installation, maintenance, limitations, programming, operation, and troubleshooting.

(3) Proof of listing the device meeting the requirements of § 161.002–4(a) of this subpart.

(4) One copy of the complete test report(s) meeting the requirements of § 161.002–6 of this subpart generated by an independent laboratory accepted by the Commandant under part 159 of this chapter or an NRTL as set forth in 29 CFR 1910.7. A current list of Coast Guard accepted laboratories may be obtained from the following Web site: *http://cgmix.uscg.mil/*. A current list of NRTLs may be obtained from the following Web site: *http://www.osha.gov/dts/otpca/nrtl/index.html*.

(b) To apply for a revision, the manufacturer must submit—

(1) A written request under paragraph (a) of this section;

(2) Updated documentation under paragraph (a)(2) of this section;

(3) Proof of listing the device meeting the requirements of § 161.002–4(a) of this subpart; and

(4) A report by an independent laboratory accepted by the Commandant under part 159 of this chapter or an NRTL as set forth in 29 CFR 1910.7 is required to document compliance with § 161.002–6 of this subpart.

(c) If the Coast Guard approves the device or a revision to a device, it issues a certificate, normally valid for a 5-year term.

## PART 162—ENGINEERING EQUIPMENT

■ 191. The authority citation for part 162 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j), 1903; 46 U.S.C. 3306, 3703, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

### Subpart 162.027—Combination Firehose Nozzles

■ 192. Revise the heading for subpart 162.027 to read as set forth above.

■ 193. Redesignate §§ 162.027–1, 162.027–2, and 162.027–3 as §§ 162.027–2, 162.027–3, and 162.027–4, respectively, and add new § 162.027–1 to read as follows:

**§ 162.027–1 Scope.**

This subpart prescribes requirements for approval of combination firehose nozzles.

■ 194. Revise newly redesignated § 162.027–2 to read as follows:

**§ 162.027–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR Part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM F 1546/F 1546 M–96, Standard Specification for Firehose Nozzles, 2006 (''ASTM F 1546''), IBR approved for §§ 162.027–3(a), (b), and (c), and 162.027–4(a) and (c).

(2) [Reserved]

(c) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 1964 Standard for Spray Nozzles, 2008 Edition (''NFPA 1964''), IBR approved for §§ 162.027–3(a), (b), and (c) and 162.027–4(a), (c), and (d).

(2) [Reserved]

■ 195. Revise newly redesignated § 162.027–3 to read as follows:

**§ 162.027–3 Design, construction, testing, and marking requirements.**

(a) Each combination solid stream and water spray firehose nozzle required to be approved under the provisions of this subpart must be of brass or bronze, except for hardware and other incidental parts, which may be of rubber, plastic, or stainless steel, and designed, constructed, tested, and marked in accordance with the requirements of ASTM F 1546 or NFPA 1964 (incorporated by reference, see § 162.027–2).

(b) All inspections and tests required by ASTM F 1546 or NFPA 1964 must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted by the Coast Guard as meeting subpart 159.010 of this chapter may be obtained by contacting the Commandant (CG–ENG).

(c) The independent laboratory must prepare a report on the results of the testing and must furnish the manufacturer with a copy of the test report upon completion of the testing required by ASTM F 1546 or NFPA 1964.

■ 196. Revise newly redesignated § 162.027–4 to read as follows:

**§ 162.027–4 Approval procedures.**

(a) Firehose nozzles designed, constructed, tested, and marked in accordance with ASTM F 1546 or NFPA 1964 (incorporated by reference, see § 162.027–2) are considered to be approved under the provisions of this chapter.

(b) Firehose nozzles designed, constructed, tested, and marked in accordance with the provisions of this subpart in effect prior to June 24, 1996, are considered to be approved under the provisions of this chapter.

(c) A follow-up program must be established and maintained to ensure that no unauthorized changes have been made to the design or manufacture of type approved firehose nozzles. Acceptable follow-up programs include factory inspection programs administered by the accepted independent laboratory that performed the initial inspections and tests relied on by the type approval holder, or special configuration control programs implemented through a quality control flow chart and core procedures administered by the manufacturer and certified by an international standards agency such as the International Organization for Standardization (ISO).

(d) Applicants seeking type approval of firehose nozzles must assemble a submittal package consisting of—

(i) A cover letter requesting type approval of the equipment;

(ii) A test report from the accepted independent laboratory showing compliance of the firehose nozzle with ASTM F 1546 or NFPA 1964;

(iii) A copy of the contract for a follow-up program with the accepted independent laboratory or evidence of an ISO 9001 certified special configuration control program or similar program implemented through a quality control flow chart and core procedure; and

(iv) Documentation of the firehose nozzle, including an exterior drawing, assembly drawing, components list, and bill of material.

(e) All documentation must be mailed to Commandant (CG–ENG–4), United States Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509.

(f) Upon examination of the submittal package and approval by the Commandant, a Coast Guard Certificate of Approval will be issued valid for 5 years so long as the follow-up program for the firehose nozzle is maintained.

(g) Upon application, a Certificate of Approval for a firehose nozzle may be renewed for successive 5-year periods without further testing so long as no changes have been made to the products, the follow-up program has been maintained, and no substitutions of or changes to the standards listed in § 162.027–2 of this subpart have been made.

■ 197. Revise § 162.028–1 to read as follows:

**§ 162.028–1 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 162.028–2(a).

(2) [Reserved]

(c) Underwriters Laboratories Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 8, Standard for Foam Fire Extinguishers, Sixth Edition, 2005, IBR approved for § 162.028–3(a).

(2) UL 154, Standard for Carbon-Dioxide Fire Extinguishers, Ninth Edition, 2005, IBR approved for § 162.028–3(a).

(3) UL 299, Standard for Dry Chemical Fire Extinguishers, Tenth Edition, 2002, IBR approved for § 162.028–3(a).

(4) UL 626, Standard for 2½-Gallon Stored Pressure, Water-Type Fire Extinguishers, Eighth Edition, 2005, IBR approved for § 162.028–3(a).

(5) UL 711, Standard for Rating and Testing of Fire Extinguishers, Seventh Edition, 2004, IBR approved for §§ 162.028–2(a) and 162.028–3(a).

(6) UL 2129, Standard for Halocarbon Agent Fire Extinguishers, Second Edition, 2005, IBR approved for § 162.028–3.

■ 198. Amend § 162.028–2 by revising paragraph (a) to read as follows:

**§ 162.028–2 Classification.**

(a) Portable and semi-portable extinguishers must be marked with a combined number and letter designation. The letter designates the general class of fire for which the extinguisher is suitable as identified in NFPA 10 (incorporated by reference, see § 162.028–1). The number indicates the relative extinguishing potential of the

device as rated by UL 711 (incorporated by reference, see § 162.028–1).

* * * * *

■ 199. Revise § 162.028–3 to read as follows:

**§ 162.028–3 Requirements.**

(a) In addition to the requirements of this subpart, every portable fire extinguisher must be tested and listed for marine use by a recognized laboratory as defined in 46 CFR 159.001–3, and must comply with the following standards (incorporated by reference, see § 162.028–1), as appropriate:

(1) UL 8, Standard for Foam Fire Extinguishers;

(2) UL 154, Standard for Carbon-Dioxide Fire Extinguishers;

(3) UL 299, Standard for Dry Chemical Fire Extinguishers;

(4) UL 626, Standard for 2½-Gallon Stored Pressure, Water-Type Fire Extinguishers;

(5) UL 711, Standard for Rating and Testing of Fire Extinguishers; and

(6) UL 2129, Standard for Halocarbon Agent Fire Extinguishers.

(b) Every portable fire extinguisher must be self-contained; when charged, it must not require any additional source of extinguishing agent or expellant energy for its operation during the time it is being discharged. It must weigh no more than 50 pounds when fully charged.

(c) Every portable fire extinguisher must be supplied with a suitable bracket which will hold the extinguisher securely in its stowage location on vessels or boats, and which is arranged to provide quick and positive release of the extinguisher for immediate use. During vibration testing, the extinguisher must be tested in the marine bracket.

(d) Every portable extinguisher may be additionally examined and tested to establish its reliability and effectiveness in accordance with the intent of this specification for a ''marine type'' portable fire extinguisher when considered necessary by the Coast Guard or by the recognized laboratory.

■ 200. Amend § 162.028–4 by revising paragraph (a) to read as follows:

**§ 162.028–4 Marine type label.**

(a) In addition to all other markings, every portable extinguisher must bear a label containing Coast Guard approval number, thus: ''Marine Type USCG Type Approval No. 162.028/_____.''

* * * * *

■ 201. Revise § 162.028–5 to read as follows:

**§ 162.028–5 Recognized laboratories.**

A list of recognized independent laboratories that can perform approval tests of portable fire extinguishers is available from the Commandant and online at *http://cgmix.uscg.mil*.

■ 202. Revise § 162.028–7 to read as follows:

**§ 162.028–7 Procedure for listing and labeling.**

(a) Manufacturers having models of extinguishers they believe are suitable for marine service may make application for listing and labeling of such product as a ''marine-type'' portable fire extinguisher by addressing a request directly to a recognized laboratory. The laboratory will inform the submitter as to the requirements for inspection, examinations, and testing necessary for such listing and labeling. All costs in connection with the examinations, tests, inspections, listing, and labeling are payable by the manufacturer.

(b) [Reserved]

## Subpart 162.039—Extinguishers, Fire, Semi-Portable, Marine Type

■ 203. Revise the heading for subpart 162.039 to read as set forth above.

■ 204. Revise § 162.039–1 to read as follows:

**§ 162.039–1 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, (''NFPA 10''), IBR approved for § 162.039–2(a).

(2) [Reserved]

(c) Underwriters Laboratories Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 8, Standard for Foam Fire Extinguishers, Sixth Edition, 2005, IBR approved for § 162.039–3(a).

(2) UL 154, Standard for Carbon-Dioxide Fire Extinguishers, Ninth Edition, 2005, IBR approved for § 162.039–3(a).

(3) UL 299, Standard for Dry Chemical Fire Extinguishers, Tenth Edition, 2002, IBR approved for § 162.039–3(a).

(4) UL 626, Standard for 2½-Gallon Stored Pressure, Water-Type Fire Extinguishers, Eighth Edition, 2005, IBR approved for § 162.039–3(a).

(5) UL 711, Standard for Rating and Testing of Fire Extinguishers, Seventh Edition, 2004, IBR approved for §§ 162.039–2(a) and 162.039–3(a).

(6) UL 2129, Standard for Halocarbon Agent Fire Extinguishers, Second Edition, 2005, IBR approved for § 162.039–3(a).

■ 205. Amend § 162.039–2 to revise paragraph (a) to read as follows:

**§ 162.039–2 Classification.**

(a) Portable and semi-portable extinguishers must be marked with a combined number and letter designation. The letter designates the general class of fire for which the extinguisher is suitable as identified in NFPA 10 (incorporated by reference, see § 162.039–1). The number indicates the relative extinguishing potential of the device as rated by UL 711 (incorporated by reference, see § 162.039–1).

(b) [Reserved]

■ 206. Revise § 162.039–3 to read as follows:

**§ 162.039–3 Requirements.**

(a) In addition to the requirements of this subpart, every semi-portable fire extinguisher must be tested and listed for marine use by a recognized laboratory as defined in 46 CFR 159.001–3, and must comply with the following standards (incorporated by reference, see § 162.039–1), as appropriate:

(1) UL 8, Standard for Foam Fire Extinguishers;

(2) UL 154, Standard for Carbon-Dioxide Fire Extinguishers;

(3) UL 299, Standard for Dry Chemical Fire Extinguishers;

(4) UL 626, Standard for 2½-Gallon Stored Pressure, Water-Type Fire Extinguishers;

(5) UL 711, Standard for Rating and Testing of Fire Extinguishers; and

(6) UL 2129, Standard for Halocarbon Agent Fire Extinguishers.

(b) Every semi-portable fire extinguisher must be self-contained;

when charged, it must not require any additional source of extinguishing agent or expellant energy for its operation during the time it is being discharged. It must weigh more than 50 pounds, when fully charged.

(c) Every semi-portable fire extinguisher must be supplied with a suitable bracket which will hold the extinguisher securely in its stowage location on vessels or boats, and which is arranged to provide quick and positive release of the extinguisher for immediate use.

(d) Every semi-portable extinguisher may be additionally examined and tested to establish its reliability and effectiveness in accordance with the intent of this specification for a ''marine type'' semi-portable fire extinguisher when considered necessary by the Coast Guard or by the recognized laboratory.

■ 207. Revise § 162.039–4 to read as follows:

**§ 162.039–4 Marine type label.**

(a) In addition to all other markings, every semi-portable extinguisher must bear a label containing the ''marine type'' listing manifest issued by a recognized laboratory. This label will include the Coast Guard approval number, thus: ''Marine Type USCG Type Approval No. 162.039/_____.''

(b) All such labels are to be obtained only from the recognized laboratory and will remain under its control until attached to a product found acceptable under its inspection and labeling program.

■ 208. Revise § 162.039–5 to read as follows:

**§ 162.039–5 Recognized laboratories.**

(a) A list of recognized independent laboratories that can perform approval tests of semi-portable fire extinguishers is available from the Commandant and online at *http://cgmix.uscg.mil*.

(b) [Reserved]

■ 209. Amend § 162.039–7, by revising first sentence in paragraph (a) to read as follows.

**§ 162.039–7 Procedure for listing and labeling.**

(a) Manufacturers having models of extinguishers they believe are suitable for marine service may make application for listing and labeling of such product as a ''marine type'' semi-portable fire extinguisher by addressing a request directly to a recognized laboratory. * * *

* * * * *

■ 210. Add subpart 162.163 to read as follows:

**Subpart 162.163—Portable Foam Applicators**

Sec.

162.163–1 Scope.
162.163–2 Incorporation by reference.
162.163–3 Performance, design, construction, testing, and marking requirements.
162.163–4 Approval procedures.

## Subpart 162.163—Portable Foam Applicators

**§ 162.163–1 Scope.**

This subpart prescribes requirements for approval of portable foam applicators, each consisting of a portable foam nozzle, eductor, pick-up tube, and a portable supply of foam concentrate, in ro-ro spaces and certain machinery spaces, as required by the International Convention for the Safety of Life at Sea (SOLAS).

**§ 162.163–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish a notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) Underwriters Laboratories (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 162, Standard for Foam Equipment and Liquid Concentrates, Seventh Edition, 1994, IBR approved for §§ 162.163–3(d), (e), and (f) and 162.163–4(a) and (c).

(2) [Reserved]

**§ 162.163–3 Performance, design, construction, testing, and marking requirements.**

(a) The portable foam applicator must produce foam suitable for extinguishing an oil fire at a minimum foam solution rate of 200 l/min (53 gpm).

(b) The portable foam applicator must have a portable tank containing 20 liters or more of foam concentrate, along with one 20-liter spare tank. The Coast Guard has deemed available 5-gallon (19 liter) foam concentrate pails as the equivalent of, and an acceptable substitute for, the 20-liter tanks.

(c) This portable foam applicator provision may be complied with by the carriage of either—

(1) Type approved portable foam applicators, with either integral or separate eductors of fixed percentage and foam concentrate designed, constructed, tested, marked, and approved under the provisions of this section and § 162.163–4 of this subpart; or

(2) Components and foam concentrate that are parts of type approved deck and heli-deck foam systems approved under the provisions of § 162.033 of this part. Suitable components include mechanical foam nozzles with pick-up tubes, and mechanical foam nozzles with separate inline eductors, along with the corresponding foam concentrate.

(d) Each portable foam applicator required to be approved under the provisions of this subpart must be of brass or bronze, except for hardware and other incidental parts which may be of rubber, plastic, or stainless steel and, in combination with a foam concentrate, must be designed, constructed, tested, and marked in accordance with the requirements of UL 162 (incorporated by reference, see § 162.163–1).

(e) All inspections and tests required by UL 162 must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted by the Coast Guard as meeting subpart 159.010 of this chapter may be obtained by contacting the Commandant (CG–ENG).

(f) The independent laboratory must prepare a report on the results of the testing and must furnish the manufacturer with a copy of the test report upon completion of the testing required by UL 162.

**§ 162.163–4 Approval procedures.**

(a) Portable foam applicators designed, constructed, tested, and marked in accordance with UL 162 (incorporated by reference, see § 162.163–1) are considered to be approved under the provisions of this chapter.

(b) A follow-up program must be established and maintained to ensure that no unauthorized changes have been made to the design or manufacture of type approved portable foam applicators and foam concentrates. Factory inspection programs administered by the accepted independent laboratory

that performed the initial inspections and tests relied on by the type approval holder are acceptable.

(c) Applicants seeking type approval of portable foam applicators must assemble a submittal package consisting of—

(i) A cover letter requesting type approval of the equipment;

(ii) A test report from the accepted independent laboratory showing compliance of the portable foam applicator with UL 162;

(iii) A copy of the contract for a follow-up program with the accepted independent laboratory; and

(iv) Documentation of the portable foam applicator, including an exterior drawing, assembly drawing, components list, and bill of material.

(d) All documentation must be mailed to Commandant (CG–ENG–4), United States Coast Guard, 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509.

(e) Upon examination of the submittal package and approval by the Commandant, a Coast Guard Certificate of Approval will be issued valid for 5 years so long as the follow-up program for the portable foam applicator is maintained.

(f) Upon application, a Certificate of Approval for a portable foam applicator may be renewed for successive 5-year periods without further testing so long as no changes have been made to the products, the follow-up program has been maintained, and no substitutions of or changes to the standard listed in § 162.163–1 of this subpart have been made.

## PART 164—MATERIALS

■ 211. The authority citation for part 164 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3703, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

■ 212. Add § 164.006–6 to read as follows:

### § 164.006–6 Alternative Materials.

Products approved under approval series 164.106 may be used where products approved under this subpart are required.

■ 213. Add § 164.007–10 to read as follows:

### § 164.007–10 Alternative materials.

Products approved under approval series 164.107 may be used where products approved under this subpart are required.

■ 214. Add § 164.008–8 to read as follows:

### § 164.008–8 Alternative materials.

Products approved under approval series 164.108 may be used where products approved under this subpart are required.

■ 215. Add § 164.009–26 to read as follows:

### § 164.009–26 Alternative materials.

Products approved under approval series 164.109 may be used where products approved under this subpart are required.

■ 216. Add § 164.012–16 to read as follows:

### § 164.012–16 Alternative materials.

Products approved under approval series 164.112 may be used where products approved under this subpart are required.

■ 217. Add subpart 164.105 to read as follows:

### Subpart 164.105—Deck Assemblies (A–60) for SOLAS Vessels

Sec.

164.105–1 Scope.
164.105–2 Incorporation by reference.
164.105–3 Testing, marking, and inspection requirements.
164.105–4 Approval procedures.

## Subpart 164.105—Deck Assemblies (A–60) for SOLAS Vessels

### § 164.105–1 Scope.

This subpart prescribes requirements for approval of deck assemblies (A–60) for SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.105–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.105–3(a).

(2) [Reserved]

### § 164.105–3 Testing, marking, and inspection requirements.

(a) Each deck assembly submitted for type approval must be tested for non-combustibility under Annex 1, Part 1 and then tested for fire resistance under Annex 1, Part 3 of the FTP Code (incorporated by reference, see § 164.105–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx.*

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a deck assembly.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

### § 164.105–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 218. Add subpart 164.106 to read as follows:

**Subpart 164.106—Primary Deck Coverings for SOLAS Vessels**

Sec.

164.106–1 Scope.
164.106–2 Incorporation by reference.
164.106–3 Testing, marking, and inspection requirements.
164.106–4 Approval procedures.

## Subpart 164.106—Primary Deck Coverings for SOLAS Vessels

### § 164.106–1 Scope

This subpart prescribes requirements for approval of primary deck coverings for SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.106–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.106–3(a).

(2) [Reserved]

### § 164.106–3 Testing, marking, and inspection requirements.

(a) Each primary deck covering submitted for type approval must be tested in accordance with the flame spread procedures specified in Part 6 of Annex 1 and the smoke density and toxicity criteria in Part 2 of Annex 1 of the FTP Code (incorporated by reference, see § 164.106–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a primary deck covering.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

### § 164.106–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 219. Add subpart 164.107 to read as follows:

**Subpart 164.107—Structural Insulation (A–60) For SOLAS Vessels**

Sec.

164.107–1 Scope.
164.107–2 Incorporation by reference.
164.107–3 Testing, marking, and inspection requirements.
164.107–4 Approval procedures.

## Subpart 164.107—Structural Insulation (A–60) For SOLAS Vessels

### § 164.107–1 Scope.

This subpart prescribes requirements for approval of structural insulation (A–60) for SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS). Products approved under these requirements may be used in place of products required to be approved as meeting the requirements of § 164.007 of this part.

### § 164.107–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or

go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.107–3(a).

(2) [Reserved]

**§ 164.107–3 Testing, marking, and inspection requirements.**

(a) Each structural insulation (A–60) submitted for type approval must be tested in accordance with the non-combustibility test under Annex 1, Part 1 and then tested for fire resistance under Annex 1, Part 3 of the FTP Code (incorporated by reference, see § 164.107–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a structural insulation.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.107–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 220. Add subpart 164.108 to read as follows:

**Subpart 164.108—Bulkheads (B–0 and B–15) For SOLAS Vessels**

Sec.

164.108–1 Scope.
164.108–2 Incorporation by reference.
164.108–3 Testing, marking, and inspection requirements.
164.108–4 Approval procedures.

## Subpart 164.108—Bulkheads (B–0 and B–15) For SOLAS Vessels

**§ 164.108–1 Scope.**

This subpart prescribes requirements for approval of bulkheads (B–0 and B–15) for SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS). Products approved under these requirements may be used in place of products required to be approved as meeting the requirements of § 164.008 of this part.

**§ 164.108–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.108–3(a).

(2) [Reserved]

**§ 164.108–3 Testing, marking, and inspection requirements.**

(a) Each bulkhead (B–0 & B–15) submitted for type approval must be tested in accordance with non-combustibility under Annex 1, Part 1 and then tested for fire resistance under Annex 1, Part 3 of the FTP Code (incorporated by reference, see § 164.108–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a bulkhead.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.108–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 221. Add subpart 164.109 to read as follows:

**Subpart 164.109—Non-combustible Materials (SOLAS)**

Sec.

164.109–1 Scope.
164.109–2 Incorporation by reference.
164.109–3 Testing, marking, and inspection requirements.
164.109–4 Approval procedures.

## Subpart 164.109—Non-combustible Materials (SOLAS)

**§ 164.109–1 Scope.**

This subpart prescribes requirements for approval of non-combustible materials for use on SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS). Products approved under these requirements may be used in place of products required to be approved as meeting the requirements of § 164.009 of this part.

**§ 164.109–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (2010 FTP Code), IBR approved for § 164.109–3(a).

(2) [Reserved]

(c) International Standards Organization (ISO), Case postale 56, CH–1211 Geneva 20, Switzerland, +41 22 749 01 11, *http://www.iso.org*.

(1) ISO 1182–2002 Reaction to fire tests for products—Non-combustibility test, IBR approved for § 164.109–3(a).

(2) [Reserved]

**§ 164.109–3 Testing, marking, and inspection requirements.**

(a) Non-combustible materials submitted for type approval must be tested in accordance with Annex 1, Part 1 of the FTP Code (incorporated by reference, see § 164.109–2) except that ISO 1182–2002 (incorporated by reference, see § 164.109–2) may be used as an alternative to ISO 1182–1990. Five specimens must be tested and the test need not last longer than 30 minutes.

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a non-combustible material.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.109–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 222. Add subpart 164.110 to read as follows:

**Subpart 164.110—Continuous Ceilings (B–0 and B–15) (SOLAS)**

Sec.

164.110–1 Scope.
164.110–2 Incorporation by reference.
164.110–3 Testing, marking, and inspection requirements.
164.110–4 Approval procedures.

## Subpart 164.110—Continuous Ceilings (B–0 and B–15) (SOLAS)

**§ 164.110–1 Scope.**

This subpart prescribes requirements for approval of continuous ceilings (B–0 and B–15) for SOLAS vessels as required by the International

Convention for the Safety of Life at Sea (SOLAS).

**164.110–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.110–3(a).

(2) [Reserved]

**§ 164.110–3 Testing, marking, and inspection requirements.**

(a) Continuous Ceilings (B–0 and B–15) (SOLAS) submitted for type approval must be tested for non-combustibility under Annex 1, Part 1 and then tested for fire resistance under Annex 1, Part 3, Appendix 2 of the FTP Code (incorporated by reference, see § 164.110–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a continuous ceiling.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.110–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 223. Add subpart 164.111 to read as follows:

**Subpart 164.111—Draperies, Curtains, and Other Suspended Textiles**

Sec.

164.111–1 Scope.
164.111–2 Incorporation by reference.
164.111–3 Testing, marking, and inspection requirements.
164.111–4 Approval procedures.

## Subpart 164.111—Draperies, Curtains, And Other Suspended Textiles

**§ 164.111–1 Scope.**

This subpart prescribes requirements for approval of draperies, curtains, and other suspended textiles as required by the International Convention for the Safety of Life at Sea (SOLAS).

**§ 164.111–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.111–3(a).

(2) [Reserved]

**§ 164.111–3 Testing, marking, and inspection requirements.**

(a) Draperies, curtains, and other suspended textiles submitted for type approval must be tested for qualities of resistance to the propagation of flame not inferior to those of wool of mass 0.8 kg/m$^2$ under Annex 1, Part 7 of the FTP Code (incorporated by reference, see § 164.111–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish

the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as draperies, curtains and other suspended textiles.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.111–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 224. Add subpart 164.112 to read as follows:

**Subpart 164.112—Interior Finish (Bulkheads and Ceiling Finishes) (SOLAS)**

Sec.

164.112–1 Scope.
164.112–2 Incorporation by reference.
164.112–3 Testing, marking, and inspection requirements.
164.112–4 Approval procedures.

## Subpart 164.112—Interior Finish (Bulkheads and Ceiling Finishes) (SOLAS)

**§ 164.112–1 Scope.**

This subpart prescribes requirements for approval of interior finishes (bulkheads and ceiling finishes) for SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS). Products approved under these requirements may be used in place of products required to be approved as meeting the requirements of § 164.012 of this part.

**§ 164.112–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.112–3(a).

(2) [Reserved]

**§ 164.112–3 Testing, marking, and inspection requirements.**

(a) Interior Finishes (Bulkheads and ceiling finishes) for SOLAS vessels submitted for type approval must be tested for surface flammability in Annex 1, Part 5, and the smoke density and toxicity criteria of Annex 1, Part 2 of the FTP Code (incorporated by reference, see § 164.112–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as an interior finish.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.112–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 225. Add subpart 164.117 to read as follows:

**Subpart 164.117—Floor Finish (SOLAS)**

Sec.
164.117–1 Scope.
164.117–2 Incorporation by reference.
164.117–3 Testing, marking, and inspection requirements.
164.117–4 Approval procedures.

## Subpart 164.117—Floor Finish (SOLAS)

### § 164.117–1 Scope.

This subpart prescribes requirements for approval of floor finishes for SOLAS vessels as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.117–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.117–3(a).

(2) [Reserved]

### § 164.117–3 Testing, marking, and inspection requirements

(a) Floor Finishes for SOLAS vessels submitted for type approval must be tested for surface flammability in Annex 1, Part 5, and the smoke density and toxicity criteria of Annex 1, Part 2 of the FTP Code (incorporated by reference, see § 164.117–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a floor finish.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

### § 164.117–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 226. Add subpart 164.136 to read as follows:

**Subpart 164.136—Fire Doors**

Sec.
164.136–1 Scope.
164.136–2 Incorporation by reference.
164.136–3 Testing, marking, and inspection requirements.
164.136–4 Approval procedures.

## Subpart 164.136—Fire Doors

### § 164.136–1 Scope.

This subpart prescribes requirements for approval of fire doors as required by the International Convention for the Safety of Life at Sea (SOLAS). Products approved under these requirements may be used where fire doors of the same class are required in domestic vessels.

### § 164.136–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.136–3(a).

(2) [Reserved]

### § 164.136–3 Testing, marking, and inspection requirements.

(a) Fire doors submitted for type approval must be tested for non-combustibility under Annex 1, Part 5, and then tested for fire resistance under Annex 1, Part 3 of the FTP Code (incorporated by reference, see § 164.136–2). Adhesives used in the construction of fire doors need not be non-combustible, but they must be tested for low flame spread characteristics under Annex 1, Part 5 of the FTP Code and should be included

in the approved door's follow-up program.

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a fire door.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

#### § 164.136–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 227. Add subpart 164.137 to read as follows:

**Subpart 164.137—Windows**

Sec.
164.137–1 Scope.
164.137–2 Incorporation by reference.
164.137–3 Testing, marking, and inspection requirements.
164.137–4 Approval procedures.

## Subpart 164.137—Windows

#### § 164.137–1 Scope.

This subpart prescribes requirements for approval of windows as required by the International Convention for the Safety of Life at Sea (SOLAS).

#### § 164.137–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.137–3(a).

(2) Recommendation of fire resistance tests for ''A'', ''B'' and ''F'' class divisions (''Resolution A.754(18)''), IBR approved for § 164.137–3(a).

#### § 164.137–3 Testing, marking, and inspection requirements.

(a) Windows submitted for type approval must be tested for fire resistance under Annex 1, Part 3 of the FTP Code (incorporated by reference, see § 164.137–2 of this subpart). Windows must also meet the thermal radiation test supplement to fire resistance, as outlined in Appendix 1 of Part 3 of the FTP Code, and the hose stream test of paragraph 5 of Appendix A.1 of Resolution A.754(18) (incorporated by reference, see § 164.137–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a window.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

#### § 164.137–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test

report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 228. Add subpart 164.138 to read as follows:

**Subpart 164.138—Fire Stops (Penetration Seals)**

Sec.

164.138–1 Scope.
164.138–2 Incorporation by reference.
164.138–3 Testing, marking, and inspection requirements.
164.138–4 Approval procedures.

## Subpart 164.138—Fire Stops (Penetration Seals)

### § 164.138–1 Scope.

This subpart prescribes requirements for approval of fire stops (penetration seals) as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.138–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.138–3(a).

(2) Recommendation of fire resistance tests for ''A'', ''B'' and ''F'' class divisions (''Resolution A.754(18)''), IBR approved for § 164.138–3(a).

### § 164.138–3 Testing, marking, and inspection requirements.

(a) Fire stops (penetration seals) submitted for type approval must be tested for fire resistance under Annex 1, Part 3 of the FTP Code (incorporated by reference, see § 164.138–2). Such devices must also be tested in accordance with Appendices A.III and A.IV of Resolution A.754(18) (incorporated by reference, see § 164.138–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx.*

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a fire stop.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

### § 164.138–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 229. Add subpart 164.139 to read as follows:

**Subpart 164.139—Dampers**

Sec.

164.139–1 Scope.
164.139–2 Incorporation by reference.
164.139–3 Testing, marking, and inspection requirements.
164.139–4 Approval procedures.

## Subpart 164.139—Dampers

### § 164.139–1 Scope.

This subpart prescribes requirements for approval of fire dampers as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.139–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) IMO Resolution MSC.307(88), Adoption of the International Code for the Application of Fire Test Procedures,

2010 (''FTP Code''), IBR approved for § 164.139–3(a).

(2) Recommendation of fire resistance tests for ''A'', ''B'' and ''F'' class divisions (''Resolution A.754(18)''), IBR approved for § 164.139–3(a).

**§ 164.139–3 Testing, marking, and inspection requirements.**

(a) Automatic fire dampers that are installed in A-class divisions that are submitted for type approval must be tested for fire resistance under Annex 1, Part 3 of the FTP Code (see § 164.139–2). Such devices must also be tested in accordance with Appendix A–II of Resolution. A.754(18) (incorporated by reference, see § 164.139–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a fire damper.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and shall furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**164.139–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 230. Add subpart 164.141 to read as follows:

**Subpart 164.141—Plastic Pipes**

Sec.

164.141–1 Scope.
164.141–2 Incorporation by reference.
164.141–3 Testing, marking, and inspection requirements.
164.141–4 Approval procedures.

## Subpart 164.141—Plastic Pipes

**§ 164.141–1 Scope.**

This subpart prescribes requirements for approval of plastic piping systems. Plastic piping systems include the pipe, fittings, system joints, method of joining, and any internal or external liners, coverings, and coatings required to comply with the performance criteria of this subpart.

**§ 164.141–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.141–3(c).

(2) Resolution A.653(16), Recommendation on Improved Fire Test Procedures for Surface Flammability of Bulkhead, Ceiling and Deck Finish Materials (''IMO Resolution A.653(16)''), IBR approved for § 164.141–3(a).

(3) Resolution A.753(18), Guidelines for the Application of Plastic Pipe on Ships, as amended by IMO Resolution MSC.313(88) (''IMO Resolution A.653(16)''), IBR approved for § 164.141–3(a) and (b).

**§ 164.141–3 Testing, marking, and inspection requirements.**

(a) All plastic piping submitted for approval must meet the flame spread requirements of IMO Resolution A.653(16) as modified for pipes by IMO Resolution A.753(18) (incorporated by reference, see § 164.141–2) except that—

(1) The test specimens need not be wrapped in aluminum foil; and

(2) Testing need not be conducted on every pipe size. Testing may be conducted on piping sizes with the maximum and minimum wall thickness intended to be approved. This will qualify all piping sizes within the tested range.

(b) In order to receive approval for fire endurance, pipe must be tested as indicated in IMO Resolution A.753(18). When satisfying the requirements for L1 or L2 service, the pipe will be approved for use in lesser service grades. The approval of piping systems of sizes different than those tested will be allowed as provided for in Table 164.141(a) of this subpart.

TABLE 164.141(a)—APPROVAL OF PIPING SYSTEMS OF SIZES DIFFERENT THAN TESTED

| Size * tested, inch | Minimum size * approved, | Maximum size * approved, inch |
|---|---|---|
| 0 to ≤2 | Size Tested | Size Tested. |

TABLE 164.141(a)—APPROVAL OF PIPING SYSTEMS OF SIZES DIFFERENT THAN TESTED—Continued

| Size * tested, inch | Minimum size * approved, | Maximum size * approved, inch |
|---|---|---|
| >2 to ≤6 | Size Tested | ≤6. |
| >6 to ≤12 | Size Tested | ≤12. |
| >12 to ≤24 | Size Tested | ≤24. |
| >24 to ≤36 | Size Tested | ≤36. |
| >36 to ≤48 | Size Tested | ≤48. |

* Nominal outside diameter

(c) To be approved for smoke and toxicity requirements, piping systems must meet the requirements of Annex 1, Part 2 of the FTP Code (incorporated by reference, see § 164.141–2) with the following modifications:

(1) Plastic piping meeting paragraph 2.2 of Annex 2 of the FTP Code as having very low flame spread when tested to Part 5 are deemed to meet the smoke and toxicity requirements without testing to Part 2.

(2) Testing need only be conducted on piping sizes with the maximum and minimum wall thicknesses intended to be approved.

(3) The test sample should be fabricated by cutting pipes lengthwise into individual sections and then assembling the sections into a test sample as representative as possible of a flat surface. All cuts should be made normal to the pipe wall.

(4) The number of sections that must be assembled together to form a square test sample with sides measuring 3 inches, should be that which corresponds to the nearest integral number of sections which will result in a test sample with an equivalent linearized surface width between 3 and 3.5 inches. The surface width is defined as the measured sum of the outer circumference of the assembled pipe sections normal to the lengthwise sections.

(5) The test samples should be mounted on calcium silicate board and held in place by the edges of the test frame and, if necessary, by wire. There should be no gaps between individual sections and the samples should be constructed so that the edges of two adjacent sections coincide with the centerline of the test holder.

(6) The space between the concave unexposed surface of the test sample and the surface of the calcium silicate backing should be left void.

(7) The void space between the top of the exposed test surface and the bottom edge of the sample holder frame should be filled with a high temperature insulating wool where the pipe extends under the frame.

(8) When the pipes are to include fireproofing or coatings, the composite structure consisting of the segmented pipe wall and fireproofing shall be tested and the thickness of the fireproofing should be the minimum thickness specified for the intended usage.

(9) Test samples should be oriented in the apparatus such that the pilot burner flame will be normal to the lengthwise piping sections.

(d) Where required to be approved, piping systems must comply with applicable American Society for Testing and Materials (ASTM) standards.

(e) All testing and inspections required by this subpart, except as allowed by paragraph (b) of this section, must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(f) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(g) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as plastic piping.

(h) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(i) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.141–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, which ASTM standards the pipe is manufactured to, the maximum allowable working pressure of the pipe, the maximum working temperature for the pipe, the desired piping sizes to be approved, the locations and applications for which approval is requested, all piping system joints and fittings to be approved, all adhesives to be approved; and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

231. Add subpart 164.142 to read as follows:

**Subpart 164.142—Bedding Components**

Sec.

164.142–1 Scope.
164.142–2 Incorporation by reference.
164.142–3 Testing, marking, and inspection requirements.
164.142–4 Approval procedures.

## Subpart 164.142—Bedding Components

### § 164.142–1 Scope.

This subpart prescribes requirements for approval of bedding components as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.142–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.142–3(a).

(2) [Reserved]

### § 164.142–3 Testing, marking, and inspection requirements.

(a) Bedding components that are submitted for type approval must be tested for qualities of resistance to the ignition and propagation of flame of Annex 1, Part 9 of the FTP Code (incorporated by reference, see § 164.142–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx.*

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a bedding component.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

### § 164.142–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 232. Add subpart 164.144 to read as follows:

## Subpart 164.144—Upholstered Furniture

Sec.

164.144–1 Scope.
64.144–2 Incorporation by reference.
164.144–3 Testing, marking, and inspection requirements.
164.144–4 Approval procedures.

## Subpart 164.144—Upholstered Furniture

### § 164.144–1 Scope.

This subpart prescribes requirements for approval of upholstered furniture as required by the International Convention for the Safety of Life at Sea (SOLAS).

### § 164.144–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications.*

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.144–3(a).

(2) [Reserved]

### § 164.144–3 Testing, marking, and inspection requirements.

(a) Upholstered furniture that is submitted for type approval must be tested for qualities of resistance to the ignition and propagation of flame of Annex 1, Part 8 of the FTP Code (incorporated by reference, see § 164.144–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx.*

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical

make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as upholstered furniture.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.144–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 233. Add subpart 164.146 to read as follows:

**Subpart 164.146—Fire Door Control System (SOLAS)**

Sec.

164.146–1 Scope.
164.146–2 Incorporation by reference.
164.146–3 Testing, marking, and inspection requirements.
164.146–4 Approval procedures.

## Subpart 164.146—Fire Door Control System (SOLAS)

**§ 164.146–1 Scope.**

This subpart prescribes requirements for approval of fire door control systems as required by the International Convention for the Safety of Life at Sea (SOLAS).

**§ 164.146–2 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.146–3(a).

(2) [Reserved]

**§ 164.146–3 Testing, marking, and inspection requirements.**

(a) A fire door control system that is submitted for type approval must be tested in accordance with Annex 1, Part 4 of the FTP Code (incorporated by reference, see § 164.146–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a fire door control system.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.146–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 234. Add subpart 164.201 to read as follows:

**Subpart 164.201—Fire-resisting Materials for High-speed Craft**

Sec.

164.201–1 Scope.
164.201–2 Incorporation by reference.
164.201–3 Testing, marking, and inspection requirements.
164.201–4 Approval procedures.

## Subpart 164.201—Fire-resisting Materials for High-speed Craft

### § 164.201–1 Scope.

This subpart prescribes requirements for approval of fire-resisting materials for high-speed craft as required by the International Code of Safety for High Speed Craft (HSC Code).

### § 164.201–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.201–3.

(2) [Reserved]

### § 164.201–3 Testing, marking, and inspection requirements.

(a) Fire-resisting materials for high-speed craft that is submitted for type approval must be tested in accordance with Annex 1, Part 10 of the FTP Code (incorporated by reference, see § 164.201–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a fire resisting material for high speed craft.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire-testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

### § 164.201–4 Approval procedures.

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

■ 235. Add subpart 164.207 to read as follows:

## Subpart 164.207—Fire-resisting Divisions for High-speed Craft

Sec.

164.207–1 Scope.
164.207–2 Incorporation by reference.
164.207–3 Testing, marking, and inspection requirements.
164.207–4 Approval procedures.

## Subpart 164.207—Fire-Resisting Divisions for High-speed Craft

### § 164.207–1 Scope.

This subpart prescribes requirements for approval of fire-resisting divisions for high-speed craft as required by the International Code of Safety for High-Speed Craft (HSC Code).

### § 164.207–2 Incorporation by reference.

(a) Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org/publications*.

(1) IMO Resolution MSC.307(88), Adoption of the International Code for Application of Fire Test Procedures, 2010 (''FTP Code''), IBR approved for § 164.207–3(a).

(2) [Reserved]

### § 164.207–3 Testing, marking, and inspection requirements.

(a) Fire-resisting divisions for high-speed craft that are submitted for type approval must be tested in accordance with Annex 1, Part 11 of the FTP Code (incorporated by reference, see § 164.207–2).

(b) All testing and inspections required by this subpart must be performed by an independent laboratory accepted by the Coast Guard under subpart 159.010 of this chapter. A list of independent laboratories accepted as meeting subpart 159.010 of this chapter is available online at *http://psix.uscg.mil/EQLabs/Default.aspx*.

(c) The independent laboratory must perform an initial factory inspection to select the test specimens and establish the materials of construction, chemical make-up, dimensions, tolerances, and

other related factors needed to confirm product consistency during follow-up production inspections.

(d) Production inspections must be performed by the independent laboratory in accordance with subpart 159.007 of this chapter at least annually to confirm that no changes have been made to the product that may adversely affect its fire performance as a fire resisting division for high speed craft.

(e) The independent laboratory must prepare production inspection procedures and a report of the results of the fire-testing program, and must furnish the manufacturer with three copies of each upon completion of the required testing.

(f) Materials approved under this subpart must be shipped in packaging that is clearly marked with the name of the manufacturer, product designation, date of manufacture, batch or lot number, and Coast Guard type approval number.

**§ 164.207–4 Approval procedures.**

(a) Manufacturers that desire type approval should submit a written notice to the Commandant (CG–ENG–4) describing the product and its intended uses. The Commandant will evaluate this information and notify the manufacturer of the product's suitability for testing. The manufacturer should then contract directly with an accepted independent laboratory to perform the required tests and inspections.

(b) Upon completion of the required testing and inspections, the manufacturer must submit a written request for type approval to the Commandant (CG–ENG–4). The request must indicate the name and address of the manufacturer, all product designations, and the address of all manufacturing facilities. The request must include a copy of the final fire test report and the production inspection procedures. From the information submitted, the Commandant determines whether or not the product is acceptable for type approval. If the product is determined to be acceptable, a type approval certificate valid for a 5-year period will be issued. If the product is not accepted, the manufacturer will be notified of the reasons why.

### Subpart 164.900 [Removed]

■ 236. Remove subpart 164.900.

## PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

■ 237. The authority citation for part 167 continues to read as follows:

**Authority:** 46 U.S.C. 3306, 3307, 6101, 8105; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

**§ 167.01–5 [Amended]**

■ 238. Amend § 167.01–5(a) to add, after the words ''nautical school ships.'', the sentence ''The regulations in this subchapter have preemptive effect over State or local regulations in the same field.''.

■ 239. Amend § 167.45–30 as follows:

■ a. Redesignate introductory text as paragraph (a); and

■ b. Add paragraph (b) to read as follows:

**§ 167.45–30 Use of approved fire-fighting equipment.**

* * * * *

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed by an independent, nationally recognized testing laboratory as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

## PART 169—SAILING SCHOOL VESSELS

■ 240. The authority citation for part 169 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; Pub. L. 103–206, 107 Stat. 2439; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; Department of Homeland Security Delegation No. 0170.1; § 169.117 also issued under the authority of 44 U.S.C. 3507.

■ 241. Revise § 169.115 to read as follows:

**§ 169.115 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE. Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Boat and Yacht Council (ABYC), 613 Third St., Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) A–1–78, Marine LPG—Liquefied Petroleum Gas Systems, IBR approved for § 169.703.

(2) A–3–70, Recommended Practices and Standards Covering Galley Stoves, IBR approved for § 169.703(a).

(3) A–22–78, Marine CNG—Compressed Natural Gas Systems, IBR approved for § 169.703(c).

(4) H–2.5, Ventilation of Boats Using Gasoline—Design and Construction, 1981, IBR approved for § 169.629.

(5) P–1–73, Safe Installation of Exhaust Systems for Propulsion and Auxiliary Engines, 1973, IBR approved for § 169.609.

(c) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) ANSI/NFPA 70, National Electrical Code, 1980 Edition (''NFPA 70''), IBR approved for § 169.672(a).

(2) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 169.247(a).

(3) ANSI/NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, Chapter 6, 1980 Edition (''NFPA 302''), IBR approved for § 169.703(c).

(4) NFPA 306, Standard for the Control of Gas Hazards on Vessels, 1980 Edition, (''NFPA 306''), IBR approved for § 169.236(a).

(d) Navy Publications and Forms Center, Customer Service Code 1052, 5801 Tabor Ave., Philadelphia, PA 19120.

(1) Federal Specification ZZ–H–451G, Hose, Fire, Woven-Jacketed Rubber or Fabric-Lined, with Couplings, IBR approved for § 169.563(c).

(2) [Reserved]

(e) Underwriters Laboratories, Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 19–2001, Standard for Lined Fire Hose and Hose Assemblies (UL 19), IBR approved for § 169.563(c).

(2) [Reserved]

**§ 169.236 [Amended]**

■ 242. In § 169.236(a), remove the words '', ''Control of Gas Hazards on Vessels,'''' and add, in their place, the words ''(incorporated by reference, see § 169.115)''.

■ 243. Revise § 169.247 to read as follows:

**§ 169.247 Firefighting equipment.**

(a) At each inspection for certification and periodic inspection and at such other times as considered necessary, all fire extinguishing equipment is inspected to ensure it is in suitable condition. Tests may be necessary to determine the condition of the equipment. The inspector must ensure that the following tests and inspections have been conducted by a qualified servicing facility at least once every 12 months:

(1) Portable fire extinguishers and semi-portable fire extinguishing systems must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 169.115) as amended here:

(i) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(ii) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iii) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iv) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(2) All parts of the fixed fire extinguishing systems are examined for excessive corrosion and general condition. Table 169.247(a)(1) of this section provides detailed inspection and test requirements of fixed systems.

(3) Piping, controls, valves, and alarms on all fire extinguishing systems are checked to be certain the system is in operating condition.

(4) The fire main system is operated and the pressure checked at the most remote and highest outlets.

(5) Each firehose is subjected to a test pressure equivalent to its maximum service pressure.

(b) [Reserved]

TABLE 169.247(a)(1)—FIXED SYSTEMS

| Type of system | Test |
|---|---|
| Carbon dioxide or HALON 1301 ..... | Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of the charge. |

**§ 169.563 [Amended]**

■ 244. Amend § 169.563 paragraph(c), by adding ''(incorporated by reference, see § 169.115)'' after the words ''Federal Specification ZZ–H–451G.''.

■ 245. Amend § 169.567 as follows:

■ a. Revise the section heading to read as follows;

■ b. Revise paragraphs (a) and (b) to read as follows; and

■ c. Remove paragraph (g).

**§ 169.567 Portable fire extinguishers.**

(a) The minimum number of portable fire extinguishers required on each vessel is determined by the Officer in Charge, Marine Inspection, in accordance with Table 169.567(a) of this section and other provisions of this subpart.

TABLE 169.567(a)—REQUIRED PORTABLE FIRE EXTINGUISHERS

| Space | Portable fire extinguishers | |
|---|---|---|
| | Minimum required rating | Quantity and location |
| Propulsion machinery space without fixed extinguishing system. | 40–B:C ..... | 2. |
| Propulsion machinery space with fixed extinguishing system .. | 40–B:C ..... | 1 in the vicinity of the exit. |
| Living space and open boats ..... | 2–A ..... | 1 per 1,000 cubic foot of space. |
| Galley (without fixed system) ..... | 40–B:C ..... | 1 per 500 cubic foot. |
| Spare Units ..... | 2–A ..... | (RANGE FROM 50–10) percent of the required number rounded up. |
| | 40–B:C ..... | 1. |

(b) Table 169.567(a) of this section indicates the minimum required classification for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

* * * * *

**§ 169.609 [Amended]**

■ 246. In the introductory text of § 169.609, remove the word ''sytems'' and add, in its place, the word ''systems'', and after the words ''Safe Installation of Exhaust Systems for Propulsion and Auxiliary Machinery'', add the words ''(incorporated by reference, see § 169.115)''.

■ 247. Revise § 169.629 to read as follows:

**§ 169.629 Compartments containing gasoline machinery or fuel tanks.**

Spaces containing gasoline machinery or fuel tanks must have natural supply and mechanical exhaust ventilation meeting the requirements of American Boat and Yacht Council Standard H–2.5, ''Design and Construction; Ventilation of Boats Using Gasoline'' (incorporated by reference, see § 169.115 of this part).

■ 248. Amend § 169.672 to revise paragraph (a)(1) to read as follows:

**§ 169.672 Wiring for power and lighting circuits.**

(a) * * *

(1) Meet NFPA 70, National Electrical Code, Article 310–8 and Table 310–13 (incorporated by reference, see § 169.115);

* * * * *

■ 249. Amend § 169.703 as follows:

■ a. Revise paragraph (a) to read as follows;

■ b. In paragraph (c)(1), after the words ''Chapter 6 of NFPA 302'', add the words ''(incorporated by reference, see § 169.115)''; and

■ c. In paragraph (c)(2), after the words ''Chapter 6 of NFPA 302 or ABYC A–22'', add the words ''(incorporated by reference, see § 169.115)''.

**§ 169.703 Cooking and heating.**

(a) Cooking and heating equipment must be suitable for marine use. Cooking installations must meet the requirements of ABYC Standard A–3, ''Recommended Practices and Standards Covering Galley Stoves'' (incorporated by reference, see § 169.115).

* * * * *

## PART 175—GENERAL PROVISIONS

■ 250. The authority citation for part 175 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3205, 3306, 3307, 3703; Pub. L 103–206, 107 Stat. 2439; 49 U.S.C. App. 1804; Department of Homeland Security Delegation No. 0170.1; 175.900 also issued under authority of 44 U.S.C. 3507.

**§ 175.100 [Amended]**

■ 251. Amend § 175.100 to add, after the words ''small passenger vessels.'', the sentence ''The regulations in this subchapter have preemptive effect over State or local regulations in the same field.''.

■ 252. Amend § 175.400 to add the definitions of ''Ignition source'', ''Isolated space'', and ''Open to the atmosphere'', in alphabetical order, as follows:

**§ 175.400 Definitions of terms used in the subchapter.**

* * * * *

*Ignition source* means: (1) An internal combustion engine regardless of horsepower or (2) continuously running electrical motors without overload protection or other run-limiting devices. Properly installed electrical wire or cabling with associated connections and outlets must not be considered an ignition source.

* * * * *

*Isolated space* means a closed, water-tight space infrequently accessed by the crew while the vessel is in operation. Examples of these spaces are the fore-peak spaces, lazerettes, and spaces with unattended continuously running electrical motors. Small, non-water-tight compartments visible to the crew and passengers such as storage lockers under the operating station or passenger seating areas, are not considered isolated spaces.

* * * * *

*Open to the atmosphere* means a compartment that has at least 0.342 square meters of open area directly exposed to the atmosphere for each cubic meter (15 square inches for each cubic foot) of net compartment volume.

* * * * *

■ 253. Revise § 175.600 to read as follows:

**§ 175.600 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*.

(b) American Boat and Yacht Council (ABYC), 613 Third St., Suite 10, Annapolis, MD 21403, 410–990–4460, *http://www.abycinc.org*.

(1) A–1–93, Marine Liquefied Petroleum Gas (LPG) Systems, IBR approved for § 184.240.

(2) A–3–93, Galley Stoves, IBR approved for § 184.200.

(3) A–7–70, Boat Heating Systems, IBR approved for § 184.200.

(4) A–16–89, Electric Navigation Lights, IBR approved for § 183.130.

(5) A–22–93, Marine Compressed Natural Gas (CNG) Systems, IBR approved for § 184.240.

(6) E–8, Alternating Current (AC) Electrical Systems on Boats, July 2001, IBR approved for §§ 183.130 and 183.340.

(7) E–9, Direct Current (DC) Electrical Systems on Boats (May 28, 1990), IBR approved for §§ 183.130 and 183.340.

(8) H–2–89, Ventilation of Boats Using Gasoline, IBR approved for §§ 183.130 and 182.460.

(9) H–22–86, DC Electric Bilge Pumps Operating Under 50 Volts, IBR approved for §§ 182.130 and 182.500.

(10) H–24–93, Gasoline Fuel Systems, IBR approved for §§ 182.130, 182.440, 182.445, 182.450, and 182.455.

(11) H–25–94, Portable Gasoline Fuel Systems for Flammable Liquids, IBR approved for §§ 182.130 and 182.458.

(12) H–32–87, Ventilation of Boats Using Diesel Fuel, IBR approved for §§ 182.130, 182.465, and 182.470.

(13) H–33–89, Diesel Fuel Systems, IBR approved for §§ 182.130, 182.440, 182.445, 182.450, and 182.455.

(14) P–1–93, Installation of Exhaust Systems for Propulsion and Auxiliary Engines, IBR approved for §§ 177.405, 177.410, 182.130, 182.425, and 182.430.

(15) P–4–89, Marine Inboard Engines, IBR approved for §§ 182.130 and 182.420.

(c) American Bureau of Shipping (ABS), ABS Plaza, 16855 Northchase Drive, Houston, TX 77060, 281–877–5800, *http://www.eagle.org*.

(1) Guide for High Speed Craft, 1997, IBR approved for § 177.300.

(2) Rules for Building and Classing Aluminum Vessels, 1975, IBR approved for § 177.300.

(3) Rules for Building and Classing Reinforced Plastic Vessels, 1978, IBR approved for § 177.300.

(4) Rules for Building and Classing Steel Vessels, 1995, IBR approved for § 183.360.

(5) Rules for Building and Classing Steel Vessels Under 61 Meters (200 feet) in Length, 1983, IBR approved for § 177.300.

(6) Rules for Building and Classing Steel Vessels for Service on Rivers and Intracoastal Waterways, 1995 (''ABS Steel Vessel Rules''), IBR approved for § 177.300.

(d) American National Standards Institute (ANSI), 25 West 43rd St., New York, NY 10036, 212–642–4900, *http://www.ansi.org*.

(1) A 17.1–1984, including supplements A 17.1a and B–1985, Safety Code for Elevators and Escalators, IBR approved for § 183.540.

(2) ANSI Z 26.1, Motor Vehicles Operating on Land Highways, IBR approved for § 177.1030.

(3) B 31.1–1986, Code for Pressure Piping, Power Piping, IBR approved for § 182.710.

(e) ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, *http://www.astm.org*.

(1) ASTM B 96–93, Standard Specification for Copper–Silicon Alloy Plate, Sheet, Strip, and Rolled Bar for General Purposes and Pressure Vessels, IBR approved for § 182.440.

(2) ASTM B 117–97, Standard Practice for Operating Salt Spray (Fog) Apparatus, IBR approved for § 175.400.

(3) ASTM B 122/B 122M–95, Standard Specification for Copper-Nickel-Tin Alloy, Copper-Nickel-Zinc Alloy (Nickel Silver), and Copper-Nickel Alloy Plate, Sheet, Strip and Rolled Bar, IBR approved for § 182.440.

(4) ASTM B 127–98, Standard Specification for Nickel-Copper Alloy (UNS NO4400) Plate, Sheet, and Strip, IBR approved for § 182.440.

(5) ASTM B 152–97a, Standard Specification for Copper Sheet, Strip, Plate, and Rolled Bar, IBR approved for § 182.440.

(6) ASTM B 209–96, Standard Specification for Aluminum and Aluminum-Alloy Sheet and Plate, IBR approved for § 182.440.

(7) ASTM D 93–97, Standard Test Methods for Flash Point by Pensky-Martens Closed Cup Tester, IBR approved for § 175.400.

(8) ASTM D 635–97, Standard test Method for Rate of Burning and or Extent and Time of Burning of Self-Supporting Plastics in a Horizontal Position, IBR approved for § 182.440.

(9) ASTM D 2863–95, Standard Method for Measuring the Minimum Oxygen Concentration to Support Candle-Like Combustion of Plastics, IBR approved for § 182.440.

(10) ASTM E 84–98, Standard Test Method for Surface Burning Characteristics of Building Materials, IBR approved for § 177.410.

(f) Institute of Electrical and Electronics Engineers, Inc. (IEEE), IEEE Service Center, 445 Hoes Lane, Piscataway, NJ 08854, 800–678–4333, *http://www.ieee.org*.

(1) Standard 45–1977, Recommended Practice for Electrical Installations on Shipboard, IBR approved for § 183.340.

(2) [Reserved]

(g) International Maritime Organization (IMO), Publications Section, 4 Albert Embankment, London SE1 7SR, United Kingdom, +44 (0)20 7735 7611, *www.imo.org*.

(1) Code of Practice for the Evaluation, Testing and Acceptance of Prototype Novel Life-Saving Appliances and Arrangements-Resolution A.520(13), dated November 17, 1983, IBR approved for § 175.540.

(2) Use and Fitting of Retro-Reflective Materials on Life-Saving Appliances-Resolution A.658(16), dated November 20, 1989, IBR approved for § 185.604.

(3) Fire Test Procedures For Ignitability of Bedding Components, Resolution A.688(17), dated November 6, 1991, IBR approved for § 177.405.

(4) Symbols Related to Life-Saving Appliances and Arrangements, Resolution A.760(18), dated November 17, 1993, IBR approved for § 185.604.

(h) International Organization for Standardization (ISO), Case postale 56, CH–1211 Geneva 20, Switzerland, +41 22 749 01 11, *http://www.iso.org*.

(1) ISO 8846, Small Craft-Electrical Devices-Protection Against Ignition of Surrounding Flammable Gases, IBR approved for § 182.500.

(2) ISO 8849, Small Craft-Electrically Operated Bilge Pumps, IBR approved for § 182.500.

(i) Lloyd's Register of Shipping, 71 Fenchurch Street, London EC3M 4BS, +44 (0)20 7709 9166, *http://www.lr.org*.

(1) Rules and Regulations for the Classification of Yachts and Small Craft, as amended through 1983, IBR approved for § 177.300.

(2) [Reserved]

(j) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org*.

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition (''NFPA 10''), IBR approved for § 176.810(b).

(2) ANSI/NFPA 17, Standard for Dry Chemical Extinguishing Systems, 1994 Edition (''NFPA 17''), IBR approved for § 181.425.

(3) ANSI/NFPA 17A, Standard for Wet Chemical Extinguishing Systems, 1994 Edition, (''NFPA 17A''), IBR approved for § 181.425.

(4) ANSI/NFPA 70, National Electrical Code (NEC), 1996 Edition (''NFPA 70''), IBR approved for §§ 183.320, 183.340, and 183.372.

(5) ANSI/NFPA 302, Fire Protection Standard for Pleasure and Commercial Motor Craft, 1994 Edition (''NFPA 302''), IBR approved for §§ 184.200 and 184.240.

(6) NFPA 306, Standard for the Control of Gas Hazards on Vessels, 1993 Edition (''NFPA 306''), IBR approved for § 176.710.

(7) NFPA 1963, Standard for Fire Hose Connections, 1989 Edition, (''NFPA 1963''), IBR approved for § 181.320.

(k) DLA Document Services, Department of Defense, Single Stock Point, 700 Robbins Avenue, Philadelphia, PA 19111, 215–697–6396, *http://www.assistdocs.com*.

(1) Military Specification MIL–P–21929C (1991), Plastic Material, Cellular Polyurethane, Foam-in-Place, Rigid (2 and 4 pounds per cubic foot), IBR approved for § 179.240.

(2) Military Specification MIL–R–21607E(SH) (1990), Resins, Polyester, Low Pressure Laminating, Fire Retardant, IBR approved for § 177.410.

(l) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096–0001, 724–776–4841, *http://www.sae.org*.

(1) SAE J–1475, Hydraulic Hose Fittings For Marine Applications, 1984, IBR approved for § 182.720(e).

(2) SAE J–1928, Devices Providing Backfire Flame Control for Gasoline Engines in Marine Applications, August 1989, IBR approved for § 182.415.

(3) SAE J–1942, Hose and Hose Assemblies for Marine Applications, 1992, IBR approved for § 182.720(e).

(m) Underwriters Laboratories Inc. (UL), 333 Pfingsten Road Northbrook, IL 60062–2096, 919–549–1400, *www.ul.com*.

(1) UL 19–2001, Standard for Lined Fire Hose and Hose Assemblies (UL 19), § 181.320.

(2) UL 174–1989, as amended through June 23, 1994, Household Electric Storage Tank Heaters, IBR approved for § 182.320.

(3) UL 217–2006, Single and Multiple Station Smoke Detectors, IBR approved for § 181.450.

(4) UL 486A–1992, Wire Connectors and Soldering Lugs For Use With Copper Conductors, IBR approved for § 183.340.

(5) UL 489–1995, Molded-Case Circuit Breakers and Circuit Breaker Enclosures, IBR approved for § 183.380.

(6) UL 595–1991, Marine Type Electric Lighting Fixtures, IBR approved for § 183.410.

(7) UL 710–1990, as amended through September 16, 1993, Exhaust Hoods For Commercial Cooking Equipment, IBR approved for § 181.425.

(8) UL 1058–1989, as amended through April 19, 1994, Halogenated Agent Extinguishing System Units, IBR approved for § 181.410.

(9) UL 1102–1992, Non integral Marine Fuel Tanks, IBR approved for § 182.440.

(10) UL 1110–1988, as amended through May 16, 1994, Marine Combustible Gas Indicators, IBR approved for § 182.480.

(11) UL 1111–1988, Marine Carburetor Flame Arresters, IBR approved for § 182.415.

(12) UL 1113, Electrically Operated Pumps for Nonflammable Liquids, Marine, Third Edition (Sep. 4, 1997), IBR approved for § 182.520.

(13) UL 1453–1988, as amended through June 7, 1994, Electric Booster and Commercial Storage Tank Water Heaters, IBR approved for § 182.320.

(14) UL 1570–1995, Fluorescent Lighting Fixtures, IBR approved for § 183.410.

(15) UL 1571–1995, Incandescent Lighting Fixtures, IBR approved for § 183.410.

(16) UL 1572–1995, High Intensity Discharge Lighting Fixtures, IBR approved for § 183.410.

(17) UL 1573–1995, Stage and Studio Lighting Units, IBR approved for § 183.410.

(18) UL 1574–1995, Track Lighting Systems, IBR approved for § 183.410.

## PART 176—INSPECTION AND CERTIFICATION

■ 254. The authority citation for part 176 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 2103, 3205, 3306, 3307; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 743; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 255. Revise § 176.810 to read as follows:

### § 176.810 Fire protection.

(a) At each initial and subsequent inspection for certification, the owner or managing operator must be prepared to conduct tests and have the vessel ready for inspection of its fire protection equipment, including the following:

(1) Inspection of each portable fire extinguisher, semi-portable fire extinguisher, and fixed gas fire extinguishing system to check for excessive corrosion and general condition.

(2) Inspection of piping, controls, and valves, and the inspection and testing of alarms and ventilation shutdowns, for each fixed gas fire extinguishing system and detecting system to determine that the system is in operating condition.

(3) Operation of the fire main system and checking of the pressure at the most remote and highest outlets.

(4) Testing of each firehose to a test pressure equivalent to its maximum service pressure.

(5) Checking of each cylinder containing compressed gas to ensure it has been tested and marked in accordance with 46 CFR 147.60.

(6) Testing or renewal of flexible connections and discharge hoses on semi-portable extinguishers and fixed gas extinguishing systems in accordance with 46 CFR 147.65.

(7) Inspection and testing of all smoke-and fire detection systems, including sensors and alarms.

(b) The owner, managing operator, or a qualified servicing facility as applicable must conduct the following inspections and tests:

(1) Portable and semi-portable extinguishers must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 175.600) as amended here:

(i) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(ii) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iii) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iv) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

(2) For fixed-gas fire extinguishing systems, the inspections and tests required by Table 176.810(b) of this section, in addition to the tests required by 46 CFR 147.60 and 147.65. The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility may be required to perform the required inspections, maintenance procedures, and hydrostatic pressure tests.

TABLE 176.810(b)—FIXED FIRE EXTINGUISHING SYSTEMS

| Type system | Test |
|---|---|
| Carbon dioxide | Weigh cylinders. Recharge if weight loss exceeds 10 percent of weight of charge. Test time delays, alarms, and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to be sure they are clean. |
| Halon | Weigh cylinders. Recharge if weight loss exceeds 5 percent of weight of charge. If the system has a pressure gauge, also recharge if pressure loss (adjusted for temperature) exceeds 10 percent. Test time delays, alarms and ventilation shutdowns with carbon dioxide, nitrogen, or other nonflammable gas as stated in the system manufacturer's instruction manual. Inspect hoses and nozzles to be sure they are clean. |
| Dry Chemical (cartridge operated) | Examine pressure cartridge and replace if end is punctured or if determined to have leaked or to be in unsuitable condition. Inspect hose and nozzle to see if they are clear. Insert charged cartridge. Ensure extinguisher contains full charge. |
| Dry Chemical (stored pressure) | See that pressure gauge is in operating range. If not, or if the seal is broken, weigh or otherwise determined that extinguisher is fully charged with dry chemical. Recharge if pressure is low or if dry chemical is needed. |
| Foam (stored pressure) | See that pressure gauge, if so equipped, is in the operating range. If not, or if the seal is broken, weigh or otherwise determine that extinguisher is fully charged with foam. Recharge if pressure is low or if foam is needed. Replace premixed agent every 3 years. |
| Clean Agents (Halon replacements) | Same as Halon. |

(c) The owner, managing operator, or master must destroy, in the presence of the marine inspector, each firehose found to be defective and incapable of repair.

(d) At each initial and subsequent inspection for certification, the marine inspector may require that a fire drill be held under simulated emergency conditions to be specified by the inspector.

## PART 177—CONSTRUCTION AND ARRANGEMENT

■ 256. The authority citation for part 177 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 257. Amend § 177.410 to revise paragraph (c)(3) to read as follows:

### § 177.410 Structural fire protection.

* * * * *

(c) * * *

(3) Fire detection and extinguishing systems.

(i) Fire detection and extinguishing systems must be installed in compliance with §§ 181.400 through 181.420 of this subchapter.

(ii) All fiber reinforced plastic (FRP) vessels constructed with general purpose resins must be fitted with a smoke activated fire detection system of an approved type, installed in accordance with § 76.27 in subchapter H of this chapter, in—

(A) Accommodation spaces;

(B) Service spaces; and

(C) Isolated spaces that contain an ignition source as defined in § 175.400 of this section.

* * * * *

■ 258. Add § 177.420 to read as follows:

### § 177.420 Vessels complying with SOLAS structural fire protection requirements.

Vessels meeting the structural fire protection requirements of SOLAS, Chapter II–2, Regulations 5, 6, 8, 9, and 11, may be considered equivalent to the provisions of this subpart.

## PART 181—FIRE PROTECTION EQUIPMENT

■ 259. The authority citation for part 181 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 260. Revise § 181.120 to read as follows:

### § 181.120 Equipment installed but not required.

(a) Fire extinguishing equipment installed on a vessel in excess of the requirements of §§ 181.400 and 181.500 of this part must be designed, constructed, installed, and maintained in accordance with a recognized industry standard acceptable to the Commandant (CG–ENG–4).

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed by an independent, nationally recognized testing laboratory as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

■ 261. Amend § 181.310 as follows:

■ a. In paragraphs (a) and (c), remove the words ''fire hose'' wherever they appear and add, in their place, the word ''firehose''.

■ b. Add paragraph (d) to read as follows:

### § 181.310 Fire main and hydrants.

* * * * *

(d) On vessels constructed after [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], where a 40 millimeter (1.5 inch) diameter firehose is required by § 181.320(b) of this part, a spanner wrench suitable for use on the hose at that station must be provided.

## Subpart D—Fixed Fire-Extinguishing and Detection Systems

■ 262. Revise the heading for subpart D to read as set forth above.

■ 263. Amend § 181.400 as follows:

■ a. Revise the section heading;

■ b. In paragraph (b)(3), remove the text ''B–II'' and add, in its place, the text ''40–B'';

■ c. In paragraph (b)(5), remove the word ''semiportable'' and add, in its place, the word ''semi-portable'';

■ d. In paragraphs (b)(5)(i), (b)(5)(ii), and (b)(5)(iii), remove the word ''shall'' and add, in its place, the word ''must''; and

■ e. Remove paragraphs (c) through (g).

### § 181.400 Spaces required to have fixed fire extinguishing systems.

* * * * *

■ 264. Add § 181.405 to read as follows:

### § 181.405 Spaces required to have fire detection systems.

(a) The following spaces must be equipped with a fire detection and alarm system of an approved type installed in accordance with 46 CFR, part 76 in subchapter H of this chapter, except when a fixed-gas fire extinguishing system that is capable of automatic discharge upon heat detection is installed or when the space is manned:

(1) A space containing propulsion machinery.

(2) A space containing an internal combustion engine of more than 50 hp.

(3) A space containing an oil-fired boiler.

(4) A space containing machinery powered by gasoline or any other fuels having a flash point of 43.3 °C (110 °F) or lower.

(5) A space containing a fuel tank for gasoline or any other fuel having a flash point of 43.3 °C (110 °F) or lower.

(b) All griddles, broilers, and deep fat fryers must be fitted with a grease extraction hood in compliance with § 181.425 of this subpart.

(c) Each overnight accommodation space on a vessel with overnight accommodations for passengers must be fitted with an independent modular smoke detection and alarm unit in compliance with § 181.450 of this subpart.

(d) An enclosed vehicle space must be fitted with an automatic sprinkler system that meets the requirements of 46 CFR, part 76 in subchapter H of this chapter and a fire detection and alarm system of an approved type that is installed in accordance with 46 CFR, part 76 in subchapter H of this chapter.

(e) A partially enclosed vehicle space must be fitted with a manual sprinkler system that meets the requirements of 46 CFR, part 76 in subchapter H of this chapter.

### § 181.410 [Amended]

■ 265. Amend § 181.410 as follows:

■ a. In paragraph (f)(5)(i), after the words ''must be equal to the gross volume of the system'', add the words ''in cubic meters'', remove the number ''160'' and add, in its place, the number ''.624'', and remove the number ''192'' and add, in its place, the number ''.749''; and

■ b. In paragraph (f)(6)(i), remove the number ''480'' and add, in its place, the number ''1.88''.

■ 266. Revise § 181.500 to read as follows:

**§ 181.500 Required number, type, and location.**

(a) Each portable fire extinguisher on a vessel must be of an approved type. The minimum number of portable fire extinguishers required on a vessel must be acceptable to the cognizant Officer in Charge, Marine Inspection, but must not be fewer than the minimum number required by Table 181.500(b) and other provisions of this section.

(b) Table 181.500(b) of this section indicates the minimum required classification for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

TABLE 181.500(b)—REQUIRED PORTABLE FIRE EXTINGUISHERS

| Space | Portable fire extinguishers | |
|---|---|---|
| | Minimum required rating | Quantity and location |
| Operating Station | 10–B:C | 1. |
| Machinery Space | 40–B:C | 1 in the vicinity of the exit. |
| Open Vehicle Deck | 40–B | 1 for every 10 vehicles. |
| Accommodation Space | 2–A | 1 each for each 2,500 square feet or fraction thereof. |
| Galley | 40–B:C | 1. |
| Pantry, concession stand | 2–A | 1 in the vicinity of the exit. |

(c) A vehicle deck without a fixed sprinkler system and exposed to weather must have one 40–B portable fire extinguisher for every five vehicles, located near an entrance to the space.

(d) The frame or support of each semi-portable fire extinguisher permitted by paragraph (a) of this section must be welded or otherwise permanently attached to a bulkhead or deck.

## PART 182—MACHINERY INSTALLATION

■ 267. The authority citation for part 182 continues to read as follows:

**Authority:** 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 268. Revise § 182.720(a) to read as follows:

**§ 182.720 Nonmetallic piping materials.**

(a) Rigid nonmetallic materials (plastic) may be used only in non-vital systems and in accordance with paragraphs (c) and (d) of this section. Alternatively, piping systems meeting the requirements of § 56.60–25(a) of this part may be used, provided that the installation requirements of paragraphs (c) and (d) of this section are met.

* * * * *

## PART 185—OPERATIONS

■ 269. The authority citation for part 185 continues to read as follows:

**Authority:** 46 U.S.C. 2103, 3306, 6101; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 270. Amend § 185.612 as follows:

■ a. Revise the section heading;

■ b. In paragraph (d), remove the word ''alarm'' and add, in its place, the word ''indicator'';

■ c. Revise paragraph (e) to read as follows; and

■ d. In paragraph (f), after the words ''or as otherwise required by the'', remove the word ''cognizant'', and remove the word ''shall'' and add, in its place, the word ''must''.

**§ 185.612 Fire protection equipment.**

* * * * *

(e) An indicator for a fire detection and alarm system must be conspicuously marked in clearly legible letters ''FIRE ALARM''.

* * * * *

## PART 188—GENERAL PROVISIONS

■ 271. The authority citation for part 188 continues to read as follows:

**Authority:** 46 U.S.C. 2113, 3306; Pub. L 103–206, 107 Stat. 2439; 49 U.S.C. 5103, 5106; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

**§ 188.01–3 [Amended]**

■ 272. Amend § 188.01–3 to add, after the words ''dangerous articles or substances.'', the sentence ''The regulations in this subchapter (parts 188, 189, 190, and 193 through 196) have preemptive effect over State or local regulations in the same field.''.

■ 273. Add § 188.01–5 to read as follows:

**§ 188.01–5 Incorporation by reference.**

(a) Certain material is incorporated by reference into this subchapter with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(b) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org.*

(1) NFPA 10, Standard for Portable Fire Extinguishers, 2010 Edition, (''NFPA 10''), IBR approved for § 189.25–20(a).

(2) [Reserved]

## PART 189—INSPECTION AND CERTIFICATION

■ 274. The authority citation for part 189 continues to read as follows:

**Authority:** 33 U.S.C. 1321(j); 46 U.S.C. 2113, 3306, 3307; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; Department of Homeland Security Delegation No. 0170.1.

■ 275. Amend § 189.25–20 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';

■ b. In paragraph (a) introductory text, remove the third sentence; and

■ c. Revise paragraph (a)(1) to read as follows:

**§ 189.25–20 Fire extinguishing equipment.**

(a) * * *

(1) All portable fire extinguishers and semi-portable fire extinguishing systems must be inspected and maintained in accordance with NFPA 10 (incorporated by reference, see § 188.01–5) as amended here:

(i) Certification or licensing by the state or local jurisdiction as a fire extinguisher servicing agency will be accepted by the Coast Guard as meeting the personnel certification requirements of NFPA 10 for annual maintenance and recharging of extinguishers.

(ii) Monthly inspections required by NFPA 10 may be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iii) Non-rechargeable or non-refillable extinguishers must be inspected and maintained in accordance with NFPA 10; however, the annual maintenance need not be conducted by a certified person and can be conducted by the owner, operator, person-in-charge, or a designated member of the crew.

(iv) The owner or managing operator must provide satisfactory evidence of the required servicing to the marine inspector. If any of the equipment or records have not been properly maintained, a qualified servicing facility must perform the required inspections, maintenance procedures, and hydrostatic pressure tests. A tag issued by a qualified servicing organization, and attached to each extinguisher, may be accepted as evidence that the necessary maintenance procedures have been conducted.

## PART 190—CONSTRUCTION AND ARRANGEMENT

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

**Authority:** 46 U.S.C. 2113, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 277. Amend § 190.07–1 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, it its place, the word ''must'';

■ b. In paragraphs (a) and (b), remove the words ''and over'' and add, in their place, the words ''or more'';

■ c. In paragraph (c), after the words ''meet the requirements of § 190.07–90'', add the words ''of this subpart''; and

■ d. Add paragraph (e) to read as follows:

**§ 190.07–1 Application.**

* * * * *

(e) Vessels meeting the structural fire protection requirements of SOLAS, Chapter II–2, Regulations 5, 6, 8, 9, and 11, may be considered equivalent to the provisions of this subpart.

## PART 193—FIRE PROTECTION EQUIPMENT

■ 278. The authority citation for part 193 continues to read as follows:

**Authority:** 46 U.S.C. 2213, 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; Department of Homeland Security Delegation No. 0170.1.

■ 279. Revise § 193.01–3 to read as follows:

**§ 193.01–3 Incorporation by reference.**

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Coast Guard must publish notice of change in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Design and Engineering Standards (CG–ENG), 2703 Martin Luther King Jr. Avenue SE., Stop 7509, Washington, DC 20593–7509, and is available from the sources listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030 or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

(1) ASTM F 1121–87, Standard Specification for International Shore Connections for Marine Fire Applications, 1993, IBR approved for § 193.10–10.

(2) [Reserved]

(c) National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy, MA 02169–7471, 617–770–3000, *http://www.nfpa.org.*

(1) NFPA 13, Standard for the Installation of Sprinkler Systems, 2010 Edition (''NFPA 13''), IBR for § 193.30–1.

(2) [Reserved]

■ 280. Amend § 193.01–5 as follows:

■ a. In paragraph (a), after the words ''vessels of less than 300 gross tons, where'', remove the words ''fire detecting or'', and remove the word ''shall'' and add, in its place, the word ''must''; and

■ b. Add paragraph (b) to read as follows:

**§ 193.01–5 Equipment installed but not required.**

* * * * *

(b) Use of non-approved fire detection systems may be acceptable as excess equipment provided that—

(1) Components are listed by an independent, nationally recognized testing laboratory as set forth in 29 CFR 1910.7, and are designed, installed, tested, and maintained in accordance with an appropriate industry standard and the manufacturer's specific guidance;

(2) Installation conforms to the requirements of 46 CFR, subchapter J (Electrical Engineering), especially the hazardous location electrical installation regulations in 46 CFR 111.105;

(3) Coast Guard plan review is completed for wiring plans; and

(4) The system and units remain functional as intended. To ensure this, marine inspectors may test and inspect the system during routine inspections.

■ 281. Amend § 193.10–5 as follows:

■ a. Revise paragraph (a) to read as follows;

■ b. In paragraph (b), after the words ''On vessels of 1,000 gross tons'', remove the words ''and over'' and add, in their place, the words ''or more'', and remove the word ''shall'' in the first sentence and add, in its place, the word ''must'';

■ c. In paragraphs (d), (e), and (g), remove the word ''shall'' and add, in its place, the word ''must'';

■ d. In paragraph (f), remove the word ''shall'' in the second sentence and add, in its place, the word ''may'', and remove the word ''shall'' in the third sentence and add, in its place, the word ''must'';

■ e. Revise paragraph (h) to read as follows;

■ f. In paragraph (i) introductory text, after the words ''Except as provided for in § 193.10–10(e)'', add the words ''of this subpart''; and

■ g. In paragraph (i)(1)(ii), remove the section number ''§ 193.10–5(i)(1)(i)'' and add, in its place, the section number ''§ 193.10–5(i)(1)(i)(B)''.

**§ 193.10–5 Fire pumps.**

(a) Vessels must be equipped with independently driven fire pumps in accordance with Table 193.10–5(a) of this section.

TABLE 193.10–5(a)—REQUIRED FIRE PUMP SYSTEM

| Gross tons | | Minimum number of pumps | Hose and hydrant size, inches | Nozzle orifice size, inches | Length of hose, feet |
|---|---|---|---|---|---|
| Over | Not over | | | | |
| | 100 | [1] 1 | [1] 1 1/2 | [1] 1/2 | 50 |
| 100 | 1,000 | 1 | 1 1/2 | 5/8 | 50 |
| 1,000 | 1,500 | 2 | 1 1/2 | 5/8 | 50 |
| 1,500 | | 2 | [2] 2 1/2 | [2] 7/8 | [2] 50 |

[1] On vessels of 65 feet in length or less, ¾-inch hose of good commercial grade together with a commercial garden hose nozzle may be used. The pump may be hand operated and the length of hose must be sufficient to assure coverage of all parts of the vessel.

[2] 75 feet of 1½-inch hose and ⅝-inch nozzle may be used where specified by § 193.10–10(b) of this subpart for interior locations and 50 feet 1½-inch hose may be used in exterior locations on vessels in other than ocean or coastwise services. Vessels on ocean or coastwise services may substitute two 1½-inch outlets with two 1½-inch hoses supplied through a wye connection in exterior locations.

* * * * *

(h) Where two fire pumps are required on vessels with main or auxiliary oil-fired boilers or with internal combustion propulsion machinery, the pumps must be located in separate spaces. The pumps, sea connections, and sources of power must be arranged to insure that a fire in any one space will not put all of the fire pumps out of operation. However, where it is shown to the satisfaction of the Commandant that it is unreasonable or impracticable to meet this requirement, the installation of a fixed fire extinguishing system may be accepted as an alternate method of extinguishing any fire that would affect the powering and operation for the required fire pumps.

* * * * *

■ 282. Amend § 193.10–10 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';

■ b. In paragraph (a), after the words ''as noted in Table 193.10–5(a)'', add the words ''of this subpart'';

■ c. Revise paragraph (b) to read as follows;

■ d. In paragraph (c), remove the words ''and over'' wherever they appear and add, in their place, the words ''or more'';

■ e. In paragraph (g), after the words ''with nozzle attached and a spanner'', add the word ''wrench'';

■ f. In paragraph (h), remove the words ''Fire hose'' and add, in their place, the word ''Firehose'';

■ g. In paragraph (j)(1), after the words ''and in the immediate vicinity of each laboratory;'', add the word ''and'';

■ h. In paragraph (j)(2), remove the number ''1000'' and add, in its place, the number ''1,000''; and

■ i. In paragraph (m)(3), after the words ''is permitted by Table 193.10–5(a)'', add the words ''of this subpart'', and in paragraph (m)(4), remove the words ''fire hose'' wherever they appear and add, in their place, the word ''firehose''.

**§ 193.10–10 Fire hydrants and hose.**

* * * * *

(b) In lieu of the 2½-inch hose and hydrants specified in Table 193.10–5(a) of this subpart, on vessels of more than 1,500 gross tons, the hydrants in interior locations may have wye connections for 1½-inch hose. In these cases, the hose must be 75 feet in length, and only one hose will be required at each fire station; however, if all such stations can be satisfactorily served with 50-foot lengths, 50-foot hose may be used. The hydrants for exterior locations may substitute two 1½-inch outlets, each with a 1½-inch hose, supplied through a wye connection.

* * * * *

■ 283. Revise § 193.30–1 to read as follows:

**§ 193.30–1 Application**

Automatic sprinkling systems must comply with Chapter 25 of NFPA 13 (incorporated by reference, see § 193.01–3).

**§ 193.50–1 [Amended]**

■ 284. Amend § 193.50–1 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must''; and

■ b. In paragraph (c), remove the word ''semiportable'' and add, in its place, the word ''semi-portable''.

**§ 193.50–5 [Removed]**

■ 285. Remove § 193.50–5.

■ 286. Revise § 193.50–10 to read as follows:

**§ 193.50–10 Location.**

(a) Approved portable fire extinguishers and semi-portable fire extinguishing systems must be installed in accordance with Table 193.50–10(a) of this section. The location of the equipment must be to the satisfaction of the Officer in Charge, Marine Inspection (OCMI). Nothing in this paragraph must be construed as limiting the OCMI from requiring such additional equipment as he or she deems necessary for the proper protection of the vessel.

(b) Table 193.50–10(a) indicates the minimum required classification for each space listed. Extinguishers with larger numerical ratings or multiple letter designations may be used if the extinguishers meet the requirements of the table.

(c) Semi-portable fire extinguishing systems must be located in the open so as to be readily seen.

(d) If portable fire extinguishers are not located in the open or behind glass so that they may be readily seen, they may be placed in enclosures together with the firehose, provided such enclosures are marked as required by § 196.37–15 of this subchapter.

TABLE 193.50–10(a)—CARRIAGE OF PORTABLE FIRE EXTINGUISHER AND SEMI-PORTABLE FIRE-EXTINGUISHING SYSTEMS

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| *Safety Areas* | | |
| Wheelhouse or fire control room | | None. |
| Stairway and elevator enclosures | | None. |
| Communicating corridors | 2–A | 1 in each main corridor not more than 150 ft apart. (May be located in stairways.) |
| Lifeboat embarkation and lowering stations | | None. |

TABLE 193.50–10(a)—CARRIAGE OF PORTABLE FIRE EXTINGUISHER AND SEMI-PORTABLE FIRE-EXTINGUISHING SYSTEMS—Continued

| Space | Minimum required rating | Quantity and location |
|---|---|---|
| Radio room | 20–B:C [1] | 2 in the vicinity of the exit.[1] |
| *Accommodations* | | |
| Staterooms, toilet spaces, public spaces, offices, lockers, isolated storerooms, pantries, open decks, etc. | | None. |
| *Service spaces* | | |
| Galleys | 40–B:C | 1 for each 2,500 sq ft or fraction thereof. |
| *Machinery spaces* | | |
| Paint and lamp rooms | 40–B | 1 outside space in the vicinity of the exit. |
| Accessible baggage, mail, and specie rooms, and storerooms. | 2–A | 1 for each 2,500 sq ft or fraction thereof located in the vicinity of the exits, either inside or outside the spaces. |
| Carpenter shop and similar spaces | 2–A | 1 outside the space in the vicinity of the exit. |
| Coal-fired boilers: Bunker and boiler space | | None. |
| Oil-fired boilers: Spaces containing oil-fired boilers, either main or auxiliary, or their fuel-oil units. | 40–B | 2 required.[2] |
| | 160–B | 1 required.[3] |
| Internal combustion or gas turbine propelling machinery spaces. | 40–B | 1 for each 1,000 brake horsepower, but not fewer than 2 nor more than 6.[4] |
| | 120–B | 1 required.[5 6] |
| Electric propulsive motors or generators of open type | 40–B:C | 1 for each propulsion motor or generator unit. |
| Enclosed ventilating systems for motors and generators of electric propelling machinery. | | None. |
| Auxiliary spaces: | | |
| Internal combustion gas turbine | 40–B | 1 outside the space in vicinity of the exit.[6] |
| Electric emergency motors or generators. | 40–B:C | 1 outside the space in vicinity of the exit.[7] |
| Steam | | None required. |
| Trunks to machinery spaces | | None required. |
| Fuel tanks. | | None required. |
| *Scientific spaces* | | |
| Chemistry laboratory or scientific laboratory | 40–B:C | 2 for each 300 sq ft of deck space or fraction thereof, with one (1) of each kind located in the vicinity of the exit. |
| Chemical storeroom | 40–B:C | Same as for the chemistry laboratory. |
| *Spare Units* | | |
| | 2–A | 10 percent of required units rounded up. |
| | 40–B:C | 10 percent of required units rounded up. |

[1] For vessels on an international voyage, substitute one 40–B:C in vicinity of the exit.
[2] Vessels of fewer than 1,000 GT require one.
[3] Vessels of fewer than 1,000 GT may substitute one 120–B.
[4] Only one required for motorboats.
[5] If oil burning donkey boiler fitted in space, the 160–B previously required for the protection of the boiler may be substituted. Not required where a fixed carbon dioxide system is installed.
[6] Not required on vessels of fewer than 300 GT if fuel has a flash-point higher than 110 °F.
[7] Not required on vessels of fewer than 300 GT.

(e) Portable fire extinguishers and their stations must be numbered in accordance with § 196.37–15 of this subchapter.

(f) Portable or semi-portable extinguishers, which are required on their nameplates to be protected from freezing, must not be located where freezing temperatures may be expected.

**§ 193.50–15 [Removed]**

■ 287. Remove § 193.50–15.

■ 288. Amend § 193.50–20 as follows:

■ a. Revise the section heading to read as follows;

■ b. In paragraph (a), remove the words ''size III, IV, and V'' and add, in their place, the word ''semi-portable'', and after the words ''required by Table 193.50–10(a)'', add the words ''of this subpart'';

■ c. In paragraph (b), remove the words ''size III, IV, or V'' and add, in their place, the word ''semi-portable'', and after the words ''required by Table 193.50–10(a)'', add the words ''of this subpart''; and

■ d. Add new paragraph (c) to read as follows:

**§ 193.50–20 Semi-portable fire extinguishers.**

* * * * *

(c) Semi-portable extinguishers must be fitted with suitable hose and nozzle, or other practicable means, so that all areas of the space can be protected.

■ 289. Add § 193.50–80 to read as follows:

**§ 193.50–80 Locations and number of fire extinguishers required for vessels constructed prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE].**

Vessels contracted for prior to [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE], must meet the following requirements:

(a) Previously installed extinguishers with extinguishing capacities smaller than what is required in Table 193.50–10(a) of this subpart need not be replaced and may be continued in service so long as they are maintained in good condition to the satisfaction of the Officer in Charge, Marine Inspection.

(b) All new equipment and installations must meet the applicable requirements in this subpart for new vessels.

**§ 193.50–90 [Amended]**

■ 290. Amend § 193.50–90 as follows:

■ a. Remove the word ''shall'' wherever it appears and add, in its place, the word ''must'';

■ b. In paragraph (a)(1), remove the words ''§§ 193.50–5 through 193.50–

15'', and add, in its place, the words ''§ 193.50–10 of this subpart,'';

■ c. In paragraph (a)(2), remove the words ''of §§ 193.50–5 through 193.50–15'', and add, in its place, the words ''§ 193.50–10 of this subpart'', and after the text ''Table 193.50–10(a)'' wherever it appears, add the words ''of this subpart''; and

■ d. Add and reserve paragraph (b).

Dated: December 11, 2013.

**J.G. Lantz,**

*Director of Commercial Regulations and Standards, U.S. Coast Guard.*

[FR Doc. 2013–29863 Filed 1–10–14; 8:45 am]

**BILLING CODE 9110–04–P**

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