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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2014–0078; Special Conditions No. 25–543–SC]

Special Conditions: Embraer S.A., Model ERJ–170 Airplanes; Seats With Large, Non-Traditional, Non-Metallic Panels

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Embraer Model ERJ–170 airplanes. This airplane will have a novel or unusual design feature associated with interior arrangements that include passenger seats that incorporate non-traditional, large, non-metallic panels in lieu of the traditional metal frame covered by fabric. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is March 3, 2014. We must receive your comments by April 17, 2014.

ADDRESSES: Send comments, identified by docket number FAA–2014–0078, using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations 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: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98057–3356; telephone 425–227–2194; facsimile 425–227–1232.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive on or before the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On July 2, 2013, Embraer applied for a change to Type Certificate No. A57NM to include seats with large, non-traditional, non-metallic panels in Embraer Model ERJ–170 airplanes. The Embraer ERJ–170 airplanes are low-wing, conventional tail, twin turbofan, transport-category airplanes. They can seat up to 88 passengers.

The applicable regulations to airplanes currently approved under Type Certificate No. A57NM do not require seats to meet the more-stringent flammability standards required of large, non-metallic panels in the cabin interior. At the time the applicable rules were written, seats were designed with a metal frame covered by fabric, not with large, non-metallic panels. Seats also met the then-recently adopted standards for flammability of seat cushions. With the seat design being mostly fabric and metal, their contribution to a fire in the cabin had been minimized and was not considered a threat. For these reasons, seats did not need to be tested to heat-release and smoke-emission requirements.

Seat designs have now evolved to occasionally include large, non-traditional, non-metallic panels. Taken in total, the surface area of these panels is on the same order as the sidewall and overhead-stowage-bin interior panels. To provide the level of passenger protection established by the airworthiness standards, these large, non-traditional, non-metallic panels in the cabin must meet the standards of Title 14, Code of Federal Regulations (CFR) part 25, Appendix F, parts IV and V, heat-release and smoke-emission requirements.

Type Certification Basis

Under the provisions of § 21.101, Embraer must show that the ERJ–170, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in A57NM or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type-certification basis.'' The regulations incorporated by reference in A57NM are as follows:

14 CFR part 25, Amdts. 25–1 through 25–101 in entirety. In addition, the certification basis includes certain special conditions, exemptions, or later amended sections of the applicable part that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (e.g., 14 CFR part 25) do not contain adequate or appropriate safety standards for Embraer Model ERJ–170 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, ERJ–170 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.101.

Novel or Unusual Design Features

The ERJ–170 will incorporate the following novel or unusual design features:

These models offer interior arrangements that include passenger seats that incorporate large, non-traditional, non-metallic panels in lieu of the traditional metal frame covered by fabric. The flammability properties of these panels have been shown to significantly affect the survivability of cabin occupants in the event of fire. These seats are considered a novel design for transport-category airplanes that include Amendment 25–61 and Amendment 25–66 in the certification basis, and were not considered when those airworthiness standards were established.

The existing regulations do not provide adequate or appropriate safety standards for seat designs that incorporate large, non-traditional, non-metallic panels in their designs. To provide a level of safety that is equivalent to that afforded to the balance of the cabin, additional airworthiness standards, in the form of special conditions, are necessary. These special conditions supplement § 25.853. The requirements contained in these special conditions consist of applying the identical test conditions, required of all other large panels in the cabin, to seats with large, non-traditional, non-metallic panels.

Discussion

In the early 1980s, the Federal Aviation Administration (FAA) conducted extensive research on the effects of post-crash flammability in the passenger cabin. As a result of this research and service experience, the FAA adopted new standards for interior surfaces associated with larger surface-area parts. Specifically, the rules require measurement of heat release and smoke emission (part 25, Appendix F, parts IV and V) for the affected parts. Heat release has been shown to have a direct correlation to post-crash fire-survival time. The materials that comply with the standards (e.g., § 25.853, ''Compartment Interiors,'' as amended by Amendments 25–61 and 25–66) were found to extend survival time by approximately two minutes over materials that do not comply.

At the time Amendment 25–61 was written, the potential application of the requirement to seats was explored. The seat frame itself was not a concern because it was primarily made of aluminum and incorporated only small amounts of non-metallic materials (for example, a food-tray table and armrest closeout). The FAA determined that the overall effect on survivability was negligible, whether or not these panels met the heat-release and smoke-emission requirements. The requirements therefore did not address seats, and the preambles to both Notice of Proposed Rule Making (NPRM) 85–10 and the final rule (Amendment 25–61) specifically note that they were excluded ''. . . because the recently adopted standards for flammability of seat cushions will greatly inhibit involvement of the seats'' in their post-crash fire.

In the late 1990s, when it became clear that seat designs were evolving to include large non-metallic panels with surface area that would impact survivability during a cabin-fire event compared to partitions or galleys, the FAA issued Policy Memorandum 97–112–39. This memo noted that large surface-area panels must comply with heat-release and smoke-emission requirements, even if they were attached to a seat. If the FAA had not issued such policy, seat designs would have been an exception to the airworthiness standards, which could result in an unacceptable decrease in survivability during a cabin-fire event.

Definition of ''Large, Non-Traditional, Non-Metallic Panel''

A large, non-traditional panel, in this case, is defined as a panel with exposed-surface areas greater than 1.5 square feet installed per seat place. The panel may consist of either a single component or multiple components in a concentrated area. Examples of non-traditional areas include, but are not limited to, seat backs, bottoms and leg/foot rests, kick panels, back shells, and associated furniture. Examples of traditional, exempted areas include, but are not limited to, arm caps, armrest close-outs, and items such as end-bays and center consoles, food trays, video monitors, and shrouds.

Clarification of ''Exposed''

''Exposed'' is considered to include those panels directly exposed to the passenger cabin in the traditional sense, plus those panels enveloped, such as by a dress cover. Traditional fabrics or leathers currently used on seats are excluded from the special conditions. These materials must still comply with § 25.853(a) and (c) if used as a covering for a seat cushion, or § 25.853(a) if installed elsewhere on the seat. Large, non-metallic panels covered with traditional fabrics or leathers will be tested without their coverings or covering attachments.

Applicability

As discussed above, these special conditions are applicable to Embraer Model ERJ–170 airplanes. Should Embraer apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon publication in the **Federal Register**. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type-certification basis for Embraer Model ERJ–170 airplanes:

1. Compliance with part 25, Appendix F, parts IV and V, heat release and smoke emission, is required for seats that incorporate large, non-traditional, non-metallic panels that may either be a single component or multiple components in a concentrated area in their design.

2. The applicant may designate up to and including 1.5 square feet of non-traditional, non-metallic panel material per seat place that does not have to comply with No. 1. A triple seat assembly may have a total of 4.5 square feet excluded on any portion of the assembly (e.g., outboard seat place 1 sq. ft., middle 1 sq. ft., and inboard 2.5 sq. ft.)

3. Seats need not meet the test requirements of Title 14 CFR part 25 Appendix F, parts IV and V when installed in compartments that are not otherwise required to meet these requirements. Examples include:

a. Airplanes with passenger capacities of 19 or fewer.

b. Airplanes that do not have smoke emission and heat release in their certification basis and do not need to comply with the requirements of § 121.312.

c. Airplanes exempted from heat-release and smoke-emission requirements.

4. Only airplanes associated with new-seat certification programs approved after the effective date of these special conditions will be affected by the requirements in these special conditions. Previously certificated interiors on the existing airplane fleet and follow-on deliveries of airplanes with previously certificated interiors are not affected.

Issued in Renton, Washington, on February 21, 2014.

John P. Piccola, Jr.,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04559 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2011–0562; Directorate Identifier 2011–CE–015–AD; Amendment 39–17740; AD 2014–03–03]

RIN 2120–AA64

Airworthiness Directives; Cessna Aircraft Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Cessna Aircraft Company (Cessna) Models 310, 320, 340, 401, 402, 411, 414, and 421 airplanes. This AD was prompted by an investigation of recent and historical icing-related accidents and incidents for the products listed above. This AD requires either having the supplemental airplane flight manual/airplane flight manual supplement (SAFM/AFMS) inside the airplane and accessible to the pilot during the airplane's operation or installing a placard that prohibits flight into known icing conditions and installing a placard that increases published airspeed on approach at least 17 mph (15 knots) in case of an inadvertent encounter with icing. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective April 7, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in the AD as of April 7, 2014.

ADDRESSES: For service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com*; Internet: *http://www.cessna.com/*. You may review copies of the referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2011–0562; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Withers, Program Manager, FAA, Wichita Aircraft Certification Office, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4137; fax: (316) 946–4107; email: *dan.withers@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Cessna Aircraft Company (Cessna) Models 310, 320, 340, 401, 402, 411, 414, and 421 airplanes. The NPRM published in the **Federal Register** on June 3, 2011 (76 FR 32103). The NPRM proposed to require you to install a placard that prohibits flight into known icing conditions and install a placard that increases published airspeed on approach at least 17 mph (15 knots) in case of an inadvertent encounter with icing. We are issuing this AD to prohibit flight into known icing conditions as well as increase the approach speed in case of an inadvertent encounter with icing. This condition, if not corrected, could

result in unusual flight characteristics that could lead to loss of control after flight into known icing conditions or an inadvertent encounter with icing conditions. Based on the data, an example of the unusual flight characteristics seen in many of the accidents is high sink speeds that resulted in a hard landing.

After publication of the NPRM (76 FR 32103, June 3, 2011), we re-evaluated our certification under the Regulatory Flexibility Act (RFA) that the proposed rule would not, if promulgated, have a significant impact on a substantial number of small entities. Based on our re-evaluation, we determined that the proposed rule would, if promulgated, have a significant impact on a substantial number of small entities. We completed an initial regulatory flexibility analysis (IRFA) and issued an availability of the IRFA that invited comments from the public. The availability of the IRFA published in the **Federal Register** on October 1, 2012 (77 FR 59873). We received no comments on the IRFA that pertained to cost and required a change to the IRFA. We completed the final regulatory flexibility analysis that is partially included in this AD. You may examine the complete analysis in the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2011-0562*

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (76 FR 32103, June 3, 2011) and the availability of the IRFA (77 FR 59873, October 1, 2012) and the FAA's response to each comment.

Support for the Proposed AD (76 FR 32103, June 3, 2011)

Deborah A.P. Hersman, Chairman of the National Transportation Safety Board (NTSB) wrote supportive comments for the NPRM (76 FR 32103, June 3, 2011).

Deborah A.P. Hersman agreed that pilots of airplanes that have not been certificated for flight into known icing conditions may not realize that, even with deice boots or other similar equipment installed, the airplanes are not certificated for flight into known icing conditions. Further, Deborah A.P. Hersman noted the NTSB has investigated accidents involving the Cessna airplane models identified in the NPRM (76 FR 32103, June 3, 2011) that have accreted ice while operating in atmospheric icing conditions, which led to an increase of the stall speed.

Deborah A.P. Hersman commented that small amounts of ice on the protected and unprotected surfaces accreted in inadvertent icing encounters could result in potentially large increases in the stall speed and changes to the handling characteristics, to the point of experiencing aerodynamic stall or loss of control with no stall warning.

Kim Hackett of Cessna supported FAA's issuance of an AD mandating accomplishment of Cessna Service Bulletin MEB97–4. The service bulletin fulfills the requirements of the AD as outlined in the NPRM (76 FR 32103, June 3, 2011) regarding installation of a placard to prohibit flight into known icing on airplanes not specifically approved for such operations.

We have made no changes to this AD action based on these comments.

Request FAA Use Pilot Training To Address This Safety Concern

Kenneth Sutton, Linda Marlene Honegger of Corporate Aviation Services, LLC, Ed, Michael Burwell, Gary Thomas O'Toole, Gary Norton, James Creamer, Clayton Conrad of Squadron 2, Rich Clover, Fred von Zabern, Walter Embke, Harold Gaier, Alan Nicol of AeroFlight Academy of Aviation, Inc., Jeffrey Gaier, Kristine Hartzell of the Aircraft Owners and Pilots Association (AOPA), John Halbur, Kent William Potter, and Joeseph M. Lambert of Northern Skies Aviation requested pilot training be used to address this safety concern.

Gary Thomas O'Toole, Gary Norton, Fred von Zabern, and Alan Nicol of AeroFlight Academy of Aviation, Inc. expressed that the solution to this issue would be recurrent training for pilots, with Fred von Zabern stating that this training should be required.

Alan Nicol of AeroFlight Academy of Aviation, Inc. felt that the training and procedures they developed have resulted in safely operating in icing conditions; therefore, he believes there is no unsafe condition. Walter Embke noted that the proposal of increased approach airspeed in icing is good judgment in any airplane.

William West and Kristin Winter also commented that this safety concern should be addressed through training and education of pilots. They further elaborated that airplanes without de-icing equipment can operate in icing conditions. Kristin Winter reasoned that design of the airplane and available excess horsepower are greater factors than installed de-icing equipment. William West also felt the training and education would benefit pilots on other airplanes in addition to the Cessna's twin piston-engine airplanes.

We do not agree with these comments. The FAA recognizes that training and education could benefit all pilots, not just pilots of Cessna's twin piston-engine airplanes. The FAA sponsored development of numerous icing training products for general aviation pilots, revised Advisory Circular (AC) 91–74A, Pilot Guide: Flight in Icing Conditions (*rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/4c8192bb0b733862862573d2005e7151/$FILE/AC%2091-74A.pdf*), with safety information, as well as issued Special Airworthiness Information Bulletin (SAIB) CE–11–18, Ice/Rain Protection System—Stall Warning Stall Warning System Characteristics in Icing Conditions (*rgl.faa.gov/Regulatory_and_Guidance_Library/rgSAIB.nsf/0/eb2e63f033aa98ad8625782200586295/$FILE/CE-11-18.pdf*). The FAA wrote SAIB CE–11–18 to inform pilots of normal, utility, acrobatic, and commuter category (part 23) airplanes certificated before the year 2000 of the potential hazards associated with stall warning characteristics in icing conditions. However, there are no mandatory FAA requirements for a pilot to receive training on icing. Furthermore, training cannot be relied upon to correct this unsafe condition.

Service history has shown training alone cannot keep a pilot from inadvertently flying closer to stall. It may be possible, for an airplane with adequate power, to fly in the middle of the flight envelope in light icing conditions; however, icing conditions can vary greatly. Even a light accretion will reduce safety margins, such as stall warning, and contribute to the unsafe condition.

Training cannot compensate for an airplane not equipped to handle the icing environment specified in the regulations. The airplane manufacturer has placed a limitation on the airplane based on the installed equipment that has not been shown acceptable for flight into known icing conditions. Therefore, we have determined that an unsafe condition exists when these airplanes operate in icing conditions.

We have made no changes to this AD action based on these comments.

Request Change AD Requirements

Kenneth Sutton, Ed, Michael Burwell, Rolf G. Fuchs, John W. Savage, Brian Boyter, Clayton Conrad of Squadron 2, Rich Clover, The Honorable Todd Rokita, Member of Congress, and Kristine Hartzell of AOPA requested that both placards not be required because the operating manual already states a limitation or there is no room

in the cockpit for the additional placards.

The Honorable Todd Rokita, Member of Congress, and Kristine Hartzell of AOPA wrote that a placard prohibiting flight into known icing conditions is redundant. One commenter felt that a placard would not be sufficient to keep a pilot from flying into icing conditions. Clayton Conrad recommended creating an additional page in the flight manual.

We partially agree that there may not be enough room for the placards on the cockpit because of other installed equipment or other placards. However, we disagree that there is already a limitation on the airplanes because the certification basis for these airplanes either requires an FAA-approved flight manual or appropriate placards that state the required information.

Based on feedback on the lack of space to put placards in the airplane, we created an SAFM/AFMS to use in lieu of installing both of the placards and changed the AD's requirements to require either the SAFM/AFMS or the placards. We included the SAFM/AFMS as Appendix 1 to this AD.

Request FAA Withdraw the NPRM (76 FR 32103, June 3, 2011) Since Pilots Know When an Airplane Is Certificated for Flight Into Known Icing

Michael Burwell, Rolf G. Fuchs, Brian Boyter, and John Halbur commented that the AD is not necessary since pilots know when an airplane is certificated for flight into known icing conditions. Michael Burwell wrote that from a practical perspective, a pilot who has the experience and training to fly multi-engine airplanes is going to know whether it is certificated for flight into known icing conditions.

Rolf G. Fuchs noted that, unless otherwise stated, small airplanes are not certificated for flight into known icing conditions.

Brian Boyter commented that it is already illegal to fly into known icing conditions unless the airplane is certificated for operation into known icing conditions. John Halbur stated that the airplanes listed in Cessna Service Bulletin MEB97–4, dated March 24, 1997, are not certificated for flight into known icing conditions, but they are allowed to be flown into known icing conditions when properly equipped as stated in part 135.227.

We disagree with these comments because the limitations section of an FAA-approved AFM or placards are the only legal method in 14 CFR part 91 operations to prohibit an airplane from flight into known icing conditions, without permanently grounding the airplanes. The certification basis for these airplanes either requires an FAA-approved flight manual or appropriate placards that state the required information.

In response to Brian Boyter's comments, the answer is complex: In some cases, the answer is that it is not necessarily illegal to fly into known icing conditions if the airplane has not been certificated for known icing. The term certificated for known icing came into being about the mid-1970s when some of the airplane certification rules and criteria to install ice equipment on airplanes were changed. So, in some earlier applications, the manufacturer may have installed what is commonly referred to today as a ''no-hazard system'' and would not have been required to specify if the airplanes were intended to fly into icing conditions.

For airplanes not subject to 14 CFR 91.527 (Subpart F) or 14 CFR 135.227, and not operating under 14 CFR part 121 or 14 CFR part 125, 14 CFR 91.9 is applicable. An AFM limitation or placard is required to prohibit an airplane from flight into known icing conditions. 14 CFR 91.9 would take priority over 14 CFR 91.527 or 14 CFR 135.227, for example, for an airplane that was equipped but certificated as specified in those regulations.

Since there is no FAA-approved flight manual for most of the airplanes identified in this AD, the FAA is mandating either installing placards or an SAFM/AFMS we created to use in lieu of installing both of the placards. We included the SAFM/AFMS as Appendix 1 to this AD.

We have made no changes to this AD action based on these comments.

Request FAA Clarify Definition of ''Icing Conditions''

John Halbur, Jeff Veers of Aviation on Demand LLC, Gary Norton, Brad Hoeltzner, William West, and Tracy A. Schoenrock of Pro Aire Cargo & Consulting commented that the AD, as written, would ground all airplanes that are not certificated for flight into known icing conditions anytime icing conditions are forecast and needlessly limit the ability to dispatch affected airplanes in the winter months.

William West commented that the FAA has not defined what known icing conditions are and further noted that this AD will result in fewer submissions of pilot reports (PIREPS) because of the fear that pilots will have enforcement action taken against them. Brad Hoeltzner stated that the definition for flight into known icing conditions is if there are clouds (visible moisture) and that the temperature is below 32 degrees Fahrenheit. We conclude that commenters want the FAA to further define ''icing conditions.''

We do not agree with the comments since the AD will prohibit airplanes from flying into only known icing conditions.

The definition of known icing conditions were defined in a legal interpretation to AOPA on January 16, 2009, and it is defined in the FAA-issued Aeronautical Information Manual (AIM) (*faa.gov/air_traffic/publications/atpubs/aim/*).

Flight in potential icing conditions (visible moisture such as clouds at freezing temperatures), as well as forecast icing, are not prohibited, as long as there are no relevant PIREPs. If an applicable airplane encounters icing in an area with no prior reported icing and the pilot takes precautions to minimize an encounter and follows an exit strategy that had been planned on pre-flight, the pilot should not be concerned about legal action. The FAA does not want to discourage submission of PIREPs.

We have made no changes to this AD action based on these comments.

Request FAA Remove AD's Requirement To Increase the Speed on Approach

Rolf G. Fuchs, John W. Savage, William West, Kim Hackett of Cessna, and Kristine Hartzell of AOPA requested the FAA remove the requirement to increase the speed on approach. Rolf G. Fuchs commented that having a mandated speed cannot take into account the real life operating conditions on a particular flight and there is no factual support for the speed increase to be stated on the placard.

Rolf G. Fuchs, John W. Savage, William West, and Kim Hackett of Cessna commented that the placard was not necessary since it was standard procedure and Cessna has an inadvertent icing encounter procedure that states to increase airspeed on approach. Kristine Hartzell stated concerns about the unintended consequence of pilots having runway overrun accidents due to increased approach speeds.

We agree that having a mandated speed cannot take into account the real life operating conditions on a particular flight and that landing distance will increase as the approach speed increases because variations in the icing conditions could require additional speed.

The FAA recognizes that Cessna has a procedure for inadvertent icing encounters in their owner's manual and pilot safety and warning supplements (PSWS), which provides guidance to

pilots for dealing with inadvertent icing. This procedure for inadvertent icing encounters provides information for the pilot to increase airplane speed on approach and increase airplane landing distance; however, the owner's manual or PSWS are not required to be carried in the airplane.

Landing distance data is not required by the certification basis for many of the airplanes identified in this AD. In FAA–H–8083–25A, Pilot's Handbook of Aeronautical Knowledge (*faa.gov/library/manuals/aviation/pilot_handbook/media/*), there is guidance for what happens to landing distance when a pilot increases airspeed on approach. It is assumed that this is general pilot knowledge.

Based on the number of hard landings attributed to these airplane models, guidance in FAA–H–8083–25A, and feedback received on the NPRM (76 FR 32103, June 3, 2011), the FAA deemed it appropriate to quantify how much to increase the approach speed and add clarification to the procedure specified in the owner's manual and PSWS to avoid high sink speeds upon landing. We changed the required placard's text to read ''at least 17 mph (15 knots).'' We also inserted in the note section of Appendix 1 of this AD (the SAFM/AFMS) language that tells the pilot to increase their landing distance by a factor of at least 1.5. This factor was calculated based on the change in energy due to the increase in approach speed (Vapp+17mph)^2/Vapp^2. Based on accident history, a runway overrun on this class of airplane has less chance of being fatal than a stall on approach.

Request FAA Change Placard to State: ''Not Certified for Flight Into Known Icing Conditions''

Brad Hoeltzner requested the FAA change the placard to state: ''Not Certified for Flight into Known Icing Conditions.'' Brad Hoeltzner wrote this would meet the requirements of informing the pilot that his airplane has not been certificated or tested to meet a standard for flight into known icing conditions but, when properly equipped, has been approved or accepted as satisfactory. The airplanes listed in Cessna Service Bulletin MEB97–4, dated March 24, 1997, are not certificated for flight into known icing conditions, but they are allowed to be used when properly equipped as stated in 14 CFR 135.227.

We disagree with the request. The intent of the placard is to prohibit flight into known icing conditions for the airplanes identified since the airplanes are not properly equipped and have not been shown to be safe to operate in the conditions specified by the regulations. Based on the guidance in AC 135–9, FAR Part 135 Icing Limitations (*rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/3f83f89f0ef9ca17862569eb006cf35c/$FILE/AC135-9.pdf*), the airplane will not meet the requirements of 14 CFR 135.227.

We have made no changes to this AD action based on these comments.

Request Applicability Include All Cessna Twin Piston-Engine Airplanes

Brad Hoeltzner commented that this AD should apply to all Cessna twin-engine airplanes. He reasoned that the performance differences between airplanes certificated for flight into known icing conditions and airplanes non-certificated for flight into known icing conditions is very minor when icing is encountered.

We do not agree with the comments. The airplanes and their system performance do vary between the certificated and non-certificated variants identified. As an example, due to performance limitations of the airplane, Cessna added a de-ice boot on the vertical tail of the Model 310 airplane to remove the additional ice. For the same reason, they also had to add de-ice boots on the wing between the engine nacelle and fuselage of the Model 310 airplane.

We have made no changes to this AD action based on these comments.

Request AD Allow Pilot To Install the Placard

John W. Savage commented that the AD should allow the pilot to install the placard.

We have determined that the pilot should be able to install the placards provided the airplane is not used in 14 CFR part 119 operations. No special training or tools are required to do this action and, thus can adequately be done by a pilot or a mechanic. The pilot must record compliance in the aircraft's maintenance records in accordance with applicable regulations.

We have changed the final rule to make this allowance.

Request AD's Applicability Not Include the Model 421C Airplane

Gary Norton requested the AD's applicability not include the Model 421C airplane.

We agree with the comments. The NPRM (76 FR 32103, June 3, 2011) did not include the Model 421C airplane in paragraph (c), the Applicability section, and this AD does not include the Model 421C in paragraph (c), the Applicability section.

We have made no changes to this AD action based on these comments.

Request FAA Address This Safety Concern in ACs

Clayton Conrad of Squadron 2 requested the FAA use ACs to address safety concerns for airplanes that may have anti/de-icing systems but are not approved for flight into known icing.

We do not agree with these comments. This is a special circumstance where most of the inadvertent icing systems already have a placard prohibiting flight into known icing conditions; an advisory circular in this instance would not fully address the unsafe condition since advisory circulars are advisory in nature and not required actions.

We have made no changes to this AD action based on these comments.

Request FAA Withdraw the NPRM (76 FR 32103, June 3, 2011) Because of Confusing Data

Jeff Veers of Aviation on Demand LLC, and Alan Nicol of AeroFlight Academy of Aviation, Inc. requested the FAA withdraw the NPRM (76 FR 32103, June 3, 2011). Jeff Veers reasoned that 51 incidents and accidents during the past 30 years do not appear to be a statistically significant number to warrant AD action.

Kim Hackett and Joshua Southard of Cessna and Alan Nicol found it unclear from the NPRM (76 FR 32103, June 3, 2011) how many of the 51 reported icing-related accidents and incidents were directly attributed to continued flight in icing conditions by airplanes not properly equipped or certificated for flight into these conditions. They noted it is also unclear how many of these icing-related accidents and incidents might have been prevented if the placard defined in Cessna Service Bulletin MEB97–4, dated March 24, 1997, had been installed. Joshua Southard of Cessna stated that the AD does not specify the accident rate per 100,000 operating hours.

Jeff Veers asked the FAA the questions: How does this rate of occurrence compare to other airplane models when considering hours flown and do airplanes of the same model that are certificated for flight into known icing conditions have a similar record?

We do not agree with the comments. There were actually more icing-related accidents for the airplane models identified, but as part of the analysis in support of this rule, airplanes and their equipment involved with the incidents were carefully evaluated. The NTSB factual and probable causes on NTSB's Web site, as well as the NTSB dockets,

were evaluated to determine that if this AD had been in place, could the accidents have been prevented.

As part of determining what level of action to take, the FAA used a risk-based determination assessment. This analysis takes into account the total number of events, their severity (accident opposed to incident, fatality opposed to no injuries), the total number of airplanes, and an estimate of the average number of flight hours per airplane per year. Based on this analysis and FAA guidelines for risk acceptance, this AD action is warranted.

In response to Jeff Veers' question of ''how does this rate of occurrence compare to other airplane models when considering hours flown?'', we believe that the rate of occurrence cannot be logically compared to other models that are not affected by this AD since they do not have the same aerodynamic design nor do they have the same de-icing equipment.

As to Jeff Veers' question of ''do airplanes of the same model that are certificated for flight into known icing conditions have a similar record?'', that analysis was not done since Cessna did not issue a service bulletin to limit those airplanes from flight into known icing. In response to Kim Hackett and Alan Nicol, the airplanes in the 51 icing-related accidents and incidents were all believed to have been equipped with some or all of the de-ice equipment available for these airplane models.

The FAA filtered the data to not consider icing related accidents and incidents on airplanes that were not equipped with de-ice equipment or where the de-ice equipment was not functional. The FAA believes that all of these accidents could have been avoidable if the placard specified by Cessna Service Bulletin MEB97–4 had been installed, the limitations were followed, and/or the pilots had increased their speed on approach.

We have made no changes to this AD action based on these comments.

Request FAA Provide a Means To Equip Airplanes To Allow Flight Into Known Icing

Jeff Veers of Aviation on Demand LLC and Walter Embke requested FAA provide a means to equip airplanes to allow flight into known icing conditions.

Jeff Veers reasoned that since later models of the airplanes identified in this AD have been certificated for flight into known icing, it seemed reasonable that earlier models could be equally equipped and certificated.

Walter Embke noted the need for the FAA to clarify what equipment is needed to be added or retrofitted to this class of airplane to meet equipment requirements to operate in limited icing conditions.

We disagree with the request. It is not the FAA's responsibility to provide design data; only to review and, if acceptable, approve such data. If an owner/operator submits substantiating data to support modifications as an alternative method of compliance (AMOC) to this requirement, the FAA will review and consider all AMOC requests we receive provided they follow the procedures in 14 CFR 39.19 and this AD.

We have made no changes to this AD action based on these comments.

Request FAA Consider All Costs Associated With Compliance

Jeff Veers of Aviation on Demand LLC, Harold Gaier, Jeffery Gaier, and Alan Nicol of AeroFlight Academy of Aviation, Inc. requested the FAA consider all costs associated with compliance with this AD. They commented the identified costs in the NPRM (76 FR 32103, June 3, 2011) did not reflect the operational ramifications and the loss of revenue to companies and/or individuals.

Jeff Veers stated that based on this AD, limiting these airplanes from flight into known icing conditions, Aviation on Demand LLC would be affected by tens of thousands of dollars due to the inability to fly the identified airplanes into known icing conditions.

Alan Nicol stated that the costs directly associated with the NPRM (76 FR 32103, June 3, 2011) as written are minimal; however, the indirect costs to AeroFlight Academy of Aviation, Inc. and other operators or individuals could easily exceed their ability to continue operations. Mr. Nicol believes that the inability to operate airplanes in known icing conditions would be a crippling blow in his region of the country. Alan Nicol commented that the overall annual losses for just AeroFlight Academy of Aviation, Inc. could exceed $1,000,000 if the NPRM (76 FR 32103, June 3, 2011) was adopted as proposed. The commenter feels the company would be unable to continue to meet their daily contractual obligations due to a lack of operational airplanes, and further losses would likely follow due to the loss in value of AeroFlight's assets, primarily the value of the airplanes. Alan Nicol also noted that this rule violates Executive Order 12866.

We agree with the request. The requirement for the cost section of an AD is to state the time and cost associated with completing the AD. This would be installing a placard or incorporating an AFM; not a huge workload or cost.

The FAA recognizes there is an impact to operations (and loss of revenue) due to the limitations on the airplanes imposed by this AD. The FAA completed the IRFA, and its availability was published in the **Federal Register** (77 FR 59873, October 1, 2012). We completed the final regulatory flexibility analysis, partially included in this AD action. You may examine the complete analysis in the AD docket on the Internet at *http://www.regulations.gov*. The FAA determined that the safety benefit provided by mandating the changes to the airplane operational limitations outweighs the overall cost of compliance. This determination is consistent and in compliance with Executive Order 12866.

Based on these comments, we have added some language explaining the regulatory flexibility analysis to this AD action and have expanded the cost section to include the operational costs associated with this AD action.

Request FAA Address Flight Into Known Icing Conditions by Airplanes Not Approved for Icing as a Global Industry-Wide Issue

Kim Hackett of Cessna wrote that flight into icing conditions by airplanes not approved for icing is an industry-wide issue, and the FAA needs to consider it in a much more ''global'' context than is presented in the NPRM (76 FR 32103, June 3, 2011). To this end, Kim Hackett recommended the FAA address this issue through publication of a document such as a safety alert for operators (SAFO), information for operators (InFO), AC, SAIB, or supplement to the AIM (*faa.gov/air_traffic/publications/atpubs/aim/*).

We agree that flight into known icing conditions by airplanes not approved for icing is an industry-wide issue, and we should consider it in a much more ''global'' context than is presented in the NPRM (76 FR 32103, June 3, 2011). The FAA has issued numerous reference publications (SAFO, InFO, AC, and SAIBs) to the public, and we will continue to issue publications and take action as necessary.

This AD is necessary to address and clarify the limitation of the identified airplane models in this AD as well as to address the large number of icing-related accidents and incidents that have occurred due to hard landings related to operations in icing conditions.

The FAA published SAIB CE–11–18 (You may find the SAIB at *rgl.faa.gov/Regulatory_and_Guidance_Library/rgSAIB.nsf/0/eb2e63f033aa98ad8625782200586295/$FILE/CE-11-18.pdf*)

to inform pilots of normal, utility, acrobatic, and commuter category (part 23) airplanes certificated before year the 2000 of the potential hazards associated with stall warning characteristics in icing conditions. We plan to re-issue this SAIB every two years before the U.S. winter icing season.

We have made no changes to this AD action based on these comments.

Request the FAA Withdraw the NPRM (76 FR 32103, June 3, 2011) Because It Will Not Affect Safety

The Honorable Todd Rokita, Member of Congress, requested the FAA withdraw the NPRM (76 FR 32103, June 3, 2011). Todd Rokita commented that the adoption of this AD will not result in safer air travel.

We do not agree. Based on the accident and incident history, the FAA estimates that we could prevent 1.5 accidents and/or incidents and 1.2 deaths of the American flying public from occurring every year. The results of our risk-based analysis show this AD is needed and warranted.

We have made no changes to this AD action based on these comments.

Request the FAA Justify Taking AD Action on Certain Airplanes Made by Cessna

The Honorable Todd Rokita, Member of Congress, and Kristine Hartzell of AOPA requested the FAA explain the reasoning behind taking AD action on the identified airplanes as it appeared we were singling out the Cessna airplanes identified in this AD.

We disagree that the FAA is singling out the Cessna airplanes. Cessna issued Service Bulletin MEB97–4, which required the installation of a placard to prohibit flight into known icing. Based on the accident history, the FAA believes there is an unsafe condition on the identified airplanes and requires the completion of the Cessna service bulletin.

During FAA's review of the accidents and incidents, it was determined that there was a large number of hard landings due to high sink speeds. Based on these accidents and incidents, the FAA is mandating a minimum approach speed increase to avoid these high sink speeds.

If the FAA identifies similar problems and determines that an unsafe condition exists on other non-Cessna airplanes, we would take appropriate action to address the issue.

We have made no changes to this AD action based on these comments.

Request the FAA Withdraw the NPRM (76 FR 32103, June 3, 2011) Because It Is an Operational Issue

The Honorable Todd Rokita, Member of Congress, and Kristine Hartzell of AOPA requested the FAA withdraw the NPRM (76 FR 32103, June 3, 2011). They commented that ADs are to be used for airworthiness issues, not operational issues.

We do not agree with the comments. The airplane limitations and their flight manuals are part of the airworthiness of the airplane. Cessna specified the change to add the prohibition of flight into known icing, and, in order to make those changes legally required, the FAA is issuing this AD.

We have made no changes to this AD action based on these comments.

Request FAA Withdraw the NPRM (76 FR 32103, June 3, 2011) Since Service Bulletin Addressed Safety Issue

Kristine Hartzell of AOPA requested the FAA withdraw the NPRM (76 FR 32103, June 3, 2011) since Cessna addressed this issue in the issuance of a mandatory service bulletin in 1997. Kristine Hartzell wrote that Service Bulletin MEB97–4 was issued to resolve any confusion regarding the icing certification status of these Cessna twin piston-engine airplanes. Since the mandatory service bulletin already addressed this issue, Kristine Hartzell questioned whether or not a real safety concern exists for these airframes in particular and if the proposed two placards would have any effect on safety.

We do not agree with the comments. This issue was clarified in FAA's letter to AOPA, dated Febuary 24, 2004 (*aopa.org/-/media/Files/AOPA/Home/News/All%20News/News%20Archives/2006/AOPA%20stands%20against%20mandatory%20service%20bulletins%20for%20Part%2091%20aircraft/060614sb-letter.pdf*). A company's mandatory service bulletin only specifies what is to be done; the AD legally requires the actions.

We have made no changes to this AD action based on these comments.

Request FAA Clarify Accident History Spanned 30 Years

Walter Embke commented that the NPRM (76 FR 32103, June 3, 2011) was trying to imply that all of icing accidents that were evaluated were recent, when in fact the accident history spanned 30 years.

We do not agree with the comments. We believe the AD is clear that recent icing-related accidents and incidents led us to investigate accidents over the past 30 years to get a historical perspective and to determine that there is an unsafe condition.

We have made no changes to this AD action based on these comments.

Request FAA's Principal Maintenance and Operations Inspectors (PMI and POI, Respectively) of Affected Operators Make Decision To Operate Affected Airplanes in Icing Conditions

Tracy A. Schoenrock of Pro Aire Cargo Consulting requested FAA leave the decision of operating fully-deiced airplanes to the POIs and PMIs of the operators affected if there are any legitimate safety concerns involving them.

We do not agree with the request. This is an unsafe condition and is likely to exist on other airplanes. The FAA is regulatory bound to mitigate the unsafe condition and a means of doing that is through the issuance of an AD.

We have made no changes to this AD action based on these comments.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (76 FR 32103, June 3, 2011) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (76 FR 32103, June 3, 2011).

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

Costs of Compliance

We estimate that this AD affects 4,206 airplanes of U.S. registry.

For these airplanes, operators will incur the minimal cost of placard fabrication and installation.

We estimate that 1,608 of the airplanes affected by this AD were produced with deicing equipment.

We estimate the operator costs of no longer being able to fly these airplanes into known icing conditions by the net capital cost of substituting for the affected airplanes, airplanes in the same or similar series certificated for flight into known icing conditions.

We limit our cost estimate to a 10-year period to simplify the analysis. The substituting operator will incur a net increase in capital costs. We measure the 10-year capital cost of an airplane by

estimating the decline in its value over the 10-year period. Substitute airplanes are more expensive, have a higher capital cost, and will decline more in value than less expensive affected airplanes.

The net cost of this AD per affected airplane will be the net decline in airplane value incurred by operators substituting newer, more expensive, airplanes for older, less expensive affected airplanes. We approximate the decline in airplane value over time. For both the affected and substitute airplanes, we amortize the 10-year decline in airplane value to generate a 10-year annual series of declines in airplane value.

For the affected airplanes, we estimate the 10-year series starting from average affected airplane value at average age 45 to estimated value at age 55. For the substitute airplanes, we estimate the 10-year series from their average value at average age 34 to estimated value at age 44. We calculate net changes in value by subtracting the affected airplane series from the substitute airplane series.

We estimate the following direct costs (the sum of labor and parts costs) and capital costs on U.S. operators for this AD.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Labor & parts cost per airplane	Capital cost per airplane	Number of affected airplanes	Cost on U.S. operators
Install placards	1 work-hour × $85 per hour = $85.	$1	$86	.....	4,206	$361,716
Prohibit flight into known icing.	.....	.....	.....	$60,277	1,608	96,515,024

You may view a detailed copy of our cost of compliance in the Federal Docket Management System at the address listed in Examining the AD Docket.

Authority for This Rulemaking

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

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

Final Regulatory Flexibility Analysis

This section presents the final regulatory flexibility analysis (FRFA) that was done for this action. We have reworded and reformatted for Federal Register publication purposes. The FRFA in its original form can be found in the docket at *http://www.regulations.gov*.

Introduction and Purpose of This Analysis

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

Section 604 of the Act requires agencies to prepare an FRFA describing the impact of final rules on small entities. Section 604(a) of the Act specifies the content of a FRFA. The results of this FRFA show that this rule will have a significant economic impact on a substantial numbers of small entities. Each FRFA must contain:

- A statement of the need for, and objectives of, the rule;
- A statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
- The response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments;
- A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;
- A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
- A description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

1. The Need for, and Objectives of, the Final Rule

This AD requires the installation of a placard prohibiting flight into known icing conditions and installation of a second placard that increases published speed on approach by 17 mph (15 knots) in case of an inadvertent encounter with icing or the use of the SAFM/AFMS that incorporates the same limitations as the placards. With the limited deicing equipment of the affected airplanes, flight into known icing conditions could result in unusual flight characteristics leading to loss of control with

consequent accidents. Many of the Cessna accidents were the result of high sink speeds, which may have been related to icing, resulting in hard landings. Failure to mandate an increased published speed may result in continuing occurrences of this unusual flight characteristic with consequent accidents.

2. The Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Statement of the Assessment of the Agency of Such Issues, and a Statement of Any Changes Made in the Proposed Rule as a Result of Such Comments

The FAA is unaware of any issues raised by public comments specifically pertaining to cost in response to the availability of the IRFA (77 FR 59873, October 1, 2012). The FAA has made no changes in this regard to this AD.

3. The Response of the Agency to Any Comments Filed by the Chief Counsel for Advocacy of the Small Business Administration in Response to the Proposed Rule, and a Detailed Statement of Any Change Made to the Proposed Rule in the Final Rule as a Result of the Comments

The FAA is unaware of any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed AD. The FAA has made no changes in this regard to this AD action.

4. A Description of and an Estimate of the Number of Small Entities to Which the Final Rule Will Apply or an Explanation of Why No Such Estimate Is Available

For all of the U.S. industries, the SBA maximum small business size is 1,500 employees. Since this AD applies to all certificate holders operating some of Cessna airplane models, we obtained information on small entities based on a questionnaire sent directly to seven firms and an online survey conducted by AOPA. All of the entities in both samples are well below 1,500 employees. We estimated the number of small entities to be about 104, excluding individuals who used their airplanes for personal use only.

5. A Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Final Rule

Small entities will incur no new reporting and record-keeping requirements as a result of this AD. Persons who own and operate the affected airplanes must meet requirements to install placards on their airplanes or incorporate an SAFM/AFMS that requires the same operating limitations as the placards.

6. A Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and Why Each One of the Other Significant Alternatives to the Final Rule Considered by the Agency Which Affect the Impact on Small Entities Was Rejected

The FAA has taken steps to minimize the significant adverse economic impact on small entities. The requirement of installing placards is a significant alternative to other burdensome regulatory choices, such as mandatory installation of de-icing equipment certificated for flight into known icing conditions or flight prohibition of many models involved in the Cessna accidents. The FAA also allows, in lieu of installing the placards, the option of incorporating an SAFM/AFMS that requires the same operating limitations as the placards. Balancing with safety considerations and impacts on small entities, we found there is no other significant alternatives to installing placards or incorporating an SAFM/AFMS that prohibits the affected airplanes from flying into known icing conditions and an additional placard mandating an increase in published speed on approach in case of an inadvertent encounter with icing.

Regulatory Findings

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

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

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

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

3. Will have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD (and other information as included in the Regulatory Evaluation) and placed it in the AD Docket, which may be found on the Internet at *http://www.regulations.gov*; or in person at the Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–03–03 Cessna Aircraft Company: Amendment 39–17740; Docket No. FAA–2011–0562; Directorate Identifier 2011–CE–015–AD.

(a) Effective Date

This AD is effective April 7, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Cessna Aircraft Company Models 310, 320, 340, 401, 402, 411, 414, and 421 airplanes identified in Cessna Aircraft Company Service Bulletin MEB97–4, dated March 24, 1997, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code: 11, Placards and Markings.

(e) Unsafe Condition

This AD was prompted by an investigation of recent and historical icing-related accidents and incidents for the products listed above. We are issuing this AD to prohibit flight into known icing conditions as well as increase the approach speed in case of an inadvertent encounter with icing. This condition, if not corrected, could result in unusual flight characteristics that could lead to loss of control after flight into known icing conditions or an inadvertent encounter with icing conditions. Based on the data, an example of the unusual flight characteristics seen in many of the accidents is high sink speeds that resulted in a hard landing.

(f) Compliance

Comply with the actions specified in paragraphs (g) through (i) of this AD, to

include all subparagraphs, unless already done.

(g) Incorporate Operational Limitations

Within 100 hours time-in-service (TIS) after April 7, 2014 (the effective date of this AD) or within 3 calendar months after April 7, 2014 (the effective date of this AD), whichever occurs first, incorporate the operational limitations by accomplishing either paragraph (g)(1) or (g)(2) of this AD, to include all subparagraphs:

(1) Incorporate the limitations identified in Appendix 1 of this AD into your airplane maintenance records and install a copy of the approved supplemental airplane flight manual/airplane flight manual supplement (SAFM/AFMS) in Appendix 1 of this AD in the airplane accessible to the pilot; or

(2) Install the following placards:

(i) Cessna placard part number (P/N) DP0500–13 or a placard that states: ''This airplane is prohibited from flight into known icing conditions.'' If installing the Cessna placard P/N DP0500–13, obtain the placard following Cessna Aircraft Company Service Bulletin MEB97–4, dated March 24, 1997; and

(ii) An additional placard for the applicable airspeed indicator readings listed in paragraph (g)(2)(A) or (g)(2)(B) below, as applicable:

(A) *If Airspeed Indicator Reads in MPH.* Placard states: ''For inadvertent encounters with icing conditions, increase published airspeed on approach at least 17 mph.''

(B) *If Airspeed Indicator Reads in Knots.* Placard states: ''For inadvertent encounters with icing conditions, increase published airspeed on approach at least 15 KIAS.''

(h) Placard Installation

Install the placards on the instrument panel in clear view of the pilot using 1/8-inch black lettering on a white background.

(i) Pilot Authorization

In addition to the provisions of 14 CFR 43.3 and 43.7, the actions required by paragraphs (g)(1) and (g)(2) of this AD, to include all subparagraphs, may be performed by the owner/operator (pilot) holding at least a private pilot certificate and must be entered into the airplane records showing compliance with this AD in accordance with 14 CFR 43.9 (a)(1)–(4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417. This authority is not applicable to aircraft being operated under 14 CFR part 119.

(j) Special Flight Permit

Special flight permits are permitted with the following limitation: flight into known icing is prohibited.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD.

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

(l) Related Information

For more information about this AD, contact Dan Withers, Program Manager, FAA, Wichita ACO, 1801 S. Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4137; fax: (316) 946–4107; email: *dan.withers@faa.gov*.

(m) Material Incorporated by Reference

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

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

(i) Cessna Aircraft Company Service Bulletin MEB97–4, dated March 24, 1997.

(ii) Reserved.

(3) For Cessna Aircraft Company service information identified in this AD, contact Cessna Aircraft Company, Product Support, P.O. Box 7706, Wichita, KS 67277; telephone: (316) 517–5800; fax: (316) 517–7271; email: *customercare@cessna.textron.com*; Internet: *http://www.cessna.com/*.

(4) You may view this service information at FAA, FAA, Small Airplane Directorate, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Appendix 1 to Airworthiness Directive 2014–03–03

Supplemental Airplane Flight Manual (SAFM) for Airplanes Without an Approved AFM or Airplane Flight Manual Supplement (AFMS) For Airplanes With an FAA-Approved AFM or POH/AM

BILLING CODE 4910–13–P

FAA-APPROVED
SUPPLEMENTAL AIRPLANE FLIGHT MANUAL
OR
AIRPLANE FLIGHT MANUAL SUPPLEMENT

FOR:

Performance Limitations

AIRPLANE MAKE AND MODELS:
Cessna 310, 310A through H, E310H, 310I through J, 310J-1, E310J, 310K through R, T310P through T310R, 320, 320-1, 320A through F, 340, 340A, 401, 401A, 401B, 402, 402A, 402B, 411, 411A, 414, 421, 421A, 421B for serial numbers as identified in Airworthiness Directive 2014-03-03.

Registration Number: _____

Serial Number: _____

The information contained in this manual is FAA-approved material, which along with the FAA - approved placards and instrument markings or an FAA-approved flight manual, is applicable to the operation of the airplane in accordance with AD 2014-03-03. This document supplements the FAA-approved material listed above. It adds a limitation prohibiting flight into known icing conditions as well as alters the inadvertent ice encounter procedure in accordance with Airworthiness Directive 2014-03-03.

This document must be carried in the airplane and accessible to the pilot during the airplane's use.

The information contained herein supplements or supersedes the basic manual, placards, and/or other limitations of the basic airplane only in those areas listed herein. For limitations, procedures, and performance information not contained in this supplement, consult the applicable basic airplane flight manual or pilot's operating manual, placards, and/or other limitations.

I. Limitations:
   a. Flight into known icing conditions is prohibited
   b. For inadvertent icing encounters increase published speed on approach at least 17 mph (15 knots)

II. Procedures: No Change

III. Performance:

NOTE:
For inadvertent icing encounters, increase runway length by a factor of 1.5 or more due to the increase in approach speed

IV. Weight and Balance: No Change

FAA APPROVED

for Margaret Kline, Manager
Aircraft Certification Office
Federal Aviation Administration
Wichita, Kansas

Date: 1/31/14

Page 1 of 1

Figure 1 to Appendix 1

Issued in Kansas City, Missouri, on January 31, 2014.

Earl Lawrence,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–02636 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0687; Directorate Identifier 2012–NM–118–AD; Amendment 39–17767; AD 2014–04–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD was prompted by reports of burr marks on the primary wheels, and cracked rings on the primary wheel shaft, on certain horizontal stabilizer trim actuators (HSTAs). This AD requires replacing certain HSTAs. We are issuing this AD to prevent burr marks on the primary wheels, and cracked rings on the primary wheel shaft, on certain HSTAs, which may lead to a disconnect of the pitch trim surface and subsequent loss of pitch control, resulting in loss of control of the airplane.

DATES: This AD becomes effective April 7, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 7, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0687;* or in person at the Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The NPRM published in the **Federal Register** on August 13, 2013 (78 FR 49227). The NPRM was prompted by reports of burr marks on the primary wheels, and cracked rings on the primary wheel shaft, on certain HSTAs. The NPRM proposed to require replacing certain HSTAs. We are issuing this AD to prevent burr marks on the primary wheels, and cracked rings on the primary wheel shaft, on certain HSTAs, which may lead to a disconnect of the pitch trim surface and subsequent loss of pitch control, resulting in loss of control of the airplane.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2012–18, dated May 29, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> It was discovered that a number of primary wheels on the HSTA P/N [part number] 601R92305–5 (or vendor P/N 8396–4) had burr marks. Investigation revealed that the burr marks were a result of incorrectly using the manufacturing process. In addition, some rings that were fitted on the primary wheel shaft were found cracked. If not corrected, this condition may lead to a disconnect of the pitch trim surface and subsequent loss of pitch control.
>
> This [Canadian] AD mandates the removal of the affected units that have the above described manufacturing defect.

Corrective actions include replacement of certain HSTAs. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0687-0003.*

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comment received. The following presents the comment received on the proposal (78 FR 49227, August 13, 2013) and the FAA's response to the comment.

Request To Revise the Applicability

Air Wisconsin Airlines requested that we limit the applicability of the NPRM (78 FR 49227, August 13, 2013) to Model CL–6–2B19 (Regional Jet Series 100 & 440) airplanes ''equipped with HSTAs having part number (P/N) 601R92305–5 or vendor P/N 8396–4, with serial numbers (S/N)s as identified in paragraph (g) of this AD.''

We disagree with the commenter's request. The intent of the applicability in the NPRM (78 FR 49227, August 13, 2013) and this final rule was to capture all possible airplanes that could have an affected HSTA, or on which an affected HSTA could be installed in the future. This issue was coordinated with TCCA.

The parts installation limitation, which applies to all Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, is retained in this final rule. This provision matches the intent of Canadian AD CF–2012–18, dated May 29, 2012. We have made no changes to this final rule in this regard.

Also, we have specified serial numbers 7003 and subsequent (which includes all serial numbers) in paragraph (c) in this final rule, which corresponds with the Applicability of Canadian AD CF–2012–18, dated May 29, 2012.

Conclusion

We reviewed the relevant data, considered the comment received, and determined that air safety and the public interest require adopting this AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 49227, August 13, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 49227, August 13, 2013).

Costs of Compliance

We estimate that this AD affects 575 airplanes of U.S. registry.

We also estimate that it will take about 19 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $0 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $928,625, or $1,615 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0687;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–04–08 Bombardier, Inc.: Amendment 39–17767. Docket No. FAA–2013–0687; Directorate Identifier 2012–NM–118–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 7, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight Controls.

(e) Reason

This AD was prompted by reports of burr marks on the primary wheels, and cracked rings on the primary wheel shaft, on certain horizontal stabilizer trim actuators (HSTAs). We are issuing this AD to prevent burr marks on the primary wheels, and cracked rings on the primary wheel shaft, on certain HSTAs, which may lead to a disconnect of the pitch trim surface and subsequent loss of pitch control, resulting in loss of control of the airplane.

(f) Compliance

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

(g) Inspection

Within 1,000 flight hours or 4 months after the effective date of this AD, whichever occurs first, inspect to determine if any HSTA having part number (P/N) 601R92305–5 or vendor P/N 8396–4, with serial numbers (S/N)s 287, 724, 813, 841, 998, 1031, 1035, 1049, 1053, 1067, 1068, 1136, 1252, 1268, 1303, 1319, 1338, 1354, 1374, 1378, 1445, 1470, 1498, 1513, 1546, 1632, 1736, 1766, 1846, 1849, 2002 through 2009, 2011, 2013 through 2016, 2019, 2020, and 2022 is installed. A review of airplane maintenance records is acceptable in lieu of this inspection if the part number of the HSTA can be conclusively determined from that review.

(h) Replacement

Within 1,000 flight hours or 4 months after the effective date of this AD, whichever occurs first, replace any affected HSTA identified in paragraph (g) of this AD with a serviceable HSTA, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–27–159, dated June 15, 2011.

(i) Parts Installation Limitations

As of the effective date of this AD, no person may install any HSTA having P/N 601R92305–5 or vendor P/N 8396–4 with a serial number listed in paragraph (g) of this AD, unless the serial number has the suffix ''A'' beside it.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office, (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information Canadian Airworthiness Directive CF–2012–18, dated May 29, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0687-0003*.

(l) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 601R–27–159, dated June 15, 2011.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(4) You may view this service information at the FAA, Transport Airplane Directorate,

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

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

Issued in Renton, Washington, on February 10, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–03825 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0466; Directorate Identifier 2012–NM–156–AD; Amendment 39–17749; AD 2014–03–12]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2002–23–19 for all Dassault Aviation Model FALCON 2000 series airplanes. AD 2002–23–19 required repetitive operational tests, repetitive measurements, and repetitive replacement of certain jackscrews. This new AD requires revising the maintenance program to incorporate new or revised maintenance requirements and airworthiness limitations. This AD was prompted by the manufacturer revising the airplane maintenance manual (AMM) maintenance requirements and airworthiness limitations. We are issuing this AD to prevent reduced controllability of the airplane.

DATES: This AD becomes effective April 7, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of April 7, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0466* ; or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2002–23–19, Amendment 39–12963 (67 FR 71452, December 2, 2002). AD 2002–23–19 applied to all Dassault Aviation Model FALCON 2000 series airplanes. The NPRM published in the **Federal Register** on July 12, 2013 (78 FR 41882). The NPRM proposed to revise the maintenance program to incorporate new or revised maintenance requirements and airworthiness limitations.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0156, dated August 23, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> The airworthiness limitations and maintenance requirements for the Falcon 2000 type design are included in Dassault Aviation Falcon 2000 (F2000) Aircraft Maintenance Manual (AMM) chapter 5–40 and are approved by the European Aviation Safety Agency (EASA). EASA issued AD 2008–0221 [*http://ad.easa.europa.eu/blob/easa_ad_2008_0221_Corrected.pdf/AD_2008–0221_1*] to require accomplishment of the maintenance tasks, and implementation of the airworthiness limitations, as specified in Dassault Aviation F2000 AMM chapter 5–40 at revision 12.
>
> Since that [EASA] AD was issued, Dassault Aviation have issued F2000 AMM chapter 5–40 at revision 17, which introduces new or more restrictive maintenance requirements and/or airworthiness limitations.
>
> Dassault Aviation AMM chapter 5–40 revision 17 contains among other changes the following requirements:
>
> —Inspection and test of horizontal stabilizer jackscrew;
>
> —Operational test of voltage monitoring circuits;
>
> —Upgrade of screwjack of flap actuators from the older to the latest -3 version;
>
> —Revised Time Between Overhaul for screwjack of flap actuators -3 version;
>
> —Revised interval for checking the screw/nut play on screwjack of flap actuators -3 version;
>
> —Removal of service life limit for screwjack of flap actuators;
>
> —Test of flap asymmetry protection system. Compliance with the flap asymmetry test is required by DGAC [Direction Générale de l'Aviation Civile] France AD F–1999–038–008(B)R1 [which can be found in the AD docket at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0466-0002*. F2000 AMM chapter 5–40 at revision 17 introduces extended inspection interval;
>
> —Inspection procedures of fuselage and wings;
>
> —Check of overpressure tightness on pressurization control regulating valves. Compliance with this check is required by EASA AD 2008–0072 [*http://ad.easa.europa.eu/blob/easa_ad_2008_0072.pdf/AD_2008-0072_1*]. F2000 AMM chapter 5–40 at revision 17 introduces extended inspection interval.
>
> The maintenance tasks and airworthiness limitations, as specified in the F2000 AMM chapter 5–40, have been identified as mandatory actions for continued airworthiness of the F2000 type design. Failure to comply with AMM chapter 5–40 at revision 17 might constitute an unsafe condition.
>
> * * * * *

The required action is revising the maintenance program to incorporate all airworthiness limitations and maintenance tasks specified in Chapter 5–40, Airworthiness Limitations, Revision 18, dated July 2012, of Chapter 5, Maintenance Planning Document, of the Dassault Falcon 2000 Maintenance Manual. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0466-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 41882, July 12, 2013) or on the determination of the cost to the public.

Explanation of Changes to This Final Rule

After the NPRM (78 FR 41882, July 12, 2013) was published, we determined that it was not necessary to retain the requirements of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010), in this final rule.

Paragraphs (g), (h), and (i) of the NPRM were not carried over into this final rule, and the paragraphs that were carried over into this final rule have been redesignated accordingly.

We have concluded that the actions required by this final rule address the unsafe condition.

Because paragraphs (g), (h), and (i) of the NPRM (78 FR 41882, July 12, 2013) were not carried over into this final rule, we revised the Costs of Compliance paragraph in this final rule to omit the costs associated with those paragraphs.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM (78 FR 41882, July 12, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 41882, July 12, 2013).

Costs of Compliance

We estimate that this AD affects 229 airplanes of U.S. registry.

We estimate that it takes about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $19,465, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2013-0466-0002;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2002–23–19, Amendment 39–12963 (67 FR 71452, December 2, 2002), and adding the following new AD:

2014–03–12 Dassault Aviation: Amendment 39–17749. Docket No. FAA–2013–0466; Directorate Identifier 2012–NM–156–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 7, 2014.

(b) Affected ADs

This AD supersedes AD 2002–23–19, Amendment 39–12963 (67 FR 71452, December 2, 2002). Certain requirements of this AD terminate certain requirements of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 2000 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time limits and maintenance checks.

(e) Reason

This AD was prompted by manufacturer revisions to the airplane maintenance manual (AMM) that introduce new or more restrictive maintenance requirements and airworthiness limitations. We are issuing this AD to prevent reduced controllability of the airplane.

(f) Compliance

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

(g) Revision of the Maintenance Program

Within 30 days after the effective date of this AD, revise the maintenance program to incorporate the information specified in Chapter 5–40, Airworthiness Limitations, Revision 18, dated July 2012, of Chapter 5, Maintenance Planning Document, of the Dassault Falcon 2000 Maintenance Manual. The initial compliance time for the tasks are at the applicable times specified in Chapter 5–40, Airworthiness Limitations, Revision 18, dated July 2012, of Chapter 5, Maintenance Planning Document, of the Dassault Falcon 2000 Maintenance Manual, or within 30 days after the effective date of this AD, whichever occurs later. Clarification of compliance time terminology used in the tables in the service information is provided in paragraphs (g)(1) through (g)(6) of this AD.

(1) The term ''landings'' in the ''First Inspection'' column of any table in the service information specified in paragraph (g) of this AD means total airplane landings.

(2) The term ''flight hours'' in the ''First Inspection'' column of any table in the service information specified in paragraph (g) of this AD means total flight hours.

(3) The term ''flight cycles'' in the ''First Inspection'' column of any table in the service information specified in paragraph (g) of this AD means total flight cycles.

(4) For Task 30–11–09–350–801 30–103 identified in the service information specified in paragraph (g) of this AD, the initial compliance time is the later of the times specified in paragraphs (g)(4)(i) and (g)(4)(ii) of this AD.

(i) Prior to the accumulation of 2,400 total flight hours or 2,000 total flight cycles, or within 2,400 flight hours or 2,000 flight

cycles after the effective date of this AD, whichever occurs first.

(ii) Within 30 days after the effective date of this AD.

(5) For Task 52–20–00–610–801–01 52–205 identified in the service information specified in paragraph (g) of this AD, the initial compliance time is 24 months after the effective date of this AD.

(6) The limited service life of part number F2MA721512100 is 3,750 total flight cycles on the part or 6 years since the manufacturing date of the part, whichever occurs first.

(h) Terminating Action

Accomplishment of the actions required by paragraph (g) of this AD terminates the requirements of paragraph (g) of AD 2010–26–05, Amendment 39–16544 (75 FR 79952, December 21, 2010), for all Dassault Aviation Model FALCON 2000 airplanes.

(i) No Alternative Actions or Intervals

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

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1137; fax 425–227–1137. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

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

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2012–0156, dated August 23, 2012, for related information. The MCAI can be found in the AD docket on the Internet at *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0466-0002.*

(l) Material Incorporated by Reference

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

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

(i) Chapter 5–40, Airworthiness Limitations, Revision 18, dated July 2012, of Chapter 5, Maintenance Planning Document, of the Dassault Falcon 2000 Maintenance Manual.

(ii) Reserved.

(3) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.*

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

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

Issued in Renton, Washington, on February 3, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–02775 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0937; Directorate Identifier 2013–CE–029–AD; Amendment 39–17762; AD 2014–04–04]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Diamond Aircraft Industries GmbH Models DA 42 NG and DA 42 M–NG airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the failure of the alternator indication system to indicate warning when one alternator is inoperative. We are issuing this AD to require actions to address the unsafe condition on these products.

DATES: This AD is effective April 7, 2014.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of April 7, 2014.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0937; or in person at Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26700 1369; email: *airworthiness@diamond-air.at;* Internet: *http://www.diamond-air.at.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

FOR FURTHER INFORMATION CONTACT: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to certain Diamond Aircraft Industries GmbH Models DA 42 NG and DA 42 M–NG airplanes. That NPRM was published in the **Federal Register** on November 6, 2013 (78 FR 66666). That NPRM proposed to correct an unsafe condition for the specified products and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country. The MCAI states:

During maintenance troubleshooting of the DA 42 NG alternator indication system it has been discovered that, with one alternator inoperative, the system did not give a warning indication as described in the Airplane Flight Manual.

Subsequent investigation results showed that the voltage regulator warning circuit,

which is part of the engine, monitors Bus Voltage and is the only trigger for the alternator fail annunciation. As a result, one alternator may fail but the related voltage regulator does not trigger the alternator fail annunciation as the voltage is being held at the regular level by the second alternator on board.

The remaining generating system indication for the pilot is unaffected. The ampere-meter is indicating a load on each alternator and in case of a Low Voltage condition a caution message will be displayed.

This condition, if not corrected, could lead to an undetected loss of one engine alternator and reduced capability of the electrical generating power system, possibly impairing safe continuation of the flight.

Prompted by this event, Diamond Aircraft Industries (DAI) introduced at airframe level an additional independent alternator fail caution trigger by using the G1000 ampere-meter signals. The trigger is set once an alternator provides less than 5A and thus indicates electrical power supply failure to the ship system.

DAI issued Mandatory Service Bulletin (MSB) 42NG–003/12 providing instructions for installation of the Secondary Configuration Card Part Number (P/N) 010–12074–02 ''Additional ALTN FAIL trigger'' with system software P/N 010–00670–10 applicable for all DA 42 NG and DA 42 M–NG aeroplanes.

In addition, model DA 42 M–NG now incorporates an output of the GEA 71 to activate the alternator fail relay. DAI issued Mandatory Service Bulletin (MSB) 42MNG–006 to provide instructions for installation of that additional control cable P/N D62–2510–97–00–SB.

For the reasons described above, this AD requires installation of the Secondary Configuration Card P/N 010–12074–02 ''Additional ALTN FAIL trigger'' and System Software P/N 010–00670–10 for all DA 42 NG and DA 42 M–NG aeroplanes and installation of GEA Alternator fail control cable P/N D62–2510–97–00–SB on certain model DA 42 M–NG aeroplanes.

This AD also prohibits installation of System Software prior to P/N 010–00670–10.

The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0937-0002*.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (78 FR 66666, November 6, 2013) or on the determination of the cost to the public.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting the AD as proposed except for minor editorial changes. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (78 FR 66666, November 6, 2013) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (78 FR 66666, November 6, 2013).

Costs of Compliance

We estimate that this AD will affect 26 products of U.S. registry. We also estimate that it would take about 2 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts would cost about $ 115 per product.

Based on these figures, we estimate the cost of the AD on U.S. operators to be $7,410, or $285 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this AD:

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

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

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

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–04–04 Diamond Aircraft Industries GmbH: Amendment 39–17762; Docket No. FAA–2013–0937; Directorate Identifier 2013–CE–029–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective April 7, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Diamond Aircraft Industries GmbH Models DA 42 NG and DA 42 M NG airplanes, all serial numbers certificated in any category, except those that have incorporated Supplemental Type Certificate (STC) SA02725NY (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/286A29A0C46D66048625764900624649?OpenDocument&Highlight=sa02725ny*).

Note 1 to paragraph (c) of this AD: STC SA02725NY uses different electrical system architecture and the unsafe condition addressed in this AD does not apply to that system.

(d) Subject

Air Transport Association of America (ATA) Code 24: Electric Power.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as failure of the alternator indication system to indicate warning when one alternator is inoperative. We are issuing this AD to prevent the undetected loss of one engine alternator, which could result in reduced capability of the electrical generating power system.

(f) Actions and Compliance

Unless already done, do the following actions as specified in paragraphs (f)(1) through (f)(3) of this AD, including all subparagraphs:

(1) *For all DA 42 NG airplanes:* Within the next 12 months after April 7, 2014 (the effective date of this AD), install Secondary Configuration Card part number (P/N) 010–12074–02 ''Additional ALTN FAIL trigger'' and System Software P/N 010–00670–10 following the Accomplishment/Instructions in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/13, dated October 11, 2013; or the Accomplishment/Instructions in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/12, dated July 8, 2013.

(2) *For DA 42 M–NG airplanes, serial numbers (S/Ns) 42.339, 42.MN001 through 42.MN0026, and all S/Ns modified through Optional Service Bulletin (OSB) 42–081, using Work Instruction (WI) OSB–42–081 up to Revision 1 inclusive:* Within the next 100 hours time-in-service after April 7, 2014 (the effective date of this AD) or within the next 12 months after April 7, 2014 (the effective date of this AD), whichever occurs first:

(i) Install GEA Alternator fail control cable P/N D62–2510–97–00–SB following the Instructions in Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42MNG–006, dated July 8, 2013, as specified in the Accomplishments/Instructions in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42MNG–006, July 8, 2013; and

(ii) Install Secondary Configuration Card P/N 010–12074–02 ''Additional ALTN FAIL trigger'' and System Software P/N 010–00670–10 following the Accomplishment/Instructions in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/13, dated October 11, 2013; or the Accomplishment/Instructions in Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/12, dated July 8, 2013.

(3) *For all airplanes:* As of April 7, 2014 (the effective date of this AD), do not install on any airplane System Software prior to P/N 010–00670–10.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No.: 2013–0224, dated September 19, 2013, for more information. The MCAI can be found in the AD docket on the Internet at: *http://www.regulations.gov/#!documentDetail;D=FAA-2013-0937-0002*. You may also refer to Diamond Aircraft Industries GmbH Optional Service Bulletin OSB 42–081/1 and Diamond Aircraft Industries GmbH Work Instruction WI–OSB 42–081, Rev. 1, both dated December 23, 2010; and Diamond Aircraft Industries GmbH Optional Service Bulletin OSB 42–081 and Diamond Aircraft Industries GmbH Work Instruction WI–OSB 42–081, Rev. 0, both dated March 17, 2010, for more information. For service information related to this AD, you may contact the manufacturer using the information found in paragraph (i)(3) of this AD.

(i) Material Incorporated by Reference

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

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

(i) Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/13, dated October 11, 2013.

(ii) Diamond Aircraft Industries GmbH Mandatory Service Bulletin No. MSB 42NG–003/12, dated July 8, 2013.

(iii) Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 42MNG–006, dated July 8, 2013.

(iv) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 42MNG–006, dated July 8, 2013.

(3) For Diamond Aircraft Industries GmbH service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26700 1369; email: *airworthiness@diamond-air.at;* Internet: *http://www.diamond-air.at.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued in Kansas City, Missouri, on February 12, 2014.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–03604 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0886; Directorate Identifier 2008–SW–067–AD; Amendment 39–17738; AD 2014–03–01]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for Agusta S.p.A. (Agusta) Model AB139 and AW139 helicopters with a certain wire strike protection system (WSPS) top cable cutter assembly installed. This AD requires reworking or replacing the top cable cutter assembly to increase clearance between the WSPS and the main rotor (M/R) blades and requires that the reworked or replaced part be marked at the end of the part number to reflect the field modification. This AD was prompted by a report of in-flight contact between the top cable-cutter assembly and two M/R blades. The actions of this AD are intended to prevent damage to the M/R blades and subsequent loss of helicopter control.

DATES: This AD is effective April 7, 2014.

The Director of the Federal Register approved the incorporation by reference of a certain document listed in this AD as of April 7, 2014.

ADDRESSES: For service information identified in this AD, contact Agusta, Via Giovanni Agusta, 520 21017 Cascina Costa di Samarate (VA), Italy, telephone 39 0331–229111, fax 39 0331–229605/222595, or at *http://customersupport.agusta.com/technical_*

advice.php. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *sharon.y.miles@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On August 29, 2012, at 77 FR 52270, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Agusta Model AB139 and AW139 helicopters with a WSPS top cable cutter assembly, part number (P/N) 423–83001–1, installed, which is part of the WSPS, P/N 4G9540F00211 or P/N 4G9540F00311. The NPRM proposed to require reworking or replacing the top cable cutter assembly to increase clearance between the WSPS and the M/R blades. The proposed requirements were intended to prevent damage to the M/R blades and subsequent loss of helicopter control.

On July 3, 2013, at 78 FR 40055, the **Federal Register** published our supplemental notice of proposed rulemaking (SNPRM), which proposed to revise some of the actions in the NPRM. The SNPRM proposed to require the same actions as the NPRM, but also proposed to require identifying the reworked or replaced top cable cutter assembly in a visible and permanent way by adding ''BT 139–126 Rev./'' or ''FAA'' at the end of the P/N.

The NPRM and the SNPRM were prompted by AD No. 2008–0148, dated August 5, 2008, issued by EASA, which is the Technical Agent for the Member States of the European Union. The EASA AD advises of an incident of in-flight contact between the top cable cutter assembly and two M/R blades. This condition, if not corrected, could cause damage to the rotor blades and lead to loss of control of the helicopter, EASA advises. EASA further notes that this unsafe condition is likely to occur in other helicopters of the same type design, so the EASA AD requires that top cable cutter assembly, P/N 423–830001–1, be reworked or replaced with a new unit, P/N 3G9506P01431.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the SNPRM (78 FR 40055, July 3, 2013) or NPRM (77 FR 52270, August 29, 2012).

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Related Service Information

We reviewed Agusta Bollettino Tecnico No. 139–126, dated June 20, 2008 (BT), which applies to Model AB139 and AW139 helicopters with certain serial-numbered WSPSs. The BT specifies, within 200 flight hours, reworking the top cable cutter assembly and marking it with ''BT 139–126 Rev./'' in a visible and permanent manner. EASA classified this BT as mandatory and issued AD No. 2008–0148 to ensure the continued airworthiness of these helicopters.

Costs of Compliance

We estimate that this AD affects about 39 helicopters of U.S. registry. We also estimate that it takes about 3 work-hours per helicopter to rework the top cable cutter assembly and to add ''BT 139–126 Rev./'' or ''FAA'' at the end of the part number, 1 work-hour to replace the top cable cutter assembly, and 1 work-hour to remove the WSPS upper installation. The average labor rate is $85 per work-hour. Required parts cost about $9,000 per helicopter to replace the cutter. Based on these figures, we estimate the cost of this AD on U.S. operators to be $255 per helicopter to rework the top cable cutter assembly, $9,085 per helicopter to replace the top cable cutter assembly, and $85 per helicopter to remove the WSPS.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–03–01 Agusta S.p.A. Helicopters: Amendment 39–17738; Docket No. FAA–2012–0886; Directorate Identifier 2008–SW–067–AD.

(a) Applicability

This AD applies to Agusta Model AB139 and AW139 helicopters, with a wire strike protection system (WSPS) top cable cutter assembly, part number (P/N) 423–83001–1, installed, which is part of the WSPS, P/N 4G9540F00211 or P/N 4G9540F00311, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as in-flight contact between the top cable cutter assembly and main rotor (M/R) blades. This condition could result in damage to the M/R blades and subsequent loss of helicopter control.

(c) Effective Date

This AD becomes effective April 7, 2014.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 200 hours time-in-service, remove the WSPS upper installation, P/N 4G9540A00111, including top cable cutter assembly, P/N 423–83001–1.

(2) Before installing a WSPS upper installation, P/N 4G9540A00111, either:

(i) Rework the top cable cutter assembly, P/N 423–83001–1, in accordance with the Compliance Instructions, paragraph 3.1 through 3.5, and Figure 1 of Agusta Bolletino Technico No. 139–126, dated June 20, 2008. Re-identify the top cable cutter assembly in a visible and permanent way by adding ''BT 139–126 Rev./'' or ''FAA'' at the end of the part number; or

(ii) Replace the top cable cutter assembly, P/N 423–83001–1, with an airworthy top cable cutter assembly that has been reworked and re-identified in accordance with paragraph (e)(2)(i) of this AD.

(3) Do not install a top cable cutter assembly, P/N 423–83001–1, on any helicopter unless it has been reworked and re-identified in accordance with paragraph (e)(2)(i) of this AD.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Sharon Miles, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone (817) 222–5110; email *sharon.y.miles@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2008–0148, dated August 5, 2008. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2012–0886.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 5320: Fuselage Miscellaneous Structure.

(i) Material Incorporated by Reference

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

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

(i) Agusta Bolletino Technico No. 139–126, dated June 20, 2008.

(ii) Reserved.

(3) For Agusta service information identified in this AD, contact Agusta, Via Giovanni Agusta, 520 21017 Cascina Costa di Samarate (VA), Italy, telephone 39 0331–229111, fax 39 0331–229605/222595, or at *http://customersupport.agusta.com/technical_advice.php*.

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

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

Issued in Fort Worth, Texas, on January 24, 2014.

Kim Smith,

Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–02153 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0643; Directorate Identifier 2012–SW–096–AD; Amendment 39–17773; AD 2014–04–14]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters (Type Certificate Currently Held by AgustaWestland S.p.A) (AgustaWestland)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for AgustaWestland Model A109S, AW109SP, A119, and AW119 MKII helicopters to require removing certain rod end assemblies from service. This AD was prompted by reports of fractures on the rod end assemblies that could damage the main rotor assembly and lead to loss of control of the helicopter.

DATES: This AD is effective April 7, 2014.

ADDRESSES: For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39–0331–664680; or at *http://www.agustawestland.com/technical-bulletins*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas

76137; telephone (817) 222–5110; email *robert.grant@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On July 23, 2013, at 78 FR 44042, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to AgustaWestland Model A109S, AW109SP, A119, and AW119 MKII helicopters with a main rotor lag damper assembly, part number (P/N) 109–0112–39–103, 109–0112–39–105, 109–0112–05–105, or 109–0112–05–107, installed with a rod end assembly, P/N M004–01H007–041 or M004–01H007–045, with a serial number (S/N) 84 through 132, or 4964 through 5011. The NPRM proposed to require removing certain rod end assemblies from service. The proposed requirements were intended to prevent damage to the main rotor assembly and subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2012–0208, dated October 5, 2012, issued by the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. AD No. 2012–0208 requires correcting an unsafe condition for AgustaWestland Model A109LUH, A109S, AW109SP, A119, and AW119 MKII helicopters. EASA advises that cases of in-flight fractures of rod end assembly, P/N M004–01H007–045, installed on main rotor lag dampers have been reported on Model A109LUH and AW109SP helicopters. An investigation revealed that two batches of rod end assemblies, P/N M004–01H007–041 and M004–01H007–045, could have cracks, according to EASA. EASA states that this condition, if not corrected, could lead to main rotor damage, possibly resulting in loss of control of the helicopter.

Comments

We gave the public the opportunity to participate in developing this AD, but we received no comments on the NPRM (78 FR 44042, July 23, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of Italy and are approved for operation in the United States. Pursuant to our bilateral agreement with Italy, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

EASA requires compliance with the inspection and removal of any affected parts from service within 25 hours flight hours or three months. We require removing the affected parts from service within 25 hours time-in-service. The EASA AD applies to AgustaWestland Model A109LUH, and this AD does not because that model has no U.S. type certificate.

Related Service Information

AgustaWestland issued Bollettino Tecnico (BT) No. 109S–49 for Model A109S helicopters, BT No. 109SP–052 for Model AW109SP helicopters, and BT No. 119–50 for Model A119 and AW119 MKII helicopters. All of the BTs are dated October 3, 2012. The BTs specify a one-time inspection of each rod end assembly, P/Ns M004–01H007–041 and M004–01H007–045, to determine its serial number. The BTs then require removal from service of certain serial-numbered rod end assemblies because fractures had been reported on rod ends in these batches. According to the BTs, no one was injured in the helicopters, and no helicopters were damaged because of these fractures.

Costs of Compliance

We estimate that this AD affects 91 helicopters of U.S. Registry and that labor costs average $85 a work-hour. Based on these estimates, we expect the following costs:

• Replacing a rod end assembly requires 1.5 work-hours for a labor cost of $128. Parts cost $3,918 for a total cost of $4,046 per helicopter, $368,186 for the U.S. fleet.

According to the manufacturer's service information, costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage by manufacturers. Accordingly, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–04–14 Agusta S.p.A. Helicopters (Type Certificate Currently Held by

AgustaWestland S.p.A) (AgustaWestland): Amendment 39–17773; Docket No. FAA–2013–0643; Directorate Identifier 2012–SW–096–AD.

(a) Applicability

This AD applies to AgustaWestland Model A109S, AW109SP, A119, and AW119 MKII helicopters with a main rotor lag damper assembly (lag damper), part number (P/N) 109–0112–39–103, 109–0112–39–105, 109–0112–05–105, or 109–0112–05–107, installed with a rod end assembly, P/N M004–01H007–041 or M004–01H007–045, with a serial number (S/N) 84 through 132, or 4964 through 5011, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a crack in a rod end assembly, which could result in fracture of the rod end assembly, damage to the main rotor, and subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective April 7, 2014.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Actions

(1) Within 25 hours time-in-service, remove the rod end assembly from service.

(2) Do not install a rod end assembly, P/N M004–01H007–041 or M004–01H007–045, with a S/N 84 through 132 or 4964 through 5011, on any helicopter.

(f) Special Flight Permits

Special flight permits are prohibited.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Robert Grant, Aviation Safety Engineer, Safety Management Group, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *robert.grant@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) AgustaWestland Bollettino Tecnico No. 109S–49, No. 109SP–052, and No. 119–50, all dated October 3, 2012, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact AgustaWestland, Product Support Engineering, Via del Gregge, 100, 21015 Lonate Pozzolo (VA) Italy, ATTN: Maurizio D'Angelo; telephone 39–0331–664757; fax 39–0331–664680; or at *http://www.agustawestland.com/technical-bulletins*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2012–0208, dated October 5, 2012. You may view the EASA AD on the Internet at *http://www.regulations.gov* in Docket No. FAA–2013–0643.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

Issued in Fort Worth, Texas, on February 20, 2014.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–04310 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0770; Directorate Identifier 2011–SW–057–AD; Amendment 39–17771; AD 2014–04–12]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Type Certificate Previously Held by Eurocopter France) (Airbus Helicopters)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model EC225LP helicopters. This AD adds a new operating limitation that requires increasing the minimum density altitude flight limitation for helicopters without certain Eurocopter modifications installed. This AD is prompted by a report that flights below a certain density altitude create oscillations in the main rotor which can transfer dynamic loads to the structure, the main gearbox (MGB), and the main servo-control inputs, which could result in subsequent loss of control of the helicopter.

DATES: This AD is effective April 7, 2014.

ADDRESSES: For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

On September 6, 2013, at 78 FR 54792, the **Federal Register** published our notice of proposed rulemaking (NPRM), which proposed to amend 14 CFR part 39 by adding an AD that would apply to Eurocopter France (now Airbus Helicopters) Model EC225LP helicopters, except those with certain modifications (MODs) installed. The NPRM proposed to require, within 50 hours time-in-service (TIS), amending the Rotorcraft Flight Manual (RFM) to limit minimum flight altitude to −2,000 feet density altitude. The proposed requirements were intended to prevent oscillations in the main rotor that can transfer dynamic loads to the structure, the MGB, and the main servo-control inputs, which could result in subsequent loss of control of the helicopter.

The NPRM was prompted by AD No. 2008–0007R3, dated May 12, 2010, issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD No. 2008–0007R3 to correct an unsafe condition for Model EC 225 LP helicopters that are ''not equipped of all three modifications MOD 0726582, MOD 0726477, and MOD 0726583, or, if not equipped of MOD 0726592, or, if equipped with all three modifications MOD 0726606, MOD 0726610, MOD 0726611 and missing accomplishment

of MOD 0726632.'' EASA advises that the main rotor control linkage has a coupling between the MGB motion and the main servo-control inputs. According to EASA, in certain flight conditions with increased air density, this design generates ''spurious'' 14 Hertz control inputs in the main rotor, which, in return, transfer dynamic loads to the structure. These return dynamic loads give feedback to the MGB motion, inducing a continuous vibration phenomenon. EASA states that flight tests have demonstrated that below certain density altitudes, the occurrence of the vibration phenomenon is significantly increased or even diverges, which could lead to the loss of control of the helicopter. EASA advises that Eurocopter has continued to develop MODs for correcting the vibrations below certain density altitudes, and therefore, helicopters with certain MODs installed are exempt from the applicability of EASA AD No. 2008–0007R3.

To correct this unsafe condition, EASA issued AD No. 2008–0007R3, which requires revising the RFM to prohibit operation below −2,000 feet density altitude for helicopters without certain modifications installed.

Since we issued the NPRM, Eurocopter France has changed its name to Airbus Helicopters. This AD reflects that change and updates the contact information to obtain service information.

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM (78 FR 54792, September 6, 2013).

FAA's Determination

These helicopters have been approved by the aviation authority of France and are approved for operation in the United States. Pursuant to our bilateral agreement with France, EASA, its technical representative, has notified us of the unsafe condition described in the EASA AD. We are issuing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed, except for the name change from Eurocopter France to Airbus Helicopters. This change is consistent with the intent of the proposals in the NPRM (78 FR 54792, September 6, 2013) and will not increase the economic burden on any operator nor increase the scope of the AD.

Differences Between This AD and the EASA AD

The EASA AD specifies a compliance time of 30 days, while this AD requires compliance within 50 hours TIS.

Related Service Information

Eurocopter has issued Emergency Alert Service Bulletin No. 04A001, Revision 3, dated May 6, 2010, which specifies inserting RFM revision ''Normal Revision RN11 (10–04) or later, associated with conditional revision RCe (10–04) or later'' into the RFM for helicopters equipped with screen air intakes and inserting ''Normal Revision RN21 (10–05) or later, associated with conditional revision RCe (10–04) or later'' into the RFM for helicopters equipped with multi-purpose air intakes. Both RFM revisions limit the minimum altitude for flight to −2,000 feet density altitude.

Costs of Compliance

We estimate that this AD will affect three helicopters of U.S. Registry and that the costs to comply with this AD by revising the RFM are negligible.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2014–04–12 Airbus Helicopters (Type Certificate Previously Held by Eurocopter France): Amendment 39–17771; Docket No. FAA–2013–0770; Directorate Identifier 2011–SW–057–AD.

(a) Applicability

This AD applies to Model EC225LP helicopters, certificated in any category, except helicopters with the following modifications (MOD) installed:

(1) MOD 0726582, MOD 0726477, and MOD 0726583;

(2) MOD 0726592; or

(3) MOD 0726632.

(b) Unsafe Condition

This AD defines the unsafe condition as oscillations in the main rotor which can transfer dynamic loads to the structure, the main gearbox (MGB), and the main servo-control inputs, which could result in subsequent loss of control of the helicopter.

(c) Effective Date

This AD becomes effective April 7, 2014.

(d) Compliance

You are responsible for performing each action required by this AD within the specified compliance time unless it has already been accomplished prior to that time.

(e) Required Action

Within 50 hours time-in-service, revise the Operating Limitations section of the Eurocopter EC225LP Rotorcraft Flight Manual (RFM) by inserting a copy of this AD into Section 2.3 of the RFM, or by making pen and ink changes as follows. Under paragraph 1, Altitude Limits, add the phrase:

The minimum altitude is limited to −2,000 feet density altitude.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Safety Management Group, FAA, may approve AMOCs for this AD. Send your proposal to: Gary Roach, Aviation Safety Engineer, Regulations and Policy Group, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222–5110; email *gary.b.roach@faa.gov*.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, we suggest that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Eurocopter Emergency Alert Service Bulletin No. 04A001, Revision 3, dated May 4, 2010, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, Inc., 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/techpub*. You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2008–0007R3, dated May 12, 2010. You may view the EASA AD in the AD docket on the Internet at *http:/www.regulations.gov*.

(h) Subject.

Joint Aircraft Service Component (JASC) Code: 2200: Auto Flight System.

Issued in Fort Worth, Texas, on February 19, 2014.

Lance T. Gant,

Acting Directorate Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 2014–04314 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30941; Amdt. No. 3575]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective March 3, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of March 3, 2014.

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

For Examination—

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

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

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

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

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

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

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

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as contained in the transmittal. Some SIAP and Takeoff Minimums and

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC on January 17, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

Effective 6 MARCH 2014

Bishop, CA, Eastern Sierra Rgnl, RNAV (GPS) Y RWY 12, Orig-A

Bishop, CA, Eastern Sierra Rgnl, RNAV (GPS) Z RWY 12, Orig-A

Riverside, CA, Riverside Muni, VOR–B, ORIG–A, CANCELED

Reno, NV, Reno/Tahoe Intl, RNAV (RNP) Y RWY 16R, Amdt 1A

Carlisle, PA, Carlisle, Takeoff Minimums and Obstacle DP, Amdt 2

Albany, TX, Albany Muni, RNAV (GPS) RWY 17, Amdt 1

Albany, TX, Albany Muni, RNAV (GPS) RWY 35, Amdt 1

Effective 3 APRIL 2014

Klawock, AK, Klawock, RNAV (GPS) RWY 2, Orig-B

Murrieta/Temecula, CA, French Valley, RNAV (GPS) RWY 18, Amdt 2

Plains, GA, Peterson Field, VOR/DME OR GPS–B, Amdt 1A, CANCELED

Estherville, IA, Estherville Muni, VOR RWY 16, Amdt 4B, CANCELED

Estherville, IA, Estherville Muni, VOR RWY 34, Amdt 6B, CANCELED

Washington, IA, Washington Muni, VOR/DME RWY 36, Amdt 1

Chicago/Rockford, IL, Chicago/Rockford Intl, RNAV (GPS) RWY 19, Amdt 2

Springfield, IL, Abraham Lincoln Capital, VOR/DME RWY 31, Amdt 1

Sidney, NY, Sidney Muni, RNAV (GPS) RWY 7, Orig-C

[FR Doc. 2014–04315 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30942; Amdt. No. 3576]

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

DATES: This rule is effective March 3, 2014. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 3, 2014.

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

For Examination—

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

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

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

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability—All SIAPs are available online free of charge. Visit *nfdc.faa.gov* to register. Additionally, individual

SIAP and Takeoff Minimums and ODP copies may be obtained from:

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

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

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

Issued in Washington, DC, on January 17, 2014.

John Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

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

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC Date	Subject
3/6/2014	OK	Tulsa	Tulsa Intl	3/0440	01/14/14	ILS OR LOC RWY 36R, Amdt 29C.
3/6/2014	IL	Chicago	Chicago O'Hare Intl	3/0892	01/14/14	ILS OR LOC RWY 9L, ILS RWY 9L (SA CAT I), ILS RWY 9L (CAT II), ILS RWY 9L (CAT III), Amdt 2A.
3/6/2014	OH	Youngstown	Youngstown Elser Metro	3/0947	01/14/14	RNAV (GPS) RWY 10, Orig.
3/6/2014	OH	Youngstown	Youngstown Elser Metro	3/0948	01/14/14	RNAV (GPS) RWY 28, Orig.
3/6/2014	OH	Youngstown	Youngstown Elser Metro	3/0956	01/14/14	VOR C, Amdt 2.
3/6/2014	NE	Scribner	Scribner State	3/5321	01/14/14	VOR RWY 35, Amdt 2A.
3/6/2014	IN	Angola	Tri-State Steuben County	3/6067	01/14/14	RNAV (GPS) RWY 23, Orig.
3/6/2014	MI	Travese City	Cherry Capital	3/6068	01/14/14	ILS OR LOC RWY 28, Amdt 14.
3/6/2014	UT	Blanding	Blanding Muni	3/6365	01/14/14	RNAV (GPS) RWY 35, Amdt 2.
3/6/2014	SD	Martin	Martin Muni	3/8803	01/14/14	GPS RWY 32, Orig-A.

[FR Doc. 2014–04294 Filed 2–28–14; 8:45 am]
BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 418

[Docket No. SSA–2012–0011]

RIN 0960–AH47

Medicare Determinations and Income-Related Monthly Adjustment Amounts to Medicare Part B Premiums; Conforming Changes to Regulations

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: This final rule adopts, without change, the interim final rule with request for comments we published in the **Federal Register** on September 18, 2013. The interim final rule modified our rules regarding Medicare Part B income-related monthly adjustment amounts to conform to changes made to the Social Security Act (Act) and Internal Revenue Code by the Affordable Care Act. We also removed provisions that phased in income-related monthly adjustment amounts between 2007 and 2009 and updated a citation to reflect the transfer of authority for hearing appeals under title XVIII of the Act from the Social Security Administration to the Department of Health and Human Services.

DATES: The interim final rule with request for comments published on September 18, 2013, at 78 FR 57257, is confirmed as final, effective March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Craig Streett, Office of Income Security Programs, Social Security Administration, 2–R–24 Robert M. Ball Federal Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, (410) 965–9793. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *www.socialsecurity.gov*.

SUPPLEMENTARY INFORMATION: Medicare Part B is a voluntary medical insurance program that provides coverage for services such as physician's care, diagnostic services, and medical supplies. A beneficiary enrolled in Medicare Part B pays monthly premiums, deductibles, and co-insurance associated with covered services. The Centers for Medicare & Medicaid Services (CMS) issues rules and regulations about the Medicare program, including the standard monthly premium. We determine and deduct the amount of certain Medicare Part B premiums from beneficiaries' Social Security benefits and make rules and regulations necessary to carry out these functions.

The Federal Government subsidizes the cost of Medicare Part B coverage. However, beneficiaries with modified adjusted gross incomes (MAGI) above a specified threshold must pay a higher percentage of the average cost of coverage than those with MAGI below the threshold.[1] We refer to this subsidy reduction as an income-related monthly adjustment amounts (IRMAA).

CMS determines and publishes the annual MAGI threshold and ranges. The Internal Revenue Service provides us with beneficiaries' MAGI information for the applicable tax year. We use this information to determine IRMAAs using the CMS-determined annual MAGI threshold.

In March 2010, Congress passed the Affordable Care Act.[2] The Affordable Care Act temporarily freezes the MAGI threshold above which beneficiaries must pay a higher percentage of the costs of their coverage. It also revised the Internal Revenue Code to allow us to disclose tax return information to the Department of Health and Human Services (HHS) to the extent necessary to resolve administrative appeals of IRMAA determinations. We have updated our regulations to reflect these changes. The regulations now freeze the MAGI threshold and ranges from 2011 through 2019 and no longer require that beneficiaries consent to our release of Internal Revenue Service information to HHS to allow HHS to adjudicate an appeal of a determination applying an IRMAA to the Part B premium subsidy. We also removed provisions that phased in IRMAA between 2007 and 2009 because they are no longer necessary and corrected an outdated citation to HHS regulations, which reflects the transfer of authority for hearing appeals under title XVIII of the Social Security Act from the Social Security Administration to HHS.

Public Comments

On September 18, 2013, we published an interim final rule with request for comments in the **Federal Register**, at 78 FR 57257. We provided a 60-day public comment period. We received no comments from the public. As a result, we are adopting the interim final rule as a final rule without change.

[1] MAGI is defined in 42 USC 1395r(i)(4). The threshold amount is defined in 42 USC 1395r(i)(2).

[2] Public Law 111–148.

Regulatory Procedures

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563.

Regulatory Flexibility Act

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

Paperwork Reduction Act

This final rule imposes no reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 93.774 Medicare Supplementary Medical Insurance; 96.002 Social Security—Retirement Insurance.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Aged, Alimony, Blind, Disability benefits, Government employees, Income taxes, Insurance, Investigations, Old-age, Survivors and disability insurance, Penalties, Railroad retirement, Reporting and recordkeeping requirements, Social Security, Travel and transportation expenses, Treaties, Veterans, Vocational rehabilitation.

20 CFR Part 418

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI), Medicare subsidies.

Dated: February 21, 2014.

Carolyn W. Colvin,

Acting Commissioner of Social Security.

Accordingly, the interim final rule amending 20 CFR chapter III, part 404, subpart J and 20 CFR chapter III, part 418, subpart B that was published at 78 FR 57257 on September 18, 2013 is adopted as a final rule without change.

[FR Doc. 2014–04610 Filed 2–28–14; 8:45 am]
BILLING CODE 4191–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0421; FRL–9907–22-Region 10]

Approval and Promulgation of State Implementation Plans: Alaska; Anchorage Carbon Monoxide Limited Maintenance Plan and State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Alaska (the State) submitted two State Implementation Plan (SIP) revisions to the Anchorage Transportation Control Program, Anchorage Carbon Monoxide (CO) Maintenance Plan. On September 20, 2011, the State submitted a SIP revision (2011 Submittal) that updated Anchorage's CO motor vehicle emissions budget (MVEB) in the Anchorage CO maintenance area using the EPA's Motor Vehicle Emission Simulator (MOVES) model. On April 22, 2013, the State submitted a SIP revision (2013 Submittal) to satisfy the Clean Air Act (CAA) section 175A(b) requirement for a second 10-year maintenance plan for the Anchorage CO maintenance area in the form of a limited maintenance plan (LMP). This LMP addresses maintenance of the CO National Ambient Air Quality Standards (NAAQS) for a second 10-year period, beyond redesignation of the area to attainment, through 2024. The EPA is taking direct final action to approve both the 2013 Submittal and portions of the 2011 Submittal that are not superseded by the 2013 Submittal. The EPA is approving these SIP revisions because the State has demonstrated that they are consistent with the CAA.

DATES: This rule is effective on May 2, 2014, without further notice, unless the EPA receives adverse comment by April 2, 2014. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2013–0421, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- Email: *R10-Public_Comments@epa.gov*
- Mail: Keith Rose, U.S. EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle WA 98101
- Hand Delivery/Courier: U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle WA 98101. Attention: Keith Rose, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2013–0421. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, U.S. EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101.

FOR FURTHER INFORMATION CONTACT: Keith Rose at: (206) 553–1949, *rose.keith@epa.gov,* or the above EPA Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to the EPA. Information is organized as follows:

Table of Contents

I. What is the purpose of this action?

The EPA is taking direct final action to approve a CO LMP for the Anchorage CO maintenance area for the second 10-year maintenance period. The CO LMP, submitted by the State of Alaska to the EPA on April 22, 2013, is designed to keep the Anchorage CO maintenance area in attainment for the CO standard for a second 10-year period beyond redesignation of this area to attainment, through 2024.

The EPA is also taking direct final action to approve some revisions to the CO maintenance plan that were submitted on September 20, 2011. The 2011 Submittal updates the approved CO maintenance plan to reflect the use of the EPA's MOVES model. However, the Submittal includes sections of the plan that have been superseded by the 2013 Submittal that the EPA is approving in this action. The EPA is approving the most recently adopted and submitted sections of the plan. Further action on the earlier adopted versions of these sections included in the 2011 Submittal is not required because they are no longer in effect and have been superseded by the 2013 Submittal. These provisions are identified below.

II. What is the background for this action?

Anchorage, Alaska, was first designated a nonattainment area for CO and classified as moderate on January 27, 1978. The Municipality of Anchorage prepared a plan to attain the CO NAAQS by December 31, 1987, although Anchorage failed to achieve attainment by December 31, 1987. The CAA was amended in 1990 and the EPA designated Anchorage as a moderate nonattainment area for CO and required submission of a revised air quality plan

to bring Anchorage into attainment by December 31, 1995 (56 FR 56712, November 6, 1991). The EPA approved the plan in 1995, however, two violations of the CO NAAQS in 1996 resulted in the EPA reclassifying Anchorage to serious with an attainment date of December 31, 2000 (61 FR 33676, June 12, 1998). The State submitted a new attainment plan on January 4, 2002, and on September 18, 2002, the EPA approved the Anchorage CO attainment plan (67 FR 58711).

On February 18, 2004, the State submitted a maintenance plan and a redesignation request for the Anchorage CO nonattainment area. The EPA approved the plan on June 23, 2004 (69 FR 34935). The maintenance plan relied on control strategies needed to assure maintenance of the CO NAAQS. The strategy focused on the Federal Motor Vehicle Emission Control Program, a motor vehicle inspection and maintenance (I/M) program, expanded wintertime transit service and promotion of engine pre-heaters.

The State subsequently submitted two revisions to the Alaska SIP relating to the I/M program in Anchorage: A March 29, 2002, SIP revision that contained minor revisions to the statewide I/M program (approved by the EPA on March 22, 2010, 75 FR 13436); and a September 29, 2010, SIP revision that discontinued the I/M program in Anchorage as an active control measure in the SIP and shifted it to a contingency measure (approved by the EPA on January 10, 2012, 77 FR 1414).

III. What changes to the Alaska SIP were submitted for the EPA's approval?

The 2011 Submittal updates the Federally-approved Anchorage CO maintenance plan with emissions estimates calculated with the EPA's MOVES motor vehicle emissions model. The updates include a reanalysis of the emissions inventory and maintenance demonstration as well as changes to the narrative. The 2011 Submittal replaces the Anchorage Transportation Control Program in its entirety and revises four sections of the appendices. The control strategies in the 2011 Submittal remain the same as in the most recent Federally-approved maintenance plan for the Anchorage maintenance area that was approved on January 10, 2012 (77 FR 1414).

The 2013 Submittal establishes a second 10-year CO maintenance plan for the Anchorage area, as required by CAA section 175A(b). This plan demonstrates that CO levels in the area will not exceed the CO NAAQS standard during its effective period and does not institute additional CO control measures. It revises three sections of the Anchorage Transportation Control Program and three sections of the appendices. The revised sections of the 2013 Submittal supersede those sections in the 2011 Submittal.

IV. Evaluation of the Alaska Submittals

A. 2011 Submittal

Alaska's 2011 Submittal updates the MVEB in the Anchorage CO maintenance plan with the MOVES model. The MOVES model is the EPA's state-of-the-art tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in the EPA's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design and significant new capabilities relative to those reflected in the previous emissions model, MOBILE6.2. The EPA announced the release of MOVES2010 in March 2010 and explained that MOVES2010 should be used in SIP development as expeditiously as possible outside of California (75 FR 9411, March 2, 2010). In addition, the notice started a two-year grace period before MOVES2010 was required to be used in new regional emissions analyses for transportation. The EPA extended that grace period until March 2, 2013 (77 FR 11394, February 27, 2012).

Following is the EPA's evaluation of the sections of the 2011 Submittal we are taking action on in this rulemaking.

1. The Revised Emission Inventories

The 2011 Submittal revises only the on-road mobile source inventories but not the point, non-road and area source inventories for the 2007 base year and projections for the years 2009, 2011, 2012, 2013, 2015, 2019, and 2023. The control strategies in the 2011 Submittal remain the same as in the most recent maintenance plan for the Anchorage maintenance area that was approved on January 10, 2012 (77 FR 1414). The State updated the area-wide inventory and the Turnagain micro-inventory for the Anchorage maintenance area. The Turnagain micro-inventory represents a 9 km^2 area in a neighborhood in west Anchorage that surrounds the Turnagain monitoring station. The Turnagain monitor exhibits the highest CO concentrations of the current monitoring network for the Anchorage maintenance area and has shown approximately 20% higher values than the next highest site.

In the 2007 Anchorage area-wide inventory, motor vehicles accounted for 78.9% of the CO emissions on a typical 24-hour winter day. Motor vehicle start emissions accounted for 53.4% of those emissions. The total area-wide CO emissions are projected to increase by 6.7% by 2023, from 159.3 tons per day (tpd) in 2007 to 169.9 tpd in 2023. In the 2007 Turnagain micro-inventory, motor vehicles accounted for about 84.4% of the CO emissions on a typical 24-hour winter day with motor vehicle start emissions accounting for about 58.9% of those emissions. In the Turnagain micro-inventory area, total CO emissions are projected to decrease by about 5% through 2023, from 10.2 tpd in 2007 to 9.71 tpd in 2023.

2. The Revised Maintenance Demonstration

The State revised the maintenance demonstration in the Anchorage CO plan to include the emissions estimates calculated with MOVES. The methods used for the maintenance demonstration in the 2011 Submittal are consistent with those used previously and most recently approved by the EPA on January 10, 2012 (77 FR 1414). In the 2011 Submittal, the State used a probabilistic roll-forward approach to demonstrate maintenance with the CO NAAQS through 2023.

Based on the revised maintenance demonstration in the 2011 Submittal, the probability of maintaining the CO NAAQS was found to be 99% or greater for all years from 2008 through 2023. In addition, the State performed a sensitivity analysis that assumed three times higher rates of growth in vehicle travel than projected and a 2% per annum growth in wood burning. The probability of compliance using the higher rates was estimated to be greater than 98% through 2023.

The EPA concludes that the emission inventories and revised maintenance demonstration in the 2011 Submittal are consistent with EPA guidance and the Anchorage CO maintenance plan continues to demonstrate its purpose of maintaining the CO NAAQS through the year 2023. Therefore, the EPA is approving the 2011 Submittal with the exception of the following two sections in Volume II: Section III.B.4, Carbon Monoxide Monitoring Program and Section III.B.10, Motor Vehicle Emissions Budget, because these sections have been superseded by the State's 2013 Submittal and no further action by the EPA on these components of the submission is required.

Although the EPA previously found the MVEB to be adequate for conformity purposes (77 FR 8252, February 14, 2012), we are not approving the MVEB in the 2011 Submittal because it has

been superseded by the 2013 Submittal. The EPA is also not approving 18 AAC 50 as discussed below in section IV.C.

B. 2013 Submittal

In its 2013 Submittal, the State revises the previous Anchorage Transportation Control Program (2011 Submittal) by adding a second ten-year maintenance plan as required by section 175A(b) of the CAA. The 2013 Submittal also revises the transportation conformity and CO monitoring program sections of the plan and certain appendices of the plan. The current Anchorage Transportation Control Program is comprised of both the 2011 and the 2013 Submittals. Following is the EPA's evaluation of the sections of the 2011 and 2013 Submittals we are acting on in this rulemaking which support our approval of the Anchorage second 10-year maintenance plan. (See the table ''Anchorage 2011 and 2013 CO Maintenance Plan Submittals'' in the docket for a complete list of sections in the Anchorage Transportation Control Program that the EPA is approving in this action.)

For the second 10-year maintenance plan, the State chose the LMP Option as described in an October 6, 1995, EPA memorandum from Joseph Paisie, the Group Leader of the Integrated Policy and Strategies Group, titled, ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas.'' To qualify for the LMP Option, the second highest CO value for an area, based on the eight consecutive quarters (two years of data) used to demonstrate attainment, must be at or below 7.65 parts per million (ppm), which is 85 percent of the 8-hour CO NAAQS. The EPA has determined that the LMP Option for CO is also available to all states as part of the 175A(b) update to the maintenance plans, regardless of the original nonattainment classification, or lack thereof. Thus, the EPA observes that although the Anchorage maintenance area was designated as a serious nonattainment area for the CO NAAQS, redesignation to attainment status in conjunction with meeting all requirements of the October 6, 1995, memorandum, allows the State to be eligible to submit a LMP as the update to its original maintenance plan per section 175A(b) of the CAA.

The requirements for the LMP Option and the EPA's evaluation of how each requirement has been met by the 2011 and 2013 Submittals are summarized below.

1. Base Year Emission Inventory

A maintenance plan must contain an attainment year emission inventory to identify a level of emissions in the area that is sufficient to attain the CO NAAQS. The Anchorage CO maintenance plan contains an emission inventory for the Anchorage maintenance area for the base year 2007. The emission inventory for the Anchorage maintenance area is a list, by source category, of the amount of CO directly emitted by area, point and mobile sources. Motor vehicle emission estimates for the 2007 base year inventory have been updated with the EPA MOVES vehicle emission model and were included in the 2011 Submittal which the EPA is approving in this action (*see* discussion above). The methods used to determine the Anchorage CO emission inventory are consistent with the EPA's most recent guidance on developing emission inventories. Because violations of the CO NAAQS are most likely to occur on winter weekdays, the inventory prepared is for a typical winter day. The table below shows the estimated tons of CO emitted per winter day by source category.

2007 Anchorage Emission Inventory, Main Source Category Subtotals

Main source category	CO emissions tons per winter day
Point Sources	1.3
Motor Vehicles	125.6
Anchorage International Airport Operations	12.4
Wood Burning	6.2
Space Heating-natural gas	3.8
Merrill Field Airport	0.7
Miscellaneous	9.3
Total	159.3

2. Demonstration of Maintenance

The 8-hour CO NAAQS is attained when the second highest 8-hour average CO concentration in a given year does not exceed a concentration of 9.0 ppm. The last monitored violation of the CO NAAQS in Anchorage occurred in 1996 and monitored CO levels have been steadily in decline ever since. The second highest 8-hour CO concentration in 2012 for the Anchorage maintenance area was 5.5 ppm, which is in attainment with the CO NAAQS.

The maintenance demonstration requirement is considered to be satisfied for areas that qualify for the LMP Option if the second highest 8-hour CO concentration during the most recent 8 quarters has been at or below 7.65 ppm (85 percent of the NAAQS). The EPA believes that if an area begins its maintenance period at or below 85 percent of the CO 8-hour NAAQS, the continued applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and any Federal control measures in place, should all provide adequate assurance of maintenance over the 10-year maintenance period. With the LMP Option, there is no requirement to project CO emission inventories over the second 10-year maintenance period. The second highest 8-hour CO concentration for the Anchorage maintenance area during the most recent 8 quarters (2011–2012) was 5.5 ppm, which is below the LMP Option requirement of 7.65 ppm. Therefore, the EPA finds that Alaska has demonstrated that the Anchorage maintenance area qualifies for the LMP Option and has satisfied the maintenance demonstration requirement.

3. Monitoring Network and Verification of Continued Attainment

To verify the attainment status of the area over the maintenance period, the LMP must contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR Part 58. The 2013 Submittal includes a commitment to continue to operate an EPA-approved monitoring network in Anchorage. Alaska submits an annual air monitoring network plan to the EPA for approval, and the Alaska air monitoring network plan was most recently approved by the EPA on October 25, 2012.

4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions that could be implemented if a maintenance area fails to attain the NAAQS. In the 2013 Submittal, Alaska committed to the same six contingency measures for the Anchorage maintenance area that were included in the 2011 Submittal. These contingency measures are summarized in the LMP as follows:

(1) Increasing public awareness and education, transit, carpool and vanpool promotion efforts;

(2) curtailing or limiting the use of fireplaces and woodstoves and other wood burning appliances when high CO is predicted;

(3) promoting an increase in transit ridership among commuters by offering reduced fares or free transit for employees of companies that contribute to the subsidy;

(4) reinstating the engine block heater installation subsidy;

(5) reinstating the ethanol-blended gasoline requirement; and

(6) reinstating the Inspection and Maintenance program.

As a result of its review, the EPA finds that the 2011 and 2013 Submittals adequately demonstrate that the Anchorage CO maintenance area will continue to maintain the CO NAAQS through 2024, and that these submittals contain all the necessary elements to qualify the Anchorage CO maintenance area for the LMP Option.

C. Revisions to 18 AAC 50.030

Both the 2011 and 2013 Submittals included revisions to the appendices to the Air Quality Control Program (Volume III, 18 AAC 50 Air Quality Control) by amending regulation 50.030 of title 18 of the Alaska Administrative Code. The EPA is taking no action on 18 AAC 50.030, State Air Quality Control Plan, which adopts by reference Volumes II and III of the State Air Quality Control Plan and other documents (as a matter of State law) because the referenced documents that form the basis for the 2011 and 2013 Submittals are being individually approved in this action. The EPA takes action directly, as appropriate, on the specific provisions in the State Air Quality Control Plan that have been submitted by the State, so it is unnecessary for the EPA to approve 18 AAC 50.030. The EPA is only approving those provisions related to the State's CO maintenance and limited maintenance plans that are specifically identified in the 2011 and 2013 Submittals and addressed in this action. The EPA is not approving any regulatory provision of 18 AAC 50.

V. Transportation and General Conformity

Transportation conformity is required by section 176(c) of the CAA. The EPA's conformity rule requires that transportation plans, programs and projects that are funded under 23 U.S.C. or the Federal Transit Act conform to SIPs. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS.

The transportation conformity rule (40 CFR Parts 51 and 93) and the general conformity rule (40 CFR Parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating that a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While the EPA's LMP Option does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting an emissions budget. Under the LMP Option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the CO NAAQS would result. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in section 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

While areas with maintenance plans approved under the LMP Option are not subject to the budget test, the areas remain subject to other transportation conformity requirements of 40 CFR Part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

a. Transportation plans and projects provide for timely implementation of SIP transportation control measures in accordance with 40 CFR 93.113;

b. Transportation plans and projects comply with the fiscal constraint element per 40 CFR 93.108;

c. The MPO's interagency consultation procedures meet applicable requirements of 40 CFR 93.105;

d. Conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;

e. The latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;

f. Projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and

g. Project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

The EPA confers regularly with the Anchorage Metropolitan Area Transportation System technical and policy committees, the Alaska Department of Environmental Conservation, the Alaska Department of Transportation & Public Facilities, the Federal Highway Administration and the Federal Transit Administration to review the Transportation Improvement Plan for the Anchorage maintenance area to determine if the area is meeting the transportation conformity requirements under 40 CFR Part 93, subpart A. The EPA finds that the Anchorage maintenance area currently meets the requirements of 40 CFR Part 93, subpart A.

VI. Final Action

The EPA is taking direct final action to approve the revised sections of the Anchorage Transportation Control Program (Volume II, Section III.B) in the Alaska SIP Submittal of September 20, 2011, that are not superseded by the Submittal of April 22, 2013.

In accordance with the requirements of the CAA, the EPA is approving the CO LMP (Limited Maintenance Plan for 2014–2024, Volume II, Section III.B.12 of the State Air Quality Control Plan, adopted February 22, 2013) for the second 10-year period for the Anchorage maintenance area in Alaska's SIP Submittal of April 22, 2013, because the State's LMP adequately demonstrates that the Anchorage maintenance area qualifies for the LMP Option and will maintain the CO NAAQS through the second 10-year maintenance period, and is consistent with EPA guidance.

VII. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• does not provide the 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 the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: February 13, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

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

PART 52—[AMENDED]

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

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

Subpart C—Alaska

■ 2. Section 52.73 is amended by adding paragraphs (a)(1)(iii) and (iv) to read as follows:

§ 52.73 Approval of plans.

(a) * * *

(1) * * *

(iii) The EPA approves the following revised sections of the Anchorage Transportation Control Program, Anchorage CO Maintenance Plan (Volume II, Section III.B) of the Alaska SIP Submittal adopted July 13, 2011, and submitted on September 20, 2011: Planning Process (Section III.B.1), Maintenance Area Boundary (Section III.B.2), Nature of the CO Problem—Causes and Trends (Section III.B.3), Transportation Control Strategies (Section III.B.5), Modeling and Projections (Section III.B.6), Contingency Plan (Section III.B.7), Anchorage Emergency Episode Plan (Section III.B.8), Assurance of Adequacy (Section III.B.9) and Redesignation Request (Section III.B.11). The EPA also approves the following revised sections of the Appendices (Volume III): Anchorage Assembly Resolution No. 2011–133 (Appendix III.B.1), Anchorage 2007 Carbon Monoxide Emission Inventory and 2007–2023 Emission Projections (Appendix III.B.3), Analysis of Probability of Complying with the National Ambient Air Quality Standard for Carbon Monoxide in Anchorage between 2007 and 2023 (Appendix III.B.6) and Affidavit of Oral Hearing (Appendix III.B.10).

(iv) The EPA approves the following revised sections of the Anchorage Transportation Control Program, Anchorage CO Limited Maintenance Plan (Volume II, Section III.B), of the Alaska SIP Submittal adopted February 22, 2013, and submitted on April 22, 2013: Carbon Monoxide Monitoring Program (Section III.B.4) Air Quality Conformity Procedures (Section III.B.10), Limited Maintenance Plan for 2014–2024 (Section III.B.12). In this action, the EPA also approves the following revised sections of the Appendices (Volume III): Anchorage Assembly Resolution No. 2013–20 (Appendix III.B.1) and Affidavit of Oral Hearing (Appendix III.B.10).

* * * * *

[FR Doc. 2014–04452 Filed 2–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0418, FRL–9907–30-Region 10]

Approval and Promulgation of Implementation Plans; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is partially approving the May 9, 2013, State Implementation Plan (SIP) submittal from Idaho to revise the SIP to update the incorporation by reference of Federal air quality regulations into the SIP and make minor edits and clarifications. The EPA is granting limited approval, as SIP strengthening, to a portion of the submittal that incorporates by reference updates to the Federal nonattainment new source review (nonattainment NSR) requirements that have been recently remanded to the EPA by a court. In addition, the EPA is partially disapproving Idaho's incorporation by reference of two provisions of the Federal prevention of significant deterioration (PSD) permitting rules that have been recently vacated in a separate decision by a court. Finally we are taking no action on Idaho's incorporation by reference of another provision of the Federal PSD permitting rules that has also been the subject of a court action. Upon the effective date of this action, the Idaho SIP will incorporate by reference certain Federal regulations as of July 1, 2012.

DATES: This final rule is effective on April 2, 2014.

ADDRESSES: The EPA has established a docket for this action under Docket Identification No. EPA–R10–OAR–2013–0418. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although

listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at EPA Region 10, Office of Air, Waste, and Toxics, AWT–107, 1200 Sixth Avenue, Seattle, Washington 98101. The EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kristin Hall at: (206) 553–6357, *hall.kristin@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us'' or ''our'' is used, it is intended to refer to the EPA. Information is organized as follows:

Table of Contents

I. Background

Section 110 of the Clean Air Act (CAA) specifies the general requirements for states to submit SIPs to attain and maintain the National Ambient Air Quality Standards (NAAQS) and the EPA's actions regarding approval of those SIPs. On May 9, 2013, the State of Idaho submitted a SIP revision to the EPA including regulatory changes adopted by Idaho on several different dates. On January 10, 2014, the EPA proposed action on the May 9, 2013, submittal (79 FR 1795). An explanation of the CAA requirements and implementing regulations that are met by this SIP revision, a detailed explanation of the revision, and the EPA's reasons for the proposed action were provided in the notice of proposed rulemaking on January 10, 2014, and will not be restated here (79 FR 1795). The public comment period for the EPA's proposed action ended on February 10, 2014 and we received no comments.

II. Final Action

The EPA is partially approving the May 9, 2013, submittal from Idaho to update the incorporation by reference of Federal air quality regulations into the SIP and make minor edits and clarifications. Specifically, we are approving the revisions to IDAPA 58.01.01.107.03 ''Incorporations by Reference,'' except as noted below; IDAPA 58.01.01.006 ''General Definitions;'' IDAPA 58.01.01.220 ''General Exemption Criteria for Permit to Construct Exemptions;'' and IDAPA 58.01.01.222 ''Category II Exemption.'' The EPA is granting limited approval, as SIP strengthening, to a portion of the submittal that incorporates by reference updates to the Federal nonattainment NSR requirements at 40 CFR 51.165 that have been recently remanded to the EPA by a court.

We are partially disapproving the revision to IDAPA 58.01.01.107.03(c) as it relates to the incorporation by reference of specific vacated provisions at 40 CFR 52.21 (namely, 40 CFR 52.21(i)(5)(i)(c) and 40 CFR 52.21(k)(2)). We are taking no action on the revision to IDAPA 58.01.01.107.03(c) as it relates to the incorporation by reference of the vacated revision to 40 CFR 52.21(b)(49)(ii)(*a*). As of the effective date of this rule, the Idaho SIP will incorporate by reference specific Federal regulations as of July 1, 2012.

III. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this action does not involve technical standards; and does not provide the 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 the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, and Reporting and recordkeeping requirements.

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

Dated: February 11, 2014.

Dennis J. McLerran,

Regional Administrator Region 10.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart N—Idaho

■ 2. In § 52.670:

■ a. The table in paragraph (c) is amended by revising entries 006, 107, 220, and 222.

■ b. The table in paragraph (e) is amended by adding an entry at the end of the table for ''Idaho Department of Environmental Quality letter dated October 18, 2013 supplementing the May 9, 2013 SIP Submittal.''

The revisions and additions read as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IDAHO REGULATIONS AND STATUTES

State citation	Title/subject	State effective date	EPA approval date	Explanations
Idaho Administrative Procedures Act (IDAPA) 58.01.01—Rules for the Control of Air Pollution in Idaho				
*	*	*	*	*
006	General Definitions	4/4/13, /30/07, 4/11/06, 7/1/02, 4/5/00, 3/20/97, 5/1/94.	3/3/14, [Insert page number where the document begins].	Except Section 006.49, 006.50, 006.51, 006.66, 006.67, and 006.68(b), 006.114, and 006.116.
*	*	*	*	*
107	Incorporations by Reference	4/4/13, 10/6/10, 5/8/09, 3/30/07, 3/20/04, 7/1/97, 5/1/94.	3/3/14, [Insert page number where the document begins].	Except Section 107.03(f) through (m), and with respect to 107.03(c), its incorporation by reference of 40 CFR 52.21(i)(5)(i)(*c*), (k)(2), and the second sentence of (b)(49)(ii)(*a*).
*	*	*	*	*
220	General Exemption Criteria For Permit To Construct Exemptions.	4/4/13, 4/5/00	3/3/14, [Insert page number where the document begins].	
*	*	*	*	*
222	Category II Exemption	4/4/13, 4/11/06, 4/5/00, 5/1/94, 7/1/97.	3/3/14, [Insert page number where the document begins].	
*	*	*	*	*

* * * * *

(e) * * *

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI–REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Idaho Department of Environmental Quality letter dated October 18, 2013 supplementing the May 9, 2013 SIP Submittal.	State-wide	10/24/13	3/3/14, [Insert page number where the document begins].	

■ 3. Section 52.683 is amended by revising paragraph (a) to read as follows:

§ 52.683 Significant deterioration of air quality.

(a) The State of Idaho Rules for Control of Air Pollution in Idaho, specifically, IDAPA 58.01.01.005 through 007 (definitions), IDAPA 58.01.01.107.03(a), (b), (c) (incorporations by reference) (except, with respect to Section 107.03(c), its incorporation by reference of 40 CFR 52.21(i)(5)(i)(*c*), (k)(2), and the second sentence of (b)(49)(ii)(*a*)), IDAPA 58.01.01.200 through 222 (permit to construct rules); IDAPA 58.01.01.510 through 516 (stack height rules); and IDAPA 58.01.01.575 through 581 (standards, increments and area designations) (except Section 577), are approved as meeting the requirements of title I, part C, subpart 1 of the Clean Air Act for preventing significant deterioration of air quality.

* * * * *

[FR Doc. 2014–04441 Filed 2–28–14; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 79, No. 41
Monday, March 3, 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.

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2014–BT–STD–0005]

RIN 1904–AD15

Energy Conservation Program: Energy Conservation Standards for Residential Conventional Cooking Products

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

ACTION: Extension of public comment period.

SUMMARY: This document announces an extension of the time period for submitting comments on the request for information document regarding whether to amend the current energy conservation standards for residential conventional cooking products. The comment period is extended to April 14, 2014.

DATES: The comment period for the request for information document regarding energy conservation standards for residential conventional cooking products published on February 12, 2014 (79 FR 8337) is extended to April 14, 2014.

ADDRESSES: Any comments submitted must identify the request for information for standards for residential conventional cooking products and provide docket number EERE–2014–BT–STD–0005 and/or Regulation Identification Number (RIN) 1904–AD15 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: ConventionalCookingProducts2014STD0005@ee.doe.gov* Include the docket number EERE–2014–BT–STD–0005 and/or RIN 1904–AD15 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza, SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov,* including **Federal Register** notices, framework documents, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1692. Email: *kitchen_ranges_and_ovens@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On February 12, 2014, the U.S. Department of Energy (DOE) published a request for information (RFI) and notice of document availability document in the **Federal Register** (79 FR 8337) initiating the rulemaking and data collection process to consider new and amended energy conservation standards for products included in the definition of conventional cooking products. The RFI requested public comment from interested parties regarding specific as well as general questions and provided for the submission of comments by March 14, 2014. Thereafter, the Association of Home Appliance Manufacturers (AHAM) requested that DOE extend the comment period by 30 days. AHAM stated that the additional time is necessary in order to allow for review of and substantive comment on the significant questions to which DOE is seeking response.

Based on AHAM's request, DOE believes that extending the comment period to allow additional time for interested parties to submit comments is appropriate. Therefore, DOE is extending the comment period until April 14, 2014 to provide interested parties additional time to prepare and submit comments. Accordingly, DOE will consider any comments received by April 14, 2014 to be timely submitted.

Issued in Washington, DC, on February 26, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2014–04646 Filed 2–28–14; 8:45 am]

BILLING CODE 6450–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 710

RIN 3133–AE30

Voluntary Liquidation

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The NCUA Board (Board) proposes to amend its voluntary liquidation regulation to reduce administrative burdens on voluntarily liquidating federal credit unions (FCUs) and recognize technological advances by: Permitting liquidating FCUs to publish required creditor notices in either electronic media or newspapers of general circulation; increasing the asset-size threshold for requiring multiple creditor notices; requiring that preliminary partial distributions to members not exceed the insured limit for any member share account; specifying when liquidating FCUs must determine member share balances for the purposes of distributions; and permitting liquidating FCUs to distribute member share payouts either by wire or other electronic means or by mail or personal delivery.

DATES: Comments must be received on or before May 2, 2014.

ADDRESSES: You may submit comments by any of the following methods (Please send comments by one method only):

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- NCUA Web site: *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx.* Follow the instructions for submitting comments.
- Email: Address to *regcomments@ncua.gov.* Include ''[Your name]—Comments on Proposed Rule 710'' in the email subject line.
- Fax: (703) 518–6319. Use the subject line described above for email.
- Mail: Address to Gerard Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- Hand Delivery/Courier: Same as mail address.

Public Inspection: You may view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Ian Marenna, Trial Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

A. What changes does this proposed rule make?

NCUA has not made substantive changes to the rule governing voluntary liquidations by FCUs since 1993. This proposed amendment to Part 710 would modernize the rule by increasing dollar thresholds for certain procedural requirements. It also would afford greater flexibility to voluntarily liquidating FCUs to use electronic means to publish creditor notices and issue member share payments. In addition, the proposed amendment would limit any preliminary distributions to members to the insured amount of each share account. The proposed amendment would also clarify an existing required calculation. Specifically, the proposed rule would: (1) Amend Section 710.5 to permit voluntarily liquidating FCUs to publish required creditor notices in electronic media reasonably calculated to reach the general public in the area or areas where the FCUs do business; (2) amend Section 710.5 to increase the asset size threshold for requiring multiple creditor notices, exempting FCUs with less than $1 million in assets from the publication requirement and exempting FCUs with less than $50 million in assets from the multiple publication requirement; (3) amend Section 710.6 to specify that partial distributions to members, which are subject to the Regional Director's approval, must not exceed the insured limit of each member's share account; (4) further amend Section 710.6 to specify that, in calculating pro rata distributions to members, voluntarily liquidating FCUs must determine member share balances as of the date the members voted to approve the liquidation or the date on which all share drafts cleared, whichever is later; and (5) permit voluntarily liquidating FCUs to distribute member share payouts either by wire or other electronic means approved by a member or by mail or personal delivery.

B. Why is the Board proposing this rule?

The Board is proposing this amendment to update the rule and provide relief from unnecessary regulatory burden. The proposed increase in asset-size thresholds recognizes both inflation and the current definition of small credit unions. The proposed rule also reflects the increased use of electronic and Internet communications, as well as electronic payment methods, by permitting voluntarily liquidating FCUs to use these methods to notify potential creditors and pay out member share accounts.

This proposed rule furthers the goals of ensuring an orderly liquidation process and the prompt payment of member shares by making voluntary liquidation less cumbersome and avoiding losses to the National Credit Union Share Insurance Fund that might ultimately be incurred if the subject FCU is involuntarily liquidated. The proposed rule also aims to reduce risk to the Fund by specifying that preliminary partial distributions to members must not exceed the insured limit of each member's share account. This limitation is proposed to guard against the problems that could arise if NCUA must convert a voluntary liquidation to an involuntary liquidation based on insolvency. If a voluntarily liquidating FCU discovers during the process that it is insolvent, then NCUA may place the credit union into involuntary liquidation. This finding could stem from conditions such as unanticipated creditor claims or difficulty in converting remaining assets to enough cash to pay all shares and liabilities. In this scenario, the procedures and priorities under Part 709 would apply, and general creditors would have preference over uninsured shareholders to the extent that they are uninsured. By limiting these interim distributions to each member's insured balance, the proposed rule would keep Part 709's priorities intact in case the credit union must enter involuntary liquidation. If the credit union remains solvent throughout the liquidation, then every member would receive the full balance at the end of the process, along with any available liquidating dividend.

Generally, the proposed rule is designed to reduce the burden on small credit unions by raising certain thresholds for procedural requirements. It also reduces the burden on FCUs generally by affording more flexibility in implementing voluntary liquidations and clarifying an existing requirement.

II. The Proposed Rule

A. Section 710.5(a)(1)

Under the proposed rule, FCUs would be allowed to publish the required creditor notice(s) in electronic media. With this update, voluntarily liquidating FCUs will have greater flexibility in notifying potential creditors, thereby increasing the efficiency of the process and decreasing the costs associated with publishing notices in newspapers.

Also, the proposed rule increases the asset-size threshold for requiring multiple creditor notices from FCUs with assets equal to or greater than $5 million to FCUs with assets equal to or greater than $50 million. The $50 million threshold is proposed to align with NCUA's definition of small credit unions. Thus, the amendment seeks to reduce the burden on small credit unions with respect to the publication requirements.

B. Section 710.5(a)(2)

The amendment to this provision would increase the asset-size threshold applicable to publication requirements. Under this amendment, FCUs with assets equal to or greater than $1 million but less than $50 million would be

required to publish just one notice, though FCUs could choose to publish more notices. This amendment retains the tiered structure of the publication requirement while increasing the dollar amounts to reflect inflation, growth in credit union assets, and NCUA's definition of small credit unions.

C. Section 710.5(a)(3)

This amendment also reflects an increase in thresholds applicable to the publication requirement. Specifically, this amendment exempts FCUs with assets under $1 million from the publication requirement. This increase from the current $500,000 threshold implemented in 1993 reflects inflation, growth in credit union assets over the past 20 years, and the Board's experience that smaller credit unions generally have a far less complex business model with a limited number of creditors.

D. Section 710.6(a)

This amendment limits approved partial distributions to the extent of share insurance for each member's share account. Under this limitation, a voluntarily liquidating FCU could only pay member share accounts up to the applicable share insurance limit during an interim distribution. This limitation, which would only apply to approved partial distributions and would only apply to large share accounts, would not diminish an affected member's ability to receive the remainder of the account once the liquidation is completed. If the FCU remains solvent, each member would receive the full account balance in the final distribution, along with any liquidating dividend.

E. Section 710.6(b)

This amendment clarifies the existing requirement to compute pro rata distributions to members by specifying that a voluntarily liquidating FCU would determine the member share balances as of the day that the members voted to approve liquidation, or the day on which all share drafts cleared, whichever is later. This addition is intended to avoid uncertainty in the computation, as share balances may change during the liquidation process.

F. Section 710.6(c)

Under this amendment, a voluntarily liquidating FCU would be permitted to distribute member share account payments by wire or other means that a member agrees to accept. This change, taking advantage of advanced technology, would increase the efficiency of the process by reducing the number of checks that an FCU must draw and deliver while decreasing the amount of time that the members wait to receive their funds.

III. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.[1] For purposes of this analysis, NCUA considers small credit unions to be those having under $50 million in assets.[2] This proposed rule has no significant economic impact on FCUs as going concerns because it solely addresses procedures for voluntary liquidation. Also, the proposed rule increases certain dollar thresholds and affords greater flexibility to all FCUs engaging in voluntary liquidation. Accordingly, NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.[3] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. This proposed rule does not impose or expand upon any existing reporting or recordkeeping requirements. This proposed rule will not create new paperwork burdens or modify any existing paperwork burdens.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rule will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[4]

List of Subjects in 12 CFR Part 710

Voluntary Liquidation.

By the National Credit Union Administration Board on February 20, 2014.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, NCUA proposes to amend 12 CFR Part 710 as follows:

PART 710—VOLUNTARY LIQUIDATION

■ 1. The authority citation for part 710 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1786, and 1787.

■ 2. In § 710.5, revise paragraphs (a)(1) and (a)(2) and in paragraph (a)(3) remove ''$500,000'' and add in its place ''$1 million''.

The revisions read as follows:

§ 710.5 Notice of liquidation to creditors.

(a) * * *

(1) Federal credit unions with assets equal to or greater than $50 million as of the month end prior to the liquidation date shall publish the notice once a week in each of three successive weeks, in a newspaper of general circulation in each county in which the Federal credit union maintains an office or branch for the transaction of business on the liquidation date, or through any alternative publication through an electronic medium that is reasonably calculated to reach the general public in the relevant area or areas. The first notice shall be published within seven days of the liquidation date.

(2) Federal credit unions with assets equal to or greater than $1 million but less than $50 million as of the month end prior to the liquidation date shall publish the notice described in § 710.5(a)(1) of this section at least once. The notice shall be published within seven days of the liquidation date.

* * * * *

■ 3. In § 710.6, revise paragraphs (a), (b), and (c) to read as follows:

§ 710.6 Distribution of assets.

(a) With the approval of the regional director, a partial pro rata distribution of

[1] 5 U.S.C. 603(a).

[2] Interpretive Ruling and Policy Statement 03–2, 68 FR 31949 (May 29, 2003), as amended by Interpretive Ruling and Policy Statement 13–1, 78 FR 4032 (Jan. 18, 2013).

[3] 44 U.S.C. 3507(d).

[4] Public Law 105–277, 112 Stat. 2681 (1998).

the Federal credit union's assets may be made to its members from cash funds available on authorization by the board of directors or liquidating agent. Payment of a partial distribution may exclude member accounts of less than $25.00 and must not exceed the insured amount of any account, as determined under part 745 of this chapter.

(b) After all assets of the Federal credit union have been converted to cash or found to be worthless and all loans and debts owing to it have been collected or found to be uncollectible and all obligations of the Federal credit union have been paid, with the exception of shares due its members, the books shall be closed and the pro rata distribution to the members shall be computed. The computation shall be based on the total amount in each share account as of the liquidation date or the date on which all share drafts have cleared, whichever is later.

(c) Payments must be made to members promptly after the pro rata distribution has been computed. The Federal credit union may mail a check to a member at his or her last known address, deliver the check personally to the member, or make the payment by wire or any other electronic means approved by a member.

* * * * *

[FR Doc. 2014–04231 Filed 2–28–14; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0121; Directorate Identifier 2013–NM–151–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2008–14–17, for certain Airbus Model A330–200 and A340–300 series airplanes. AD 2008–14–17 currently requires a high frequency eddy current (HFEC) inspection, corrective actions if necessary, and modifications. Since we issued AD 2008–14–17, it has been determined from a fatigue and damage tolerance evaluation that the compliance time needs to be revised. This proposed AD would require the same actions as those required by AD 2008–14–17, but with a reduced compliance time. We are proposing this AD to detect and correct damage of the upper shell structure at the skin and frame interface, which could result in reduced structural integrity of the airframe.

DATES: We must receive comments on this proposed AD by April 17, 2014.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Fax: (202) 493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0121; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0121; Directorate Identifier 2013–NM–151–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On June 27, 2008, we issued AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008). AD 2008–14–17 requires actions intended to address an unsafe condition on certain Airbus Model A330–200 and A340–300 series airplanes.

Since we issued AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008), it has been determined from a fatigue and damage tolerance evaluation that the compliance time of the HFEC inspection for cracking, and modification of the upper shell structure of the fuselage needs to be revised.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2013–0158, dated July 22, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During fatigue tests (EF3) on an A340–600 aeroplane, multiple damage was found in the upper side shell structure at skin and frame (FR) 84 and 85 interface, from stringer 6 to 15 Left-Hand (LH) and Right Hand (RH). This damage occurred between 58 341 and 72 891 simulated flight cycles (FC).
>
> Due to the higher Design Service Goal and different design (e.g. skin thickness) for A330–200 and A340–300 aeroplanes, the damage assessment concluded that these aeroplanes can potentially be impacted.
>
> This condition, if not detected and corrected, could result in reduced structural integrity of the airframe.
>
> Prompted by these findings, EASA issued [an] AD * * * to require a one-time inspection and a modification to improve the upper shell structure.

EASA AD 2007–0269R1 [(*http://ad.easa.europa.eu/blob/easa_ad_2007_0269R1_superseded.pdf/AD_2007–0269R1_2*)], which corresponds to FAA AD 2008–14–17, Amendment 39–15612 (73 FR 40958) was issued to clarify the fact that the [EASA] AD was not applicable to A340–300 aeroplanes on which both Airbus Mod 44205 and Mod 45012 have been embodied in production.

Since that [EASA] AD was issued, in the frame of a new fatigue and damage tolerance evaluation, taking into account the aeroplane utilization, the threshold and intervals were reassessed. This reassessment concluded that, in that specific case, the threshold for modifying the aeroplane must be reduced.

For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2007–0269R1, which is superseded, but requires these actions within the new thresholds.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2014–0121.

Relevant Service Information

Airbus has issued Mandatory Service Bulletin A330–53–3152, Revision 03, dated December 22, 2011. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 7 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection and Modification [retained actions from AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008)].	300 work-hours × $85 per hour = $25,500.	$72,730	$98,230	$687,610

This proposed AD adds no additional economic burden.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Amend § 39.13 by removing Airworthiness Directive (AD) 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008), and adding the following new AD:

Airbus: Docket No. FAA–2014–0121; Directorate Identifier 2013–NM–151–AD.

(a) Comments Due Date

We must receive comments by April 17, 2014.

(b) Affected ADs

This AD supersedes AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008).

(c) Applicability

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

(1) Airbus Model A330–201, –202, –203, –223, and –243 airplanes, all manufacturer serial numbers (MSN), on which Airbus modification 44205 has been embodied in production, except those on which Airbus modification 52974 or modification 53223 has been embodied in production.

(2) Airbus Model A340–311, –312, and –313 airplanes, all MSN on which Airbus modification 44205 has been embodied in production, except those on which Airbus modification 52974 or modification 53223 or modification 45012 has been embodied in production.

(d) Subject

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

(e) Reason

This AD was prompted by a determination from a fatigue and damage tolerance evaluation that the compliance time of the high frequency eddy current (HFEC) inspection for cracking, and modification of the upper shell structure of the fuselage needs to be revised. We are issuing this AD to detect and correct damage of the of the upper shell structure at the skin and frame

interface, which could result in reduced structural integrity of the airframe.

(f) Compliance

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

(g) Retained Inspection With Reduced Compliance Times and Revised Service Information

This paragraph restates the requirements of paragraph (f)(1) of AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008), with reduced compliance times and revised service information. For Airbus Model A330–200 series airplanes, as identified in paragraph (c) of this AD, on which Modification 45012 has been embodied in production: Within the applicable compliance times specified in paragraphs (g)(1), (g)(2), (g)(3), and (g)(4) of this AD, do the HFEC inspection for cracking, and corrective actions as applicable; and modify the upper shell structure of the fuselage; in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A330–53–3152, Revision 3, dated December 22, 2011. Do all applicable corrective actions before further flight.

(1) For airplanes pre-modification 48827 with short range utilization: At the later of the times specified in paragraph (g)(1)(i) or (g)(1)(ii) of this AD.

(i) Prior to 24,400 total flight cycles or 85,400 total flight hours, whichever occurs first.

(ii) Within 12 months after the effective date of this AD without exceeding 25,400 total flight cycles.

(2) For airplanes pre-modification 48827 with long range utilization: At the later of the times specified in paragraph (g)(2)(i) or (g)(2)(ii) of this AD.

(i) Prior to 18,900 total flight cycles or 122,900 total flight hours, whichever occurs first.

(ii) Within 12 months after the effective date of this AD without exceeding 25,400 total flight cycles.

(3) For airplanes post-modification 48827 with short range utilization: At the later of the times specified in paragraph (g)(3)(i) or (g)(3)(ii) of this AD.

(i) Prior to 16,400 total flight cycles or 57,400 total flight hours, whichever occurs first.

(ii) Within 12 months after the effective date of this AD without exceeding 17,100 total flight cycles or 94,700 total flight hours, whichever occurs first.

(4) For airplanes post-modification 48827 with long range utilization: At the later of the times specified in paragraph (g)(4)(i) or (g)(4)(ii) of this AD.

(i) Prior to 12,700 total flight cycles or 82,700 total flight hours, whichever occurs first.

(ii) Within 12 months after the effective date of this AD without exceeding 17,100 total flight cycles or 94,700 total flight hours, whichever occurs first.

(h) Retained Modification With Revised Formatting

This paragraph restates the requirements of paragraph (f)(2) of AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008). For Airbus Model A330–200 and A340–300 series airplanes as identified in paragraph (c) of this AD, on which Modification 45012 has not been embodied in production: At the later of the compliance times specified in paragraphs (h)(1) and (h)(2) of this AD, modify the upper shell structure of the fuselage, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–53–3157 or Airbus Service Bulletin A340–53–4163, both dated July 5, 2006, as applicable.

(1) For the airplanes identified in paragraphs (h)(1)(i) and (h)(1)(ii) of this AD.

(i) For Model A330–200 series airplanes, prior to 6,600 total flight cycles.

(ii) For Model A340–300 series airplanes, prior to 14,000 total flight cycles.

(2) Within 90 days after August 21, 2008 (the effective date of AD 2008–14–17, Amendment 39–15612 (73 FR 40958, July 17, 2008)).

(i) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in paragraph (i)(1), (i)(2), or (i)(3) of this AD.

(1) Airbus Mandatory Service Bulletin A330–53–3152, dated April 10, 2007.

(2) Airbus Mandatory Service Bulletin A330–53–3152, Revision 1, dated May 5, 2009.

(3) Airbus Mandatory Service Bulletin A330–53–3152, Revision 2, dated July 27, 2011.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the DAH with a State of Design Authority's design organization approval, as applicable). You are required to ensure the product is airworthy before it is returned to service.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2013–0158, dated July 22, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0121.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 14, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04501 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0953; Directorate Identifier 2013–NE–32–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211 Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines. The proposed AD was prompted by thin-walled low pressure (LP) turbine bearing support and exhaust case assemblies having been delivered into service. This proposed AD would require inspection of the affected LP turbine bearing support and exhaust case assembly and, if necessary, its replacement with a part eligible for installation. We are proposing this AD to prevent failure of the LP turbine

bearing support and exhaust case assembly, which could lead to engine separation and damage to the airplane.

DATES: We must receive comments on this proposed AD by May 2, 2014.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- 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: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 202–493–2251.

For service information identified in this proposed AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Web site: *https://www.aeromanager.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0953; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7148; fax: 781–238–7199; email: *eugene.triozzi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0953; Directorate Identifier 2013–NE–32–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2013–0223, dated September 19, 2013 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Rolls-Royce has identified that limitations in the drawing definition for the Trent 800 low pressure (LP) Turbine Bearing Support and Exhaust Case assembly (EIPC 72–52–51, 03–300, also known as the Tail Bearing Housing or TBH) may have resulted in thin wall section parts being delivered into service. Further analysis has concluded that under certain circumstances, the structural integrity of a thin walled part may be insufficient to withstand a fan blade failure event.
>
> This condition, if not detected and corrected, could, in case of fan blade failure, lead to a loss of integrity of the TBH and leave the engine unsupported at the rear mount, possibly resulting in damage to, or reduced control of, the aeroplane.

This condition, if not addressed, may allow failure of the LP turbine bearing support and exhaust case assembly, which could lead to engine separation and damage to the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0953.

Relevant Service Information

RR has issued Alert Service Bulletin (ASB) No. RB.211–72–AG644, dated April 30, 2013. The ASB provides guidance for rework or inspection of the LP turbine bearing support and exhaust case assembly.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require inspection of the affected LP turbine bearing support and exhaust case assembly and, if necessary, its replacement with a part eligible for installation.

Costs of Compliance

We estimate that this proposed AD would affect about 110 engines installed on airplanes of U.S. registry. We also estimate that it would take about 1 hour per product to comply with this proposed AD. The average labor rate is $85 per hour. Required parts cost about $9,250. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $92,600.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA–2013–0953; Directorate Identifier 2013–NE–32–AD.

(a) Comments Due Date

We must receive comments by May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211 Trent 875–17, 877–17, 884–17, 884B–17, 892–17, 892B–17, and 895–17 turbofan engines, except those that have been reworked in accordance with RR Service Bulletin (SB) RB.211–72–G604, dated March 18, 2013.

(d) Reason

This AD was prompted by identification by RR of limitations in the drawing definition for the Trent 800 low pressure (LP) turbine bearing support and exhaust case assembly which resulted in thin wall section parts being delivered into service. We are issuing this AD to prevent failure of the LP turbine bearing support and exhaust case assembly, which could lead to engine separation and damage to the airplane.

(e) Actions and Compliance

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

(1) For engines that have an LP turbine bearing support and exhaust case assembly identified by part number (P/N) and serial number (S/N) in Table 1 to paragraph (e) of this AD, installed, at the next engine shop visit after the effective date of this AD, but not later than June 30, 2017, replace the assembly with one that is eligible for installation.

(2) For engines with an LP turbine bearing support and exhaust case assembly not identified by P/N and S/N in Table 1 to paragraph (e) of this AD, installed, at the next piece part exposure of the LP turbine bearing support and exhaust case assembly after the effective date of AD:

(i) Inspect the hub to conical panel weld line thickness using paragraphs 3.B.(3)(a) through 3.B.(3)(d)(iii) of RR Alert Service Bulletin (ASB) RB.211–72–AG644, dated April 30, 2013; and

(ii) Inspect the hub to conical panel flange thickness using paragraphs 3.B.(4)(a) through 3.B.(4)(c)(v) of RR ASB RB.211–72–AG644, dated April 30, 2013.

(iii) If the LP turbine bearing support and exhaust case assembly does not pass the inspections required by paragraphs (e)(2)(i) and (e)(2)(ii) of this AD, replace the LP turbine bearing support and exhaust case assembly with one that is eligible for installation.

TABLE 1 TO PARAGRAPH (e)—LP TURBINE BEARING SUPPORT AND EXHAUST CASE ASSEMBLY P/NS AND S/NS

P/N	S/N
FK31446	118–01
FK31446	209–01
FK31446	216–01
FK31446	232–01
FK32232	113–01
FK32085	268–01
FK32085	269–01
FK31446	022–01
FK31446	028–01

(f) Definitions

The following definitions apply for the purpose of this AD:

(1) An LP turbine bearing support and exhaust case assembly is eligible for installation if it has passed the inspections of paragraphs (e)(2)(i) and (e)(2)(ii) of this AD; or has been reworked in accordance with RR Service Bulletin (SB) RB.211–72–G604, dated March 18, 2013.

(2) ''Piece part exposure'' occurs whenever the LP turbine bearing support and exhaust case assembly is sufficiently exposed to do the inspections required by paragraphs (e)(2)(i) and (e)(2)(ii) of this AD.

(3) An ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance is not an engine shop visit.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7148; fax: 781–238–7199; email: *eugene.triozzi@faa.gov*.

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0223, dated September 19, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0953.

(3) RR SB No. RB.211–72–G604, dated March 18, 2013, which is not incorporated by reference in this AD, can be obtained from Rolls-Royce plc using the contact information in paragraph (h)(4) of this AD.

(4) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Web site: *https://www.aeromanager.com.*

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on February 20, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–04350 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0876; Directorate Identifier 2013–NE–27–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines. This proposed AD was prompted by an uncontained multiple turbine blade failure on an RR RB211 Trent 772B turbofan engine. This proposed AD would require modification of the engine by removing an electronic engine control (EEC) incorporating EEC software standard A14 or earlier and installing an EEC eligible for installation. We are proposing this AD to prevent failure of the intermediate pressure (IP) turbine disk drive arm or burst of the high pressure turbine disk, which could lead to uncontained engine failure and damage to the airplane.

DATES: We must receive comments on this proposed AD by May 2, 2014.

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

- Federal eRulemaking Portal: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- 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: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: 202–493–2251.

For service information identified in this proposed AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp*; or Web site: *https://www.aeromanager.com*. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0876; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (phone: 800–647–5527) is the same as the Mail address provided in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Anthony W. Cerra Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7128; fax: 781–238–7199; email: *anthony.cerra@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–0876; Directorate Identifier 2013–NE–27–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the Web site, anyone can find and read the comments in any of our dockets, including, if provided, the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2013–0190, dated August 20, 2013 (referred to hereinafter as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> An operator of an A330 aeroplane fitted with RR Trent 772B engines experienced an engine uncontained multiple turbine blade failure. Investigation results showed that High Pressure/Intermediate Pressure (HP/IP) oil vent tubes may be affected by carbon deposit and may also be damaged by their outer heat shields, which in this case led to combustion inside the tube. The consequent chain of events resulted in an engine internal fire which caused the failure of the IP Turbine (IPT) disc drive arm.
>
> This condition, if not corrected, could lead to uncontained multiple turbine blade failures or an HP/IP turbine disc burst, possibly resulting in damage to, and reduced control of, the aeroplane.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0876.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require modification of the engine by removing an EEC incorporating EEC software standard A14 or earlier and installing an EEC eligible for installation.

Costs of Compliance

We estimate that this proposed AD would affect about 72 engines installed on airplanes of U.S. registry. We also estimate that it would take about 1 hour per product to comply with this proposed AD. The average labor rate is $85 per hour. There are no required parts. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $6,120.

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA–2013–0876; Directorate Identifier 2013–NE–27–AD.

(a) Comments Due Date

We must receive comments by May 2, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211 Trent 768–60, 772–60, and 772B–60 turbofan engines prior to engine serial number 42066.

(d) Reason

This AD was prompted by an uncontained multiple turbine blade failure on an RR RB211 Trent 772B turbofan engine. We are issuing this AD to prevent failure of the intermediate pressure turbine disc drive arm or burst of the high pressure turbine disk, which could lead to uncontained engine failure and damage to the airplane.

(e) Actions and Compliance

After the effective date of this AD, at the next engine shop visit or by December 31, 2018, whichever occurs first, modify the engine by removing any electronic engine control (EEC) that incorporates EEC software standard A14 or earlier and installing an EEC eligible for installation.

(f) Installation Prohibition

After modification of an engine as required by paragraph (e) of this AD, do not install an EEC with software standard A14 or earlier into that engine.

(g) Definition

(1) For the purposes of this AD, an ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(2) For the purposes of this AD, an EEC ''eligible for installation'' in paragraph (e) of this AD is any EEC that does not contain software standard A14 or earlier.

(h) Credit for Previous Actions

If before the effective date of this AD you removed from an engine any EEC that had EEC software standard A14 or earlier and your engine no longer has an EEC with software standard A14 or earlier, you have met the requirements of this AD.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs to this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(j) Related Information

(1) For more information about this AD, contact Anthony W. Cerra, Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7128; fax: 781–238–7199; email: *anthony.cerra@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2013–0190, dated August 20, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–0876.

(3) RR Alert Service Bulletin No. RB.211–73–AG829, dated April 18, 2012, which is not incorporated by reference in this AD, can be obtained from Rolls-Royce plc using the contact information in paragraph (j)(4) of this AD.

(4) For service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE248BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* or Web site: *https://www.aeromanager.com.*

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on February 20, 2014.

Colleen M. D'Alessandro,

Assistant Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2014–04349 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0130; Directorate Identifier 2014–CE–005–AD]

RIN 2120–AA64

Airworthiness Directives; Alpha Aviation Concept Limited Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Alpha Aviation Concept Limited Model R2160 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation

product. The MCAI describes the unsafe condition as the metal screen shield over the ignition switch may ground out the ignition terminals. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 17, 2014.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz*. You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0130; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123 ; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–013; Directorate Identifier 2014–CE–005–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The Civil Aviation Authority (CAA), which is the aviation authority for New Zealand, has issued AD DCA/R2000/42, dated January 29, 2014 (referred to after this as ''the MCAI''), to correct an unsafe condition for Alpha Aviation Concept Limited Model R2160 airplanes. The MCAI states:

> The AD is prompted by an overseas DR300/180R aircraft accident which occurred during take-off. Investigation revealed a distorted metal screen shield which grounded the ignition switch terminals and resulted in loss of engine power.
>
> Robin aircraft manufactured prior to 1985 were fitted with ignition switches protected with a metal screen shield. With subsequent radio and electrical system improvements ignition switch shielding is no longer required, and most aircraft do not have metal screen shielded ignition switches.
>
> This AD requires a one-time inspection of the ignition switch to determine if a metal screen shield is installed, and depending on findings, to modify or replace the ignition switch with a serviceable part. The AD prohibits the installation of a metal screen shield ignition switch on any aircraft.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0130.

Relevant Service Information

Alpha Aviation has issued Service Bulletin AA–SB–24–002, Revision 0, dated January 2014. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD will affect 10 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $2,550, or $255 per product.

In addition, we estimate that any necessary follow-on actions would take about 3 work-hours and require parts costing $100, for a cost of $355 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Alpha Aviation Concept Limited: Docket No. FAA–2014–0130; Directorate Identifier 2014–CE–005–AD.

(a) Comments Due Date

We must receive comments by April 17, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Alpha Aviation Concept Limited Model R2160 airplanes, serial numbers 001 through 378, certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 74: Ignition.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the metal screen shield over the ignition switch may ground out the ignition terminals. We are issuing this AD to prevent the ignition switch metal screen from grounding out the ignition switch terminals, which could cause the engine to shut down.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (f)(3) of this AD:

(1) Within the next 50 hours time-in-service after the effective date of this AD or within the next 3 months after the effective date of this AD, whichever occurs first, inspect the airplane ignition switch for the presence of a metal screen shield. Do the inspection following the Accomplishment Instructions in Alpha Aviation Service Bulletin AA–SB–24–002, Revision 0, dated January 2014.

(2) If a metal screen is found during the inspection required in paragraph (f)(1) of this AD, before further flight, modify or replace the ignition switch following the Accomplishment Instructions in Alpha Aviation Service Bulletin AA–SB–24–002, Revision 0, dated January 2014.

(3) As of the effective date of this AD, do not install an ignition switch with a metal screen shield.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4123; fax: (816) 329–4090; email: *karl.schletzbaum@faa.gov*. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

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

(h) Related Information

Refer to MCAI Civil Aviation Authority (CAA) AD DCA/R2000/42, dated January 29, 2014, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0130. For service information related to this AD, contact Alpha Aviation, 59 Hautapu Road, RD 1, Cambridge 3493, New Zealand; telephone: +64 7 827 0528; fax: +64 7 929 2878; Internet: *www.alphaaviation.co.nz*. You may review this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on February 21, 2014.

Steven W. Thompson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04549 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0128; Directorate Identifier 2013–NM–133–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for The Boeing Company Model airplanes equipped with Rolls-Royce Trent 800 series engines. This proposed AD was prompted by reports of in-flight separation of the aft plug from the forward plug, which are the two parts of the turbine exhaust plug assembly. This proposed AD would require installation of a serviceable turbine exhaust plug assembly (for certain airplanes), and a general visual inspection (for certain airplanes) to determine the diameter of the bolt used at the forward and aft plug interface, and applicable corrective actions. We are proposing this AD to prevent separation of the forward plug from the aft plug of the turbine exhaust plug assembly, which could result in parts departing the airplane and hitting the empennage or hitting a person on the ground, and destabilizing the airplane during a critical flight phase; parts remaining on a runway could cause damage to another airplane.

DATES: We must receive comments on this proposed AD by April 17, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Fax: 202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand Delivery: Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

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

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO) FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: (425) 917–6501; fax: (425) 917–6590; email: *kevin.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0128; Directorate Identifier 2013–NM–133–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received reports of in-flight separation of the aft plug from the forward plug, which are the two parts of the turbine exhaust plug assembly. A subsequent investigation showed that some of the interface bolts were found loose or missing. The turbine exhaust plug assembly was sent for analysis and it was found that the remaining bolts had less than the necessary minimum run-on torque value. It was also found that the operator of the analyzed turbine exhaust plug assembly had disassembled it a minimum of three times during maintenance actions. Repeated assembly and disassembly causes the locking property of the nut on the nutplate to wear out and subsequently let the bolts become loose or removed in service. This condition, if not corrected, could result in parts departing the airplane and hitting the empennage or hitting a person on the ground, and destabilizing the airplane during a critical flight phase; parts remaining on a runway could cause damage to another airplane.

Relevant Service Information

We reviewed Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012. For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA 2014–0128.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require installation of a serviceable turbine exhaust plug assembly (for certain airplanes), and a general visual inspection (for certain airplanes) to determine the diameter of the bolt used at the forward and aft plug interface, and applicable corrective actions.

The phrase ''corrective actions'' is used in this proposed AD. ''Corrective actions'' are actions that correct or address any condition found. Corrective actions in an AD could include, for example, repairs.

Differences Between the Proposed AD and the Service Information

The applicability of the proposed AD and the effectivity of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, both include Model 777 airplanes equipped with Rolls-Royce Trent 800 series engines. Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, however, is further limited to airplanes with line numbers before line position 470. Because we have determined that these engines are interchangeable among the Model 777 airplane fleet, this proposed AD would apply to all line positions of Model 777 airplanes equipped with Rolls-Royce Trent 800 engines, and would prohibit installation of non-serviceable turbine exhaust plug assemblies on any affected airplane.

Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, does not specify a compliance time for accomplishing one of the corrective actions. In Table 2 of paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, the condition ''Only ¼ inch diameter bolts are found installed at all 33 locations forward and aft plug interface'' has a corrective action to ''reidentify the forward and aft plug'' with a compliance time of ''none.'' However, in paragraph (g)(2) of this proposed AD, the compliance time is ''before further flight'' for doing all applicable corrective actions, which includes reidentifying the forward and aft plug.

Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 35 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation	5 work-hours × $85 per hour = $425	$0	$425	$14,875
General visual inspection	2 work-hours × $85 per hour = $170	0	170	5,950

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement (replacing the 3/16 inch bolts with 1/4 inch bolts).	5 work-hours × $85 per hour = $425	$0	$425

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0128; Directorate Identifier 2013–NM–133–AD.

(a) Comments Due Date

We must receive comments by April 17, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, –200LR, –300, –300ER, and 777F series airplanes; certificated in any category; equipped with Rolls-Royce Trent 800 series engines.

(d) Subject

Air Transport Association (ATA) of America Code 78, Engine Exhaust.

(e) Unsafe Condition

This AD was prompted by reports of in-flight separation of the aft plug from the forward plug, which are the two parts of the turbine exhaust plug assembly. We are issuing this AD to prevent separation of the forward plug from the aft plug of the turbine exhaust plug assembly, which could result in parts departing the airplane and hitting the empennage or hitting a person on the ground, and destabilizing the airplane during a critical flight phase; parts remaining on a runway could cause damage to another airplane.

(f) Compliance

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

(g) Installation and General Visual Inspection

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, except as provided by paragraph (i) of this AD, do the applicable actions specified in paragraphs (g)(1), (g)(2), and (g)(3) of this AD, in accordance with the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012.

(1) For airplanes identified as Group 1, Configuration 1, in Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012: Install a serviceable turbine exhaust plug assembly.

(2) For airplanes identified as Group 1, Configurations 2 and 3, in Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012: Do a general visual inspection to determine the diameter of the bolt used at the forward and aft plug interface, and before further flight, do all applicable corrective actions.

(3) For airplanes listed in paragraph (c) of this AD that are not listed in the ''Effectivity'' section of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012: Do a general visual inspection to determine if a serviceable turbine exhaust plug assembly is installed. If a serviceable turbine exhaust plug assembly is not installed, before further flight, install a serviceable turbine exhaust plug assembly.

(h) Definition of Serviceable Assembly

For purposes of this AD, an acceptable serviceable turbine exhaust plug assembly must meet the conditions specified in paragraph (h)(1) or (h)(2) of this AD.

(1) A new assembly with part number 314W5520–22.

(2) A serviceable assembly as defined in the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012; except, for any assembly on which the actions specified in Part 2 or Part 3 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, are done, and Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, specifies to contact Boeing for repair instructions, this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(i) Exception to Service Information Specifications

Where paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 777–78–0051, Revision 3, dated August 23, 2012, specifies a compliance time ''after the Revision 3 date of this service bulletin,'' this AD requires compliance within the applicable time after the effective date of this AD.

(j) Parts Installation Limitation

As of the effective date of this AD, only a serviceable turbine exhaust plug assembly may be installed on any airplane.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(l) Related Information

(1) For more information about this AD, contact Kevin Nguyen, Aerospace Engineer, Propulsion Branch, ANM–140S, Seattle Aircraft Certification Office (ACO) FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6501; fax: (425) 917–6590; email: *kevin.nguyen@faa.gov*.

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

Issued in Renton, Washington, on February 24, 2014.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04568 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2014–0122; Directorate Identifier 2014–NM–002–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This proposed AD was prompted by reports in which a single, undetected, erroneous radio altimeter output caused the autothrottle to enter landing flare retard mode prematurely on approach. This proposed AD would require removing certain autothrottle computers and installing a new or reworked autothrottle computer. We are proposing this AD to prevent a single, undetected, erroneous radio altimeter output from causing premature autothrottle landing flare retard and subsequent loss of automatic speed control, which could result in loss of control of the airplane.

DATES: We must receive comments on this proposed AD by April 17, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057. For information on the availability of this material at the FAA, call 425–227–2112.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2014–0122; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2014–0122; Directorate Identifier 2014–NM–002–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the

closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We received reports in which a single, undetected, erroneous radio altimeter output caused the autothrottle to enter landing flare retard mode prematurely on approach. The autothrottle computer delivered on Boeing Model 737NG airplanes listed in the applicability of this proposed AD does not have an autothrottle radio altimeter comparator to inhibit landing flare retard mode and, therefore, can enter landing flare retard mode prematurely due to a single, undetected, erroneous radio altimeter signal. This condition, if not corrected, could result in a single, undetected, erroneous radio altimeter output, causing premature autothrottle landing flare retard and subsequent loss of automatic speed control, which could result in loss of control of the airplane.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013. For information on the procedures, see this service information at *http://www.regulations.gov* by searching for Docket No. FAA–2014–0122.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require removing certain autothrottle computers and installing a new or reworked autothrottle computer as specified in the service information described previously.

Costs of Compliance

We estimate that this proposed AD affects 497 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Autothrottle computer replacement	1 work-hour × $85 per hour = $85	$0	$85	$42,245

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2014–0122; Directorate Identifier 2014–NM–002–AD.

(a) Comments Due Date

We must receive comments by April 17, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 22, Auto Flight.

(e) Unsafe Condition

This AD was prompted by reports in which a single, undetected, erroneous radio altimeter output caused the autothrottle to enter landing flare retard mode prematurely on approach. We are issuing this AD to prevent a single, undetected, erroneous radio altimeter output from causing premature autothrottle landing flare retard and subsequent loss of automatic speed control, which could result in loss of control of the airplane.

(f) Compliance

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

(g) Replacement

Within 36 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–22A1215, dated November 22, 2013.

(1) Remove any autothrottle computer, part number (P/N) 760SUE1–1 (Boeing P/N 10–62017–51), 760SUE2–2 (Boeing P/N 10–62017–52), 760SUE2–3 (Boeing P/N 10–62017–53), or 760SUE2–4 (Boeing P/N 10–62017–54), from the E1–1 electronics shelf.

(2) Install a new or reworked autothrottle computer, P/N 760SUE2–5 (Boeing P/N 10–62017–55) at the E1–1 electronics shelf.

(h) Parts Installation Prohibition

As of the effective date of this AD, no person may install an autothrottle computer, part number 760SUE1–1 (Boeing P/N 10–62017–51), 760SUE2–2 (Boeing P/N 10–62017–52), 760SUE2–3 (Boeing P/N 10–62017–53), or 760SUE2–4 (Boeing P/N 10–62017–54), on any airplane.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Marie Hogestad, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6418; fax: 425–917–6590; email: *marie.hogestad@faa.gov*.

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA 98057. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on February 19, 2014.

Ross Landes,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2014–04500 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0591; Airspace Docket No. 13–AGL–21]

Proposed Amendment of Class E Airspace; Amery, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Amery, WI. Decommissioning of the Ameron non-directional radio beacon (NDB) at Amery Municipal Airport has made airspace reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: 0901 UTC. Comments must be received on or before April 17, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0591/Airspace Docket No. 13–AGL–21, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0591/Airspace Docket No. 13–AGL–21.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Amery Municipal Airport, Amery, WI, for standard instrument approach procedures at the airport. Airspace reconfiguration is necessary due to the decommissioning of the Ameron NDB and the cancellation of the NDB approach, thereby removing the 7.4-mile segment north extending from the 6.4-mile radius of the airport. Controlled airspace is necessary for the safety and management of IFR operations at the airport.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9X, dated August 7, 2013 and

effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Amery Municipal Airport, Amery, WI.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Amery, WI [Amended]

Amery Municipal Airport, WI
(Lat. 45°16′52″ N., long. 92°22′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Amery Municipal Airport

Issued in Fort Worth, TX, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04653 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0918; Airspace Docket No. 13–ASW–21]

Proposed Amendment of Class E Airspace; Dalhart, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Dalhart, TX. Additional controlled airspace is necessary to accommodate new Standard Instrument Approach Procedures (SIAP) at Dalhart Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport.

DATES: Comments must be received on or before April 17, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0918/Airspace Docket No. 13–ASW–21, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0918/Airspace Docket No. 13–ASW–21.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see

ADDRESSES section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by amending Class E airspace extending upward from 700 feet above the surface to accommodate new standard instrument approach procedures at Dalhart Municipal Airport, Dalhart, TX. Accordingly, the existing segment extending from the 6.7-mile radius of the airport to 11 miles north of the airport would be expanded to 11.8 miles, to retain the safety and management of IFR aircraft in Class E airspace to/from the en route environment.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Dalhart Municipal Airport, Dalhart, TX.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASW TX E5 Dalhart, TX [Amended]

Dalhart Municipal Airport, TX
(Lat. 36°01′21″ N., long. 102°32′51″ W.)
Dalhart VORTAC
(Lat. 36°05′29″ N., long. 102°32′41″ W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Dalhart Municipal Airport, and within 2 miles each side of the 000° bearing from the airport extending from the 6.7-mile radius to 11.8 miles north of the airport, and within 1.6 miles each side of the 181° radial of the Dalhart VORTAC extending from the 6.7-mile radius to 12.1 miles south of the airport.

Issued in Fort Worth, TX, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04620 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0914; Airspace Docket No. 13–AGL–29]

Proposed Amendment of Class E Airspace; Mineral Point, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Mineral Point, WI. A Class E surface area is necessary to accommodate increased business aviation and flight instruction activity at Iowa County Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rules (IFR) operations for SIAPs at the airport. This action also would amend the geographic coordinates for existing Class E airspace.

DATES: Comments must be received on or before April 17, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–0914/Airspace Docket No. 13–AGL–29, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–0914/Airspace Docket No. 13–AGL–29.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking 202–267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by establishing Class E airspace designated as a surface area within a 4.1-mile radius of Iowa County Airport, Mineral Point, WI. Increases in business aviation, air cargo, and flight instruction operations under instrument meteorological conditions have made this addition of controlled airspace necessary for the safety and management of IFR operations at the airport. In addition, this action would amend the geographic coordinates of the current Class E airspace extending upward from 700 feet above the surface to coincide with the FAA's aeronautical database.

Class E airspace areas are published in Paragraph 6002 and 6005, respectively, of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Iowa County Airport, Mineral Point, WI.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

AGL WI E2 Mineral Point, WI [New]

Mineral Point, Iowa County Airport, WI
(Lat. 42°53′13″ N., long. 90°14′12″ W.)

Within a 4.1-mile radius of Iowa County Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface.

* * * * *

AGL WI E5 Mineral Point, WI [Amended]

Mineral Point, Iowa County Airport, WI
(Lat. 42°53′13″ N., long. 90°14′12″ W.)
Mineral Point NDB
(Lat. 42°53′17″ N., long. 90°13′35″ W.)

That airspace extending upward from 700 feet above the surface within a 7.2-mile radius of Iowa County Airport, and within 2.6 miles each side of the 029° bearing from the Mineral Point NDB extending from the 7.2-mile radius to 7.4 miles northeast of the airport.

Issued in Fort Worth, TX, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04654s Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–589; Airspace Docket No. 13–ACE–9]

Proposed Amendment of Class E Airspace; Eagle Grove, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Eagle Grove, IA. Decommissioning of the Eagle Grove non-directional radio beacon (NDB) at Eagle Grove Municipal Airport has made airspace reconfiguration necessary for standard instrument approach procedures and for the safety and management of Instrument Flight Rules (IFR) operations at the airport. Geographic coordinates also would be adjusted.

DATES: 0901 UTC. Comments must be received on or before April 17, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001. You must identify the docket number FAA–2013–589/Airspace Docket No. 13–ACE–9, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone: 817–321–7716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2013–589/Airspace Docket No. 13–ACE–9.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

This action proposes to amend Title 14, Code of Federal Regulations (14 CFR), Part 71 by modifying Class E airspace extending upward from 700 feet above the surface at Eagle Grove Municipal Airport, Eagle Grove, IA, for standard instrument approach procedures at the airport. Airspace reconfiguration is necessary due to the decommissioning of the Eagle Grove NDB and the cancellation of the NDB approach. The segment northwest of the airport would now be within 2.6 miles each side of the 305° bearing from the airport. Controlled airspace is necessary for the safety and management of IFR operations at the airport. Geographic coordinates would also be adjusted to coincide with the FAA's aeronautical database.

Class E airspace areas are published in Paragraph 6005 of FAA Order 7400.9X, dated August 7, 2013 and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend controlled airspace at Eagle Grove Municipal Airport, Eagle Grove, IA.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air)

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6005 Class E Airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Eagle Grove, IA [Amended]

Eagle Grove Municipal Airport, IA
(Lat. 42°42′36″ N., long. 93°54′58″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Eagle Grove Municipal Airport, and within 2.6 miles each side of the 305° bearing from the airport extending from the 6.4-mile radius to 7.4 miles northwest of the airport.

Issued in Fort Worth, TX, on February 2, 2014.

Kent M. Wheeler,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2014–04617 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

National Technical Information Service

15 CFR Part 1110

[Docket Number: 140205103–4103–01]

RIN 0692–AA21

Certification Program for Access to the Death Master File

AGENCY: National Technical Information Service, U.S. Department of Commerce.

ACTION: Request for Information and Advance Notice of Public Meeting.

SUMMARY: Section 203 of the Bipartisan Budget Act of 2013 (Act), directed the Secretary of Commerce to establish a certification program under which persons may obtain immediate access to the publicly available Death Master File (DMF). The National Technical Information Service is requesting comments from the public regarding the establishment and implementation of a certification program for access to the DMF. It is expected that information gathered through this RFI will inform NTIS's approach to the development of a certification program, which will be promulgated by NTIS by Notice and Comment Rulemaking.

In addition, NTIS will hold a public meeting at which members of the public will be invited to provide comments in person. More information about the public meeting is provided under **SUPPLEMENTARY INFORMATION**.

DATES: Comments are due on or before 5:00 p.m. Eastern time March 18, 2014. The public meeting will take place on Tuesday, March 4, 2014, from 9:00 a.m. to 12:00 p.m. Eastern time at the place noted under **ADDRESSES**, and comments made orally during the public comment portion of the public meeting will be recorded and transcribed.

ADDRESSES: Written comments must be submitted to John Hounsell by email at *jhounsell@ntis.gov*, or in paper form at NTIS, 5301 Shawnee Road, Alexandria, VA 22312. The public meeting will take place at the United States Patent and Trademark Office, Madison Building West, 600 Dulany Street, Alexandria, VA 22314. The public meeting will also be webcast.

FOR FURTHER INFORMATION CONTACT: John Hounsell at *jhounsell@ntis.gov* or 703–605–6184.

SUPPLEMENTARY INFORMATION: This Request for Information (RFI) seeks comments from the public regarding the establishment by the National Technical Information Service (NTIS) of the new certification program for persons who seek access to the Social Security Administration's Public Death Master File (DMF) at any time within the three-calendar-year period following an individual's death, as required by Section 203 of the Bipartisan Budget Act of 2013 (Pub. L. 113–67) (Act). The Act prohibits disclosure of DMF information during the three-calendar-year period following death unless the person requesting the information has been certified under a program established by the Secretary of Commerce. The Act directs the Secretary of Commerce to establish a certification program for such access to the DMF. Section 203, ''Restriction on Access to the Death Master File,'' requires a fee-based certification program for allowable uses of DMF data for any deceased individual within three calendar years of the individual's death. Authority to carry out Section 203 has been delegated by the Secretary of Commerce to the National Technical Information Service (NTIS).

NTIS will establish the certification program in a manner consistent with the Act and its mission, to promote American innovation and economic growth by collecting and disseminating scientific, technical and engineering information to the public and industry, by providing information management solutions to other Federal agencies, and by doing all without appropriated funding. A summary of the provisions of Section 203 is provided below.

Section 203, ''Restriction on Access to the Death Master File''

Section 203(a) of the Act directs that the Secretary of Commerce (Secretary) ''shall not disclose to any person information contained on the Death Master File with respect to any deceased individual at any time during the 3-calendar-year period beginning on the date of the individual's death, unless such person is certified under the program established under subsection (b)'' of Section 203.

Section 203(b)(1) of the Act directs the Secretary to ''establish a program (A) to certify persons who are eligible to access the information described in subsection (a) contained on the Death Master File, and (B) to perform periodic and unscheduled audits of certified persons to determine the compliance by such certified persons with the requirements of the program.''

Under Section 203(b)(2) of the Act, a person ''shall not be certified under the program established under paragraph (1) unless such person certifies that access to the information described in subsection (a) is appropriate because such person (A) has (i) a legitimate fraud prevention interest, or (ii) a legitimate business purpose pursuant to a law, governmental rule, regulation, or fiduciary duty, and (B) has systems, facilities, and procedures in place to safeguard such information, and experience in maintaining the confidentiality, security, and appropriate use of such information, pursuant to requirements similar to the requirements of section 6103(p)(4) of the Internal Revenue Code of 1986 (IRC), and (C) agrees to satisfy the requirements of such section 6103(p)(4) as if such section applied to such person.''

Section 203(b)(3)(A) of the Act directs the Secretary to ''establish under section 9701 of title 31, United States Code, a program for the charge of fees sufficient to cover (but not to exceed) all costs associated with evaluating applications for certification and auditing, inspecting, and monitoring certified persons under the program. Any fees so collected shall be deposited and

credited as offsetting collections to the accounts from which such costs are paid.'' Section 203(b)(3)(B) of the Act requires the Secretary to report annually to the Congress ''on the total fees collected during the preceding year and the cost of administering the certification program under this subsection for such year.''

Section 203(c)(1) of the Act provides that any person ''certified under the program established under subsection (b), who receives information described in subsection (a), and who during the period of time described in subsection (a)(A) discloses such information to any person other than a person who meets the requirements of subparagraphs (A), (B), and (C) of subsection (b)(2), (B) discloses such information to any person who uses the information for any purpose not listed under subsection (b)(2)(A) or who further discloses the information to a person who does not meet such requirements, or (C) uses any such information for any purpose not listed under subsection (b)(2)(A), and any person to whom such information is disclosed who further discloses or uses such information as described in the preceding subparagraphs, shall pay a penalty of $1,000 for each such disclosure or use. Under Section 203(c)(2), the total penalty imposed on any person for any calendar year ''shall not exceed $250,000,'' unless the Secretary determines the violations to have been ''willful or intentional.''

Section 203(d) of the Act defines the term ''Death Master File'' to mean ''information on the name, social security account number, date of birth, and date of death of deceased individuals maintained by the Commissioner of Social Security, other than information that was provided to such Commissioner under section 205(r) of the Social Security Act (42 U.S.C. 405(r)).''

Under Section 203(e)(1) of the Act, no Federal agency ''shall be compelled to disclose,'' to any person ''not certified,'' information contained on the Death Master File with respect to any deceased individual at any time during the 3-calendar-year period beginning on the date of the individual's death. Section 203(e)(2) of the Act provides that Section 203 shall be considered a statute described in subsection (b)(3) of section 552 of title 5, United States Code (the Freedom of Information Act (FOIA)).

Under Section 203(f) of the Act, Section 203 takes effect 90 days after the date of the enactment, while Section 203(e) (the FOIA provision) takes effect upon enactment.

During Congressional debate on the Joint Resolution, H. J. Res. 59, which, upon being passed by Congress and signed into law by the President, became the Bipartisan Budget Act of 2013, several Members of Congress described their understanding of the purpose and meaning of Section 203. Members offering statements included Representatives Johnson,[1] Bachus [2] and Neal,[3] and Senators Nelson,[4] Murray,[5] Casey [6] and Hatch.[7]

The Death Master File

The Social Security Administration (SSA) compiles the DMF from certain deaths reported to the agency. SSA receives death reports from many sources, including family members, funeral homes, hospitals, States, Federal agencies, postal authorities and financial institutions. The DMF is not a complete file of all deaths, and does not include State death records. (Section 205(r) of the Social Security Act prohibits SSA from disclosing this information to the public on the DMF.) In addition, SSA cannot guarantee the accuracy of the DMF. The absence of a particular person on this file is not proof that the individual is alive. Further, in rare instances it is possible for the record of a person who is not deceased to be included erroneously in the DMF.

SSA makes the DMF available to the public through an agreement with NTIS. NTIS offers the DMF to the public through an online search application, as well as through raw data file download products. DMF subscribers have the option of subscribing to an online search application or maintaining a raw data version of the file at their location. The online service is updated on a weekly basis, and raw data file weekly and monthly updates are offered electronically via https, as well as via secure FTP.

The Death Master File is an important tool which has been used for many purposes. It is used by pension funds, insurance organizations, Federal, State and Local government entities and others responsible for verifying deceased person(s) in support of fulfillment of benefits to their beneficiaries. By methodically running financial, credit, payment and other applications against the Death Master File, the financial community, insurance companies, security firms and State and Local governments are better able to identify and prevent identity fraud, and identify customers who are deceased. Other current users include clinicians and medical researchers tracking former patients and study subjects, law enforcement and genealogists.

While the DMF unquestionably plays an important role in preventing identity fraud, concern about misuse of publicly available DMF information, as noted in the statements of several Members of Congress cited above, led to the inclusion of Section 203 in the Act, signed into law by President Obama. NTIS seeks comments from the public on how best to implement the certification program mandated under Section 203.

Request for Comment

The following questions cover the major areas for which NTIS seeks comment. The questions are not intended to limit topics that may be addressed through this Request for Information, and commenters may address any topic they believe has implications for the establishment of a certification program for access to the DMF, regardless of whether this document mentions it. NTIS will consider all timely comments received.

Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. No confidential or proprietary comments, information or materials are to be submitted, and all submitted comments will be made available publically at *http://dmf.ntis.gov/.*

In the questions that follow, references to ''you'' are intended to include individual persons as well as organizations unless otherwise indicated, and submitted comments should distinguish between individuals and organizations as necessary or desirable for context.

Certification Program

NTIS solicits information on implementation of the certification program mandated under Section 203. In particular, NTIS seeks to understand how persons would characterize the basis for their use of DMF information as it relates to the certification criteria of Section 203. In addition, NTIS seeks to understand how persons who seek certification would comply with the requirements set forth under Section 203 to safeguard DMF information. NTIS also seeks information regarding

[1] 159 CONG. REC. H7699, (daily ed. Dec. 12, 2013) (statement of Rep. Sam Johnson).

[2] 159 CONG. REC. H8083, (daily ed. Dec. 12, 2013) (statement of Rep. Bachus).

[3] 159 CONG. REC. H8083, (daily ed. Dec. 12, 2013) (statement of Rep. Neal).

[4] 159 CONG. REC. S8890–S8891, (daily ed. Dec. 17, 2013) (statement of Sen. Nelson).

[5] 159 CONG. REC. S8891, (daily ed. Dec. 17, 2013) (statement of Sen. Murray).

[6] 159 CONG. REC. S8891, (daily ed. Dec. 17, 2013) (statement of Sen. Casey).

[7] 159 CONG. REC. S8891, (daily ed. Dec. 17, 2013) (statement of Sen. Hatch).

how to best ensure the safeguarding of released DMF information.

1. Do you think that you have a legitimate fraud prevention interest in accessing DMF information, as described in the Act? If so, explain in detail the basis of that interest.

2. If you have a legitimate business purpose pursuant to a law, explain in detail the basis of that legitimate business purpose and cite the relevant law.

3. If you have a legitimate business purpose pursuant to a governmental rule, explain in detail the basis of that legitimate business purpose and cite the relevant governmental rule.

4. If you have a legitimate business purpose pursuant to a regulation, explain in detail the basis of that legitimate business purpose and cite the relevant regulation.

5. If you have a legitimate business purpose pursuant to a fiduciary duty, explain in detail the basis of that legitimate business purpose and cite the relevant fiduciary duty.

6. Do you have systems, facilities, and procedures in place to safeguard DMF information, and experience in maintaining the confidentiality, security, and appropriate use of such information? If so, explain in detail.

7. If you have systems, facilities, and procedures in place to safeguard DMF information, or to safeguard sensitive information other than DMF information, explain whether and how your systems, facilities, and procedures are audited, inspected or monitored.

8. If you have systems, facilities, and procedures in place to safeguard DMF information, or to safeguard sensitive information other than DMF information, and if your systems, facilities, and procedures are audited, inspected or monitored, explain whether that is voluntary, or whether it is required by law, governmental rule, regulation, fiduciary duty, or other reason and cite such.

9. If you have systems, facilities, and procedures in place to safeguard DMF information, or to safeguard sensitive information other than DMF information, and if your systems, facilities, and procedures are audited, inspected or monitored, explain whether any of these reviews would reveal (1) how such information was used by you, (2) whether such information had been disclosed to a third person, and (3) how such information, if disclosed to a third person, was used by that person, or was further disclosed by that person to a fourth person.

10. If you have systems, facilities, and procedures in place to safeguard DMF information, and experience in maintaining the confidentiality, security, and appropriate use of such information, explain in detail the extent to which these satisfy the requirements of section 6103(p)(4) of the IRC, or satisfy requirements ''similar'' to the requirements of section 6103(p)(4) of the IRC.

11. If you do not currently have systems, facilities, and procedures in place to safeguard DMF information, explain how you would anticipate putting such systems, facilities, and procedures in place in order to become certified to access DMF information.

12. Under the Act, you are required to certify that you have systems, facilities, and procedures in place to safeguard DMF information, and experience in maintaining the confidentiality, security, and appropriate use of such information, pursuant to requirements ''similar'' to the requirements of section 6103(p)(4) of the IRC. Please explain in detail how your systems, etc., and experience might be ''similar'' but not identical to the requirements of section 6103(p)(4) of the IRC, and how any differences from the requirements of section 6103(p)(4) of the IRC would nevertheless permit achieving the objective of safeguarding DMF information.

13. What systems, facilities, and procedures do you believe are necessary to safeguard DMF information provided under the Act, including audit, inspection and monitoring procedures?

14. Identify laws or regulations that require the safeguarding of released DMF information, and summarize the procedures required by such laws or regulations.

Fees and Penalties

NTIS solicits information on the fees and penalties mandated under Section 203. In particular, because Section 203 mandates the charge of fees to cover, but not to exceed, all costs associated with evaluating applications for certification and auditing, inspecting, and monitoring certified persons under the program, NTIS seeks to understand whether persons desiring to access DMF information during the initial three-calendar-year period, including persons currently accessing DMF information, would participate in a fee-based certification program in order to obtain or maintain access to the DMF. NTIS also seeks to understand how persons certified under the certification program would avoid disclosing such information to any person not authorized to obtain such information because they are not certified or, if certified, would use such information for a purpose not listed under Section 203(b)(2)(A).

15. Would the imposition of a single, presumably larger, fee at the time of certification be preferable to the charge of multiple, presumably smaller, fees, such as annual fees?

16. In order to become certified to have access to DMF information, how would you prevent disclosure of such information to any person other than a person who was also certified, or who, if not certified, would meet the requirements of certification?

Death Master File Information

NTIS solicits comments on the term ''Death Master File,'' as that term is defined in Section 203: ''information on the name, social security account number, date of birth, and date of death of deceased individuals maintained by the Commissioner of Social Security, other than information that was provided to such Commissioner under section 205(r) of the Social Security Act (42 U.S.C. 405(r)).'' In particular, NTIS seeks to understand whether persons currently accessing the DMF, or who might wish to access the DMF in the future, during the initial three-calendar-year period, need access to all the types of information included within the definition of that term in order to make use of DMF information. If access to all the types of information included within the definition of the term ''Death Master File'' is not needed for persons to make use of DMF information, NTIS seeks to understand which type(s) of information is not needed.

17. If you currently access DMF information, does your use of that information include or require the name, social security account number, date of birth, and date of death of deceased individuals? If not, explain which type(s) of DMF information you do not use.

18. Would you find it useful to access DMF information that included information for a deceased individual during the 3-calendar-year period beginning on the date of the individual's death, but did not include one or more of the name, social security account number, date of birth, and date of death of the deceased individual? If so, explain which type(s) of DMF information could be excluded.

Advance Notice of Public Meeting

NTIS will hold a public meeting at which members of the public may provide comments on the establishment of the certification program for access to the DMF in person on Tuesday, March 4, 2014, from 9:00 a.m. to 12:00 p.m. Eastern time at the United States Patent

and Trademark Office, Madison Building West, 600 Dulany Street, Alexandria, VA 22341. As with written comments, comments made orally at the public meeting should not include confidential or proprietary information, and all comments from attendees will be will be recorded and transcribed, and will made available publically along with written comments at *http://dmf.ntis.gov/.*

Seating at the public meeting will be limited, and attendance will be ''first-come, first-served,'' on a space-available basis. The public meeting will also be webcast for those who are unable to participate in person. Details about the public meeting, including how to register, will be posted at the NTIS DMF Web page, *http://dmf.ntis.gov/.* The NTIS DMF Web page also has information about how to subscribe to the NTIS email distribution list to receive announcements from NTIS about the progress of the establishment of the certification program. To subscribe to this free service, you may provide an email address to *jhounsell@ntis.gov.*

Dated: February 25, 2014.

Bruce Borzino,

Director.

[FR Doc. 2014–04584 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–1994–P–0314 (Formerly Docket No. 94P–0168)]

Food Labeling: Serving Sizes; Reference Amount and Serving Size Declaration for Hard Candies, Breath Mints

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Food and Drug Administration (FDA or we) is withdrawing a proposed rule entitled ''Food Labeling; Serving Sizes; Reference Amount and Serving Size Declaration for Hard Candies, Breath Mints'' that published in the **Federal Register** of December 30, 1997 (62 FR 67775). We are taking this action because we are issuing a proposed rule on the serving sizes of foods in general that is published elsewhere in this issue of the **Federal Register**.

DATES: The proposed rule that published on December 30, 1997 (62 FR 67775), is withdrawn as of March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mark Kantor, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1450.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 30, 1997, FDA published a proposed rule entitled ''Food Labeling; Serving Sizes; Reference Amount and Serving Size Declaration for Hard Candies, Breath Mints'' (the 1997 breath mints proposed rule). The 1997 breath mints proposed rule would change the label serving size for the product category ''Hard candies, breath mints'' so that the serving size for all breath mint products would be one unit. The 1997 breath mints proposed rule was published, in part, in response to a citizen petition (Docket No. FDA–1994–P–0314 (formerly Docket No. 94P–0168)) that requested a serving size for breath mints that more accurately reflected the amount customarily consumed per eating occasion. Specifically, the petition requested that FDA create a separate product category with a 0.5-gram (g) reference amount for small breath mints (weighing 0.5 g or less). The petition concluded that the serving size for small breath mints should be ''1 mint.'' The 1997 breath mints proposed rule also would amend the current rounding requirements for calories as described in 21 CFR 101.9(c)(1), which states that the caloric content per serving must be expressed to the nearest 5-calorie increment up to and including 50 calories, and 10-calorie increment above 50 calories, except that amounts less than 5 calories may be expressed as zero. The 1997 breath mints proposed rule would allow the declaration of calorie amounts of less than 5 calories on the Nutrition Facts label, provided that the number of calories declared on the Nutrition Facts label is consistent with the number of calories declared in any claim about the amount of calories made under 21 CFR 101.13(i).

In the **Federal Register** of April 4, 2005 (70 FR 17010), we issued an advance notice of proposed rulemaking (ANPRM) entitled ''Food Labeling: Serving Sizes of Products That Can Reasonably Be Consumed At One Eating Occasion; Updating of Reference Amounts Customarily Consumed; Approaches for Recommending Smaller Portion Sizes.'' The ANPRM requested comment on whether we should amend certain nutrition labeling regulations concerning serving size.

In response to the ANPRM, elsewhere in this issue of the **Federal Register**, we are publishing a proposed rule that would, in part, amend the serving size for breath mints.

II. Withdrawal of the 1997 Proposed Rule

Because we are addressing issues related to the label serving size for breath mints, in conjunction with other serving size issues, in a proposed rule entitled, ''Serving Sizes of Foods That Can Reasonably Be Consumed At One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments,'' published elsewhere in this issue of the **Federal Register**, we are withdrawing the 1997 breath mints proposed rule.

Dated: February 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–04386 Filed 2–27–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2014–OSERS–0013; CFDA Number: 84.133B–4]

Proposed Priority—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR), specifically, a priority for an RRTC on Health and Function of Individuals with Physical Disabilities. We take this action to focus research attention on an area of national need. We intend the priority to contribute to improved outcomes of health and function of individuals with physical disabilities.

DATES: We must receive your comments on or before April 2, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery,

or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov*. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Barrett. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov*.

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.

SUPPLEMENTARY INFORMATION: This proposed priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs, and policies to improve community living and participation, employment, and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their families in formats that are appropriate and meaningful to them.

This notice proposes one priority that NIDRR intends to use for one or more competitions in FY 2014 and possibly in later years. NIDRR is under no obligation to make an award under this priority. The decision to make an award will be based on the quality of applications received and available funding. NIDRR may publish additional priorities, as needed.

Invitation to Comment: We invite you to submit comments regarding this proposed priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in room 5142, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. The Program is also intended to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act through well-designed research, training, technical assistance, and dissemination activities in important topical areas as specified by NIDRR with guidance from its Rehabilitation Research Advisory Council. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, family members, policymakers and other research stakeholders. Additional information on the RRTC program can be found at: *http://www2.ed.gov/programs/rrtc/index.html*.

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority:

This notice contains one proposed priority.

Background

Of the 51.5 million adults with a disability in the United States, 41.5 million have physical disabilities, and close to 12.0 million need assistance from another person to perform one or more physical functions or activities, such as getting around inside the home, getting into or out of bed, bathing, dressing, eating, toileting, going outside the home, managing money, preparing meals, doing housework, taking prescription medication, and using the phone. (Brault, 2012). In addition to functional limitations associated with physical disability, individuals with physical disabilities (as well as individuals with other kinds of disabilities) have more health problems and less access to health care (Centers for Disease Control and Prevention, 2013; Drumm, Krahn, Culley, Hammond, 2005; Campbell, Sheets, Strong, 1999). Despite differences in the type, onset, severity, and progression of health problems experienced by individuals with different causes of physical disabilities, there are many health problems that occur across a wide range of physical disabilities, including fatigue, chronic pain, spasticity, weight problems, bladder and

bowel problems, urinary tract infections, depression, and isolation. Common to all is that they have an adverse impact on the individual's well-being, they must be managed to prevent further complications (Rimmer, Chen, Hsieh, 2011), and they can impede high school completion, employment, and social activities (Drumm, Krahn, Culley, Hammond, 2005).

Prospective research examining the risk factors associated with the onset of health problems, their severity, and progression is limited. There is a need to better understand how specific health problems are interrelated with optimal health and function; how they may affect community participation, lost work productivity, and decreased quality of life; and how they may be prevented or mitigated (Rimmer, Chen, Hsieh, 2011; Centers for Disease Control and Prevention, 2013a).

Despite their substantial health needs and elevated risk of adverse health outcomes, individuals with disabilities are at a substantial disadvantage in obtaining access to needed health care services compared to those without disabilities. Information remains limited, but recent studies indicate that people with disabilities, including individuals with physical disabilities, experience problems in gaining access to appropriate health care and health promotion and disease prevention programs and services (National Council on Disability, 2009; Yee, 2011). Reasons cited for these disparities include lack of health insurance or coverage for necessary services, such as specialty care, long-term care, care coordination, prescription medications, durable medical equipment, and assistive technologies. Additional factors include limited accessibility at medical facilities, lack of examination equipment and individualized accommodations that can be used by people with diverse disabilities, and the absence of professional training on disability competency issues for healthcare practitioners.

NIDRR has funded a wide range of disability research and development projects related to the health and functional outcomes of individuals with disabilities. As described in NIDRR's long-range plan, the ''health and function'' domain covers research that improves the understanding of the health status, health needs, and health care access of individuals with disabilities. In accordance with NIDRR's Plan, NIDRR seeks to build on these investments by supporting innovative and well-designed research and development projects that fall under one or more of NIDRR's general ''health and function'' priority areas.

NIDRR hopes to increase competition and innovation by allowing applicants to specify the research topics under the broad priority areas within the health and function domain. An applicant must identify the relevant priority area or areas, indicate the stage or stages of the proposed research in its application (i.e., exploration and discovery, intervention development, intervention efficacy, and scale-up evaluation), justify the need and rationale for research at the proposed stage or stages, and describe fully an appropriate methodology or methodologies for the proposed research.

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Definitions

The research that is proposed under this priority must be focused on one or more stages of research. If the RRTC is to conduct research that can be categorized under more than one research stage, or research that progresses from one stage to another, those research stages must be clearly specified. For purposes of this priority, the stages of research are from the final priorities and definitions published in the **Federal Register** on May 7, 2013 (78 FR 26513):

(i) *Exploration and Discovery* means the stage of research that generates hypotheses or theories by conducting new and refined analyses of data, producing observational findings, and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs, or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities.

(ii) *Intervention Development* means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed intervention study. Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention.

(iii) *Intervention Efficacy* means the stage of research during which a project evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. This stage of research can include assessing the training needed for wide-scale implementation of the intervention, and approaches to

evaluation of the intervention in real world applications.

(iv) *Scale-Up Evaluation* means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. The project examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but that lacks a sufficient evidence-base to demonstrate its effectiveness.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC on Health and Function of Individuals with Physical Disabilities.

The RRTC must contribute to maximizing the health and function outcomes of individuals with physical disabilities by:

(a) Conducting research activities in one or more of the following priority areas, focusing on individuals with physical disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with physical disabilities:

(i) Technology to improve health and function outcomes for individuals with physical disabilities.

(ii) Individual and environmental factors associated with improved access to rehabilitation and health care and improved health and function outcomes for individuals with physical disabilities.

(iii) Interventions that contribute to improved health and function outcomes for individuals with physical disabilities. Interventions include any strategy, practice, program, policy, or tool that, when implemented as intended, contributes to improvements in outcomes for the specified population.

(iv) Effects of government practices, policies, and programs on health care access and on health and function outcomes for individuals with physical disabilities;

(v) Practices and policies that contribute to improved health and function outcomes for individuals with physical disabilities.

(b) Focusing its research on one or more specific stages of research. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages must be clearly specified. The research stages and their definitions are listed before the Definitions section in this notice.

(c) Serving as a national resource center related to health and function for individuals with physical disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance to service providers, individuals with physical disabilities and their representatives, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to rehabilitation providers and other disability service providers, to facilitate more effective delivery of services to individuals with physical disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating research-based information and materials related to health and function for individuals with physical disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

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

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs

(recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priorities will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

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Dated: February 26, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–04644 Filed 2–28–14; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[CFDA Number: 84.133B–3.]

Proposed Priority—National Institute on Disability and Rehabilitation Research—Rehabilitation Research and Training Centers

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for the Rehabilitation Research and Training Center (RRTC) Program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). Specifically, this notice proposes a priority for an RRTC on Employment for Individuals with Intellectual and Developmental Disabilities. We take this action to focus research attention on an area of national need. We intend for this priority to contribute to improved employment outcomes of individuals with intellectual and developmental disabilities.

DATES: We must receive your comments on or before April 2, 2014.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Are you new to the site?''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about these proposed regulations, address them to Patricia Barrett, U.S. Department of Education, 400 Maryland Avenue SW., Room 5142, Potomac Center Plaza (PCP), Washington, DC 20202–2700.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Patricia Barrett. Telephone: (202) 245–6211 or by email: *patricia.barrett@ed.gov*.

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.

SUPPLEMENTARY INFORMATION: This notice of proposed priority is in concert with NIDRR's currently approved Long-

Range Plan (Plan). The Plan, which was published in the **Federal Register** on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site: *www.ed.gov/about/offices/list/osers/nidrr/policy.html.*

Through the implementation of the Plan, NIDRR seeks to: (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of research findings, expertise and other information to advance knowledge and understanding of the needs of individuals with disabilities and their family members, including those from among traditionally underserved populations; (3) determine effective practices, programs and policies to improve community living and participation, employment and health and function outcomes for individuals with disabilities of all ages; (4) identify research gaps and areas for promising research investments; (5) identify and promote effective mechanisms for integrating research and practice; and (6) disseminate research findings to all major stakeholder groups, including individuals with disabilities and their families in formats that are appropriate and meaningful to them.

This notice proposes one priority that NIDRR intends to use for one or more competitions in FY 2014 and possibly in later years. NIDRR is under no obligation to make an award under this priority. The decision to make an award will be based on the quality of applications received and available funding. NIDRR may publish additional priorities, as needed.

Invitation To Comment: We invite you to submit comments regarding this notice. To ensure that your comments have maximum effect in developing the notice of final priority, we urge you to identify clearly the specific topic that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from this proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority in Room 5142, 550 12th Street SW., PCP, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technology that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities. This program is also intended to improve the effectiveness of services authorized under the Rehabilitation Act of 1973, as amended (Rehabilitation Act).

Rehabilitation Research and Training Centers

The purpose of the RRTCs, which are funded through the Disability and Rehabilitation Research Projects and Centers Program, is to achieve the goals of, and improve the effectiveness of, services authorized under the Rehabilitation Act through well-designed research, training, technical assistance, and dissemination activities in important topical areas as specified by NIDRR. These activities are designed to benefit rehabilitation service providers, individuals with disabilities, family members, policymakers and other research stakeholders. Additional information on the RRTC program can be found at: *http://www2.ed.gov/rschstat/research/pubs/resprogram.html#RRTC.*

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Applicable Program Regulations: 34 CFR part 350.

Proposed Priority: This notice contains one proposed priority.

RRTC on Employment for Individuals with Intellectual and Developmental Disabilities.

Background:

Intellectual and developmental disabilities are defined by limitations in adaptive functioning associated with substantial intellectual or physical impairments first evident in childhood (Schalock et al., 2010; Developmental Disabilities Assistance and Bill of Rights Act of 2000). It has been estimated that about 1 percent of working-age adults in the United States, or 1.96 million individuals, have intellectual and developmental disabilities (Houtenville, 2013; Larson et al., 2001). Persons with intellectual and developmental disabilities want to work (U.S. Senate Committee on Health, Education, Labor and Pensions, 2011). Although there are no national estimates of rates of employment specifically for persons with intellectual and developmental disabilities, data from the 2008–2010 American Community Survey (ACS)(U.S. Census Bureau, 2011) show an employment rate of only 23 percent among working age adults with cognitive disabilities, which includes individuals with intellectual and developmental disabilities. In the ACS data, an individual with a cognitive disability is a person with a physical, mental, or emotional condition that results in serious difficulty with concentration, memory, or decision-making.

For the population of individuals with intellectual and developmental disabilities who are employed in integrated community employment settings, other research has shown that they work an average of only 15 to 20 hours per week, typically at or only slightly above minimum wage (Human Services Research Institute, 2011). According to data gathered from a national survey of State intellectual and developmental disabilities agencies, significantly higher numbers of persons with intellectual and developmental disabilities participate in facility based work and non-work settings than in integrated competitive employment.[1] Data reported by these agencies show that of the total 566,188 individuals with intellectual and developmental disabilities in integrated employment, sheltered employment, and non-work settings in 2010, only 19 percent were in integrated, competitive employment (Butterworth et al., 2012). The reported number of individuals in integrated, competitive employment is virtually unchanged over the past few decades

[1] According to 34 CFR 361.5(b)(11) competitive employment must be performed in an integrated setting, and must result in a wage ''that is not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals who are not disabled.'' Integrated setting as it refers to employment is defined in 34 CFR 361(b)(33) as being a setting where applicants or eligible individuals interact with non-disabled individuals . . . to the same extent that non-disabled individuals in comparable positions interact with other persons.''

(Migliore et al., 2007; Butterworth et al., 2012).

Researchers, advocates, policy makers, and providers of vocational rehabilitation and other employment services are seeking ways to improve employment outcomes and earned income for persons with intellectual and developmental disabilities. Research has identified a number of practices associated with successful employment outcomes for individuals with intellectual and developmental disabilities, including customized, person-centered job development and training; on-job coaching by professionals and co-workers; and computer technologies that guide, monitor, and provide quality control for specific work activities (Claes et al., 2010; McInnes et al., 2008; Van Laarhoven et al., 2009).

Research and development programs have developed and validated a number of effective job development, placement, and support practices for persons with intellectual and developmental disabilities. Through these practices individuals with intellectual and developmental disabilities can and do make valuable contributions to their employers and to their communities (Olson et al., 2001; Storey, 2003; Wehman, 2007; Hendricks, 2010).

However, as the low employment statistics, the high reliance on non-integrated work, and the low numbers of hours worked demonstrate, significant challenges remain. Among those challenges are: Increasing knowledge about effective ways to prepare persons with intellectual and developmental disabilities in their homes, schools, and communities for competitive integrated work; effectively bundling individual practices and experiences associated with desirable employment outcomes into more effective programs of employment supports; and scaling-up effective practices and programs to provide substantially increased opportunities for individuals with intellectual and developmental disabilities to experience well-designed, effective employment support. In addition, more effective methods for engaging employers in providing opportunities for individuals with intellectual and developmental disabilities to demonstrate their abilities as employees are also needed.

NIDRR seeks to fund an RRTC that will generate new knowledge about and expand access to practices that will improve employment outcomes and opportunities for individuals with intellectual and developmental disabilities and that will serve as a national resource center on employment for these individuals, their families, vocational rehabilitation and other employment service providers, employers, and policymakers.

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Definitions

Stages of Research: For purposes of this priority, the stages of research are from the notice of final priorities and definitions published in the **Federal Register** on June 7, 2013 (78 FR 34261).

(i) *Exploration and Discovery* means the stage of research that generates hypotheses or theories by conducting new and refined analyses of data, producing observational findings, and creating other sources of research-based information. This research stage may include identifying or describing the barriers to and facilitators of improved outcomes of individuals with disabilities, as well as identifying or describing existing practices, programs, or policies that are associated with important aspects of the lives of individuals with disabilities. Results achieved under this stage of research may inform the development of interventions or lead to evaluations of interventions or policies. The results of the exploration and discovery stage of research may also be used to inform decisions or priorities.

(ii) *Intervention Development* means the stage of research that focuses on generating and testing interventions that have the potential to improve outcomes for individuals with disabilities. Intervention development involves

determining the active components of possible interventions, developing measures that would be required to illustrate outcomes, specifying target populations, conducting field tests, and assessing the feasibility of conducting a well-designed intervention study. Results from this stage of research may be used to inform the design of a study to test the efficacy of an intervention.

(iii) *Intervention Efficacy* means the stage of research during which a project evaluates and tests whether an intervention is feasible, practical, and has the potential to yield positive outcomes for individuals with disabilities. Efficacy research may assess the strength of the relationships between an intervention and outcomes, and may identify factors or individual characteristics that affect the relationship between the intervention and outcomes. Efficacy research can inform decisions about whether there is sufficient evidence to support ''scaling-up'' an intervention to other sites and contexts. This stage of research can include assessing the training needed for wide-scale implementation of the intervention, and approaches to evaluation of the intervention in real world applications.

(iv) *Scale-Up Evaluation* means the stage of research during which a project analyzes whether an intervention is effective in producing improved outcomes for individuals with disabilities when implemented in a real-world setting. During this stage of research, a project tests the outcomes of an evidence-based intervention in different settings. The project examines the challenges to successful replication of the intervention, and the circumstances and activities that contribute to successful adoption of the intervention in real-world settings. This stage of research may also include well-designed studies of an intervention that has been widely adopted in practice, but that lacks a sufficient evidence-base to demonstrate its effectiveness.

Proposed Priority

The Assistant Secretary for Special Education and Rehabilitative Services proposes a priority for an RRTC on Employment for Individuals with Intellectual and Developmental Disabilities.

The RRTC must contribute to improving the employment outcomes of individuals with intellectual and developmental disabilities by:

(a) Conducting well-designed research activities in one or more of the following priority areas, focusing on individuals with intellectual and developmental disabilities as a group or on individuals in specific disability or demographic subpopulations of individuals with intellectual and developmental disabilities:

(i) Technology to improve employment outcomes for individuals with intellectual and developmental disabilities.

(ii) Individual, work environment, or employer factors associated with improved employment opportunities or outcomes for individuals with intellectual and developmental disabilities.

(iii) Interventions that contribute to improved employment outcomes for individuals with intellectual and developmental disabilities. Interventions include any one or combination of the following: strategies, practices, programs, policies, or tools that, when implemented as intended, contribute to improvements in opportunities or outcomes for individuals with disabilities, and may include interventions focused on individuals, families, employers, or service providers.

(iv) Effects of current or modified government practices, policies, and programs on employment outcomes for individuals with intellectual and developmental disabilities.

(v) Practices and policies that contribute to improved employment outcomes for transition-aged youth with intellectual and developmental disabilities.

(b) Identifying and focusing its research on one or more specific stages of research, including specifically at least one significant evaluation project focused on scaling up existing validated employment interventions or programs to multiple employment settings. If the RRTC is to conduct research that can be categorized under more than one of the research stages, or research that progresses from one stage to another, those stages should be clearly specified. (These stages and their definitions are provided in the Definitions section of this notice.)

(c) Serving as a national resource center related to employment for individuals with intellectual and developmental disabilities, their families, and other stakeholders by conducting knowledge translation activities that include, but are not limited to:

(i) Providing information and technical assistance on job development and placement, job training and support, customized employment, and other aspects of supported employment to school-based transition programs, employment service providers, employers, individuals with intellectual and developmental disabilities and their representatives, and other key stakeholders.

(ii) Providing training, including graduate, pre-service, and in-service training, to vocational rehabilitation, school-based transition programs, and other employment service providers, to achieve integrated, competitive employment outcomes for individuals with intellectual and developmental disabilities. This training may be provided through conferences, workshops, public education programs, in-service training programs, and similar activities.

(iii) Disseminating, in accessible formats, research-based information and materials related to employment for individuals with intellectual and developmental disabilities.

(iv) Involving key stakeholder groups in the activities conducted under paragraph (a) in order to maximize the relevance and usability of the new knowledge generated by the RRTC. Such stakeholder groups may vary depending on the specific activity proposed, but could include representatives of agencies such as the State Developmental Disabilities program/service agencies, State Developmental Disability Planning Councils, State Protection and Advocacy Agencies, State Vocational Rehabilitation agencies, State Employment First coalitions, as well as consumer advocacy agencies such as The Arc, UCP, TASH, and People First.

Types of Priorities

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a

preference over other applications (34 CFR 75.105(c)(1)).

Final Priority

We will announce the final priority in a notice in the **Federal Register**. We will determine the final priority after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

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

(3) Materially alter the budgetary impacts of entitlement 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 stated in the Executive order.

This proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this proposed priority only upon a reasoned determination that its benefits would justify its costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that follows, the Department believes that these proposed priorities are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action would not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive Orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Program have been well established over the years. Projects similar to the RRTCs have been completed successfully, and the proposed priorities will generate new knowledge through research. The new RRTCs will generate, disseminate, and promote the use of new information that would improve outcomes for individuals with disabilities in the areas of community living and participation, employment, and health and function.

Intergovernmental Review: This program is not subject to Executive Order 12372 and the regulations in 34 CFR part 79.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5075, PCP, Washington, DC 20202–2550. Telephone: (202) 245–7363. If you use a TDD or TTY, call the FRS, toll free, at 1–800–877–8339.

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: February 26, 2014.

Michael K. Yudin,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2014–04641 Filed 2–28–14; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0421; FRL–9907–21–Region 10]

Approval and Promulgation of State Implementation Plans: Alaska; Anchorage Carbon Monoxide Limited Maintenance Plan and State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Alaska (the State) submitted two State Implementation Plan (SIP) revisions to the Anchorage Transportation Control Program, Anchorage Carbon Monoxide (CO) Maintenance Plan. On September 20, 2011, the State submitted a SIP revision (2011 Submittal) that updated Anchorage's carbon monoxide (CO) motor vehicle emissions budget in the Anchorage CO maintenance area using the EPA's Motor Vehicle Emission Simulator model. On April 22, 2013, the State submitted a SIP revision (2013 Submittal) to satisfy the Clean Air Act (CAA) section 175A(b) requirement for a second 10-year maintenance plan for the Anchorage CO maintenance area in the form of a limited maintenance plan (LMP). This LMP addresses maintenance of the CO National Ambient Air Quality Standards for a second 10-year period, beyond redesignation of the area to attainment, through 2024. The EPA is proposing to approve both the 2013 Submittal and portions of the 2011 Submittal that are not superseded by the 2013 Submittal. The EPA is proposing to approve these SIP revisions because the State has demonstrated that they are consistent with the CAA.

DATES: Comments must be received on or before April 2, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2013–0421, by any of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: R10-Public_Comments@epa.gov*.
- *Mail:* Mr. Keith Rose, U.S. EPA Region 10, Office of Air, Waste and Toxics, AWT–107, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.
- *Hand Delivery/Courier:* U.S. EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Keith Rose, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Keith Rose at telephone number: (206) 553–1949, email address: *rose.keith@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: For further information, please see the direct final action, of the same title, which is located in the Rules section of this **Federal Register**. The EPA is simultaneously approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule.

If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: February 13, 2014.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2014–04443 Filed 2–28–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Part 246

Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice of meeting.

SUMMARY: DoD is hosting a public meeting to obtain the views of experts and interested parties in Government and the private sector regarding further implementation of the requirement for detection and avoidance of counterfeit electronic parts, as required by a section of the National Defense Authorization Act for Fiscal Year 2012.

DATES: March 27, 2014, from 9:00 a.m. to 12:00 p.m., EDT.

ADDRESSES: The public meeting will be held at General Services Administration (GSA) Regional Office Building (ROB Auditorium) at 301 7th Street SW., Washington, DC 20407 (entrance on D Street).

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, DPAP/DARS, at 571–372–6106. Please cite Public Meeting—Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation.

SUPPLEMENTARY INFORMATION: DoD is interested in opening a dialogue with experts and interested parties in Government and the private sector about further implementation of the requirements for detection and avoidance of counterfeit electronic parts in DoD contracts. As partial implementation of the requirements at section 818, entitled ''Detection and Avoidance of Counterfeit Electronic Parts,'' of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81), DoD published a proposed rule in the **Federal Register** at 78 FR 28780 on May 16, 2013, under DFARS case 2012–D055, Detection and Avoidance of Counterfeit Electronic Parts. DoD also held a public meeting on June 28, 2013, to discuss the proposed rule under DFARS Case 2012–D055. DoD is preparing to publish a final rule under that case.

DoD is now considering further implementation of section 818. DoD is particularly interested in further implementation of the requirements of section 818(c)(3), Trusted Suppliers.

Individuals wishing to attend the public meeting should register by March 20, 2014, to ensure adequate room accommodations and to facilitate entry to the GSA building. Interested parties may register at this Web site, *http://www.acq.osd.mil/dpap/dars/counterfeit_electronic_parts.html*, by providing the following information:

- (1) Company or organization name.
- (2) Names and email addresses of persons planning to attend.
- Identify if desiring to make a presentation; limit to a 10-minute

presentation per company or organization.

One valid government-issued photo identification card will be required in order to enter the building. Attendees are encouraged to arrive at least 30 minutes early to accommodate security procedures.

If you wish to make a presentation, please submit an electronic copy of your presentation to *dfars@mail.mil* no later than March 24, 2013. When submitting presentations, provide presenter's name, organization affiliation, telephone number, and email address on the cover page. Please submit presentations only and cite ''Public Meeting—Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation'' in all correspondence related to the public meeting. There will be no transcription at the meeting. The submitted presentations will be the only record of the public meeting.

Special accommodations: The public meeting is physically accessible to people with disabilities. Requests for reasonable accommodations, sign language interpretation or other auxiliary aids should be directed to Amy Williams at 571–372–6106, at least 10 working days prior to the meeting date.

The TTY number for further information is: 1–800–877–8339. When the operator answers the call, let them know the agency is the Department of Defense; the point of contact is Amy Williams at 571–372–6106.

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–04414 Filed 2–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–BD83

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 20A

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) and South Atlantic Fishery Management Councils (Councils) have submitted Amendment 20A to the Fishery Management Plan for the Coastal Migratory Pelagic Resources (CMP) in the Gulf of Mexico and Atlantic Region (FMP) (Amendment 20A) for review, approval, and implementation by NMFS. Amendment 20A proposes actions to restrict sale of king and Spanish mackerel caught under the bag limit and to remove the income qualification requirement for king and Spanish mackerel commercial vessel permits.

DATES: Written comments must be received on or before May 2, 2014.

ADDRESSES: You may submit comments on Amendment 20A, identified by ''NOAA–NMFS–2013–0168'' by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0168*, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Susan Gerhart, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

Electronic copies of Amendment 20A, which includes an environmental assessment, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/index.html*.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: *Susan.Gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMP being revised by Amendment 20A was prepared by the Councils and implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Actions Contained in Amendment 20A

Currently, no Federal permits are required to sell CMP species, although commercial vessel permits are required to exceed the bag limit for king and Spanish mackerel. All fish harvested in Federal waters that are sold are considered commercial harvest and count towards a species' commercial quota, whether or not the fisherman has a Federal commercial permit. The Councils and NMFS are concerned that landings sold from recreational trips may contribute to the commercial quota and lead to early closures in the commercial sector. Reducing the sale of fish caught under the bag limit should improve the accuracy of data by reducing ''double counting'', *i.e.,* harvest from a single trip that is counted towards both the commercial quota and recreational allocation. This practice occurs when the same catches are reported through recreational surveys and commercial trip tickets and logbooks.

For the Gulf region, Amendment 20A would prohibit the sale of bag-limit-caught king and Spanish mackerel except in two limited circumstances. First, bag-limit-caught king and Spanish mackerel could be sold when harvested during a for-hire trip on a vessel with both a Gulf Charter/Headboat Coastal Migratory Pelagic Fish Permit and either a King Mackerel Commercial Permit or a Spanish Mackerel Commercial Permit, as appropriate to the species harvested or possessed. Second, king and Spanish mackerel harvested during state-permitted tournaments may be donated to a dealer who has a state or Federal permit and then sold by that dealer, if the proceeds are donated to charity. Dealers receiving such fish must report them as tournament-caught fish. In the Gulf, these sales from dually-permitted vessels or tournaments would only occur in Florida because all other Gulf

states prohibit the sale of any bag-limit caught fish.

Currently, there is no Federal dealer permit for king or Spanish mackerel. However, a proposed rule published on January 2, 2014 (79 FR 81), that would implement the Generic Dealer Amendment, includes an action to implement a Gulf and South Atlantic dealer permit which would add king and Spanish mackerel onto the Federal dealer permit. Therefore, if the Generic Dealer Amendment is approved and a final rule is implemented, there would be a Federal dealer permit for king and Spanish mackerel.

For the Atlantic region, Amendment 20A would prohibit the sale of bag-limit-caught king and Spanish mackerel except those harvested during a state-permitted tournament. As in the Gulf, king and Spanish mackerel harvested during state-permitted tournaments may be donated to a dealer with a state or Federal permit and then sold by that dealer, if the proceeds are donated to charity. Dealers receiving such fish must report them as tournament-caught fish.

Amendment 20A would also remove the income qualification requirement for king and Spanish mackerel commercial vessel permits. To obtain or renew a king or Spanish mackerel commercial vessel permit, a minimum amount of the applicant's earned income must be derived from commercial or charter fishing. This requirement is difficult to enforce and has recently been removed as a requirement to obtain or renew a Gulf reef fish permit. No other Federal permit in the Southeast Region has an income qualification requirement except the Federal commercial spiny lobster permit, which mirrors requirements by Florida. This action would not affect the number of king mackerel permits issued, which are limited access, but could increase the number of Spanish mackerel permits issued, which are open access.

Amendment 20A also contained an action to eliminate or restrict latent permits; however, the Councils chose not to take action on that issue at this time.

A proposed rule that would implement measures outlined in Amendment 20A has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council submitted Amendment 20A for Secretarial review, approval, and implementation on November 26, 2013. Comments received by May 2, 2014, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: February 25, 2014.

James P. Burgess,

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

[FR Doc. 2014–04628 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 79, No. 41
Monday, March 3, 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

Animal and Plant Health Inspection Service

[Docket No. APHIS–2012–0110]

Dow AgroSciences LLC; Availability of Plant Pest Risk Assessment, Environmental Assessment, Preliminary Finding of No Significant Impact, and Preliminary Determination of Nonregulated Status of Soybean Genetically Engineered for Insect Resistance

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a preliminary determination regarding a request from Dow AgroSciences LLC seeking a determination of nonregulated status of soybean designated as event DAS–81419–2, which has been genetically engineered for resistance to certain lepidopteran pests. We are also making available for public review our plant pest risk assessment, environmental assessment, and preliminary finding of no significant impact for the preliminary determination of nonregulated status.

DATES: We will consider any information that we receive on or before April 2, 2014.

ADDRESSES: You may submit any information by either of the following methods:

- Federal eRulemaking Portal: Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0110*.
- Postal Mail/Commercial Delivery: Send your information to Docket No. APHIS–2012–0110, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents for this petition and any other information we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0110* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 7997039 before coming.

Supporting documents for this petition are also available on the APHIS Web site at *http://www.aphis.usda.gov/biotechnology/petitions_table_pending.shtml* under APHIS Petition Number 12–272–01p. FOR FURTHER INFORMATION CONTACT: Dr. John Turner, Director, Environmental Risk Analysis Programs, Biotechnology Regulatory Services, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1236; (301) 851–3954, email: *john.t.turner@aphis.usda.gov*. To obtain copies of the petition, contact Ms. Cindy Eck at (301) 851–3892, email: *cynthia.a.eck@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Under the authority of the plant pest provisions of the Plant Protection Act (7 U.S.C. 7701 *et seq.*), the regulations in 7 CFR part 340, ''Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests,'' regulate, among other things, the introduction (importation, interstate movement, or release into the environment) of organisms and products altered or produced through genetic engineering that are plant pests or that there is reason to believe are plant pests. Such genetically engineered (GE) organisms and products are considered ''regulated articles.''

The regulations in § 340.6(a) provide that any person may submit a petition to the Animal and Plant Health Inspection Service (APHIS) seeking a determination that an article should not be regulated under 7 CFR part 340. APHIS received a petition (APHIS Petition Number 12–272–01p) from Dow AgroSciences LLC (DAS) of Indianapolis, IN, seeking a determination of nonregulated status of soybean (*Glycine max*) designated as event DAS–81419–2, which has been genetically engineered for resistance to certain lepidopteran pests. Soybean event DAS–81419–2 is also resistant to the herbicide glufosinate, which was used as a selectable marker during the development of the soybean. The petition states that this soybean is unlikely to pose a plant pest risk and, therefore, should not be a regulated article under APHIS' regulations in 7 CFR part 340.

According to our process [1] for soliciting public comment when considering petitions for determinations of nonregulated status of GE organisms, APHIS accepts written comments regarding a petition once APHIS deems it complete. In a notice [2] published in the **Federal Register** on February 27, 2013 (78 FR 13307–13308, Docket No. APHIS–2012–0110), APHIS announced the availability of the DAS petition for public comment. APHIS solicited comments on the petition for 60 days ending on April 29, 2013, in order to help identify potential environmental and interrelated economic issues and impacts that APHIS may determine should be considered in our evaluation of the petition.

APHIS received five comments on the petition; one of these comments included electronic attachments consisting of a consolidated document of many identical or nearly identical letters, for a total of 562 comments. Issues raised during the comment period include the effects of herbicide use, such as the development of herbicide-resistant weeds and effects on non-target organisms; gene flow; effects on organic soybean production; trade concerns; and health concerns. APHIS has evaluated the issues raised during the comment period and, where appropriate, has provided a discussion of these issues in our environmental assessment (EA).

After public comments are received on a completed petition, APHIS evaluates those comments and then provides a second opportunity for

[1] On March 6, 2012, APHIS published in the **Federal Register** (77 FR 13258–13260, Docket No. APHIS–2011–0129) a notice describing our public review process for soliciting public comments and information when considering petitions for determinations of nonregulated status for GE organisms. To view the notice, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2011-0129*.

[2] To view the notice, the petition, and the comments we received, go to http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0110.

public involvement in our decisionmaking process. According to our public review process (see footnote 1), the second opportunity for public involvement follows one of two approaches, as described below.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises no substantive new issues, APHIS will follow Approach 1 for public involvement. Under Approach 1, APHIS announces in the **Federal Register** the availability of APHIS' preliminary regulatory determination along with its EA, preliminary finding of no significant impact (FONSI), and its plant pest risk assessment (PPRA) for a 30-day public review period. APHIS will evaluate any information received related to the petition and its supporting documents during the 30-day public review period. For this petition, we are using Approach 1.

If APHIS decides, based on its review of the petition and its evaluation and analysis of comments received during the 60-day public comment period on the petition, that the petition involves a GE organism that raises substantive new issues, APHIS will follow Approach 2. Under Approach 2, APHIS first solicits written comments from the public on a draft EA and PPRA for a 30-day comment period through the publication of a Federal Register notice. Then, after reviewing and evaluating the comments on the draft EA and PPRA and other information, APHIS will revise the PPRA as necessary and prepare a final EA and, based on the final EA, a National Environmental Policy Act (NEPA) decision document (either a FONSI or a notice of intent to prepare an environmental impact statement).

As part of our decisionmaking process regarding a GE organism's regulatory status, APHIS prepares a PPRA to assess the plant pest risk of the article. APHIS also prepares the appropriate environmental documentation—either an EA or an environmental impact statement—in accordance with NEPA, to provide the Agency and the public with a review and analysis of any potential environmental impacts that may result if the petition request is approved.

APHIS has prepared a PPRA and has concluded that soybean event DAS–81419–2 is unlikely to pose a plant pest risk. In section 403 of the Plant Protection Act, ''plant pest'' is defined as any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: A protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, or any article similar to or allied with any of the foregoing.

APHIS has prepared an EA in which we present two alternatives based on our analysis of data submitted by DAS, a review of other scientific data, field tests conducted under APHIS oversight, and comments received on the petition. APHIS is considering the following alternatives: (1) Take no action, i.e., APHIS would not change the regulatory status of soybean event DAS–81419–2 and it would continue to be a regulated article, or (2) make a determination of nonregulated status of soybean event DAS–81419–2.

The EA was prepared in accordance with (1) NEPA, as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372). Based on our EA and other pertinent scientific data, APHIS has reached a preliminary FONSI with regard to the preferred alternative identified in the EA.

Based on APHIS' analysis of field and laboratory data submitted by DAS, references provided in the petition, peer-reviewed publications, information analyzed in the EA, the PPRA, comments provided by the public on the petition, and discussion of issues in the EA, APHIS has determined that soybean event DAS–81419–2 is unlikely to pose a plant pest risk. We have therefore reached a preliminary decision to make a determination of nonregulated status of soybean event DAS–81419–2, whereby soybean event DAS–81419–2 would no longer be subject to our regulations governing the introduction of certain GE organisms.

We are making available for a 30-day review period APHIS' preliminary regulatory determination of soybean event DAS–81419–2, along with our PPRA, EA, and preliminary FONSI for the preliminary determination of nonregulated status. The EA, preliminary FONSI, PPRA, and our preliminary determination for soybean event DAS–81419–2, as well as the DAS petition and the comments received on the petition, are available as indicated under **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** above. Copies of these documents may also be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

After the 30-day review period closes, APHIS will review and evaluate any information received during the 30-day review period. If, after evaluating the information received, APHIS determines that we have not received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the EA, or substantially changing the analysis of impacts in the EA, APHIS will notify the public through an announcement on our Web site of our final regulatory determination. If, however, APHIS determines that we have received substantive new information that would warrant APHIS altering our preliminary regulatory determination or FONSI, substantially changing the proposed action identified in the EA, or substantially changing the analysis of impacts in the EA, then APHIS will notify the public of our intent to conduct additional analysis and to prepare an amended EA, a new FONSI, and/or a revised PPRA, which would be made available for public review through the publication of a notice of availability in the **Federal Register**. APHIS will also notify the petitioner.

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 27th day of February 2014.

Michael C. Gregoire,

Associate Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2014–04756 Filed 2–28–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Black Hills National Forest Advisory Board (Board) will meet in Rapid City, South Dakota. The Board is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et.seq.), the National Forest Management Act of 1976 (16 U.S.C. 1612), and the Federal Public Lands Recreation Enhancement Act (Pub. L. 108–447). The meeting is open to the public. The purpose of the meeting is to provide:

(1) Orientation on Natural Resources
(2) Update from the Motorized Travel working group with possible recommendation for fees for 2015
(3) Recreational Facilities working group update
(4) Forest Health working group update
(5) Bearlodge Mining Brief (Rare Element Resource—RER)
(6) Sheridan Lake Valve update

DATES: The meeting will be held on Wednesday, March 19, 2014 at 1:00 p.m.

All meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Mystic Ranger District, 8221 South Highway 16, Rapid City, South Dakota.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Black Hills National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Scott Jacobson, Committee Coordinator, by phone at 605–673–9216, or by email at *sjjacobson@fs.fed.us.*

Individuals who use telecommunication devices for 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. Please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accomodation for access to the facility or procedings by contacting the person listed above.

SUPPLEMENTARY INFORMATION: Additional information concerning the Board, including the meeting summary/minutes, can be found by visiting the Board's Web site at: *http://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees.* The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by March 10, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and time requests for oral comments must be sent to Scott Jacobson, Black Hills National Forest Supervisor's Office, 1019 North Fifth Street, Custer, South Dakota 57730; by email to *sjjacobson@fs.fed.us,* or via facsimile to 605–673–9208.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: February 21, 2014.

Dennis Jaeger,

Deputy Forest Supervisor.

[FR Doc. 2014–04578 Filed 2–28–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Proposed New Fee Site; Federal Lands Recreation Enhancement Act

AGENCY: Uinta-Wasatch-Cache National Forest, USDA Forest Service.

ACTION: Notice of proposed new fee site.

SUMMARY: The Uinta-Wasatch-Cache National Forest is proposing to charge fee at The Upper Falls Picnic Site in Provo Canyon, Utah. The site will include a $6.00 Standard Amenity fee that will be charged year-round. Fees are assessed based on the level of amenities and services provided, cost of operations and maintenance, and market assessment. Funds from fees would be used for the continued operation and maintenance and improvements of this picnic area.

An analysis of the nearby County, City, and Federal day-use sites with similar amenities shows that the proposed fees are reasonable and typical of similar sites in the area.

DATES: Comments will be accepted until April 1, 2014. New fees would begin September 1, 2014.

ADDRESSES: Dave Whittekiend, Forest Supervisor, Uinta-Wasatch-Cache National Forest, 857 West south Jordan Parkway, South Jordan, UT 84095–8594.

FOR FURTHER INFORMATION CONTACT: Matthew Lane, Recreation Fee Program Manager; Pleasant Grove Ranger District, 801–796–4891.

Dated: February 24, 2014.

David C. Whittekiend,

Forest Supervisor.

[FR Doc. 2014–04579 Filed 2–28–14; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program of the Agency's use of supervised bank accounts (SBA).

DATES: Comments on this notice must be received by May 2, 2014 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT:

Janet Stouder, Deputy Director, Multi-Family Housing Portfolio Management Division, RHS, STOP 0782, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington, DC 20250–0782. Telephone: (202) 690–0760.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR Part 1902–A, Supervised Bank Accounts.

OMB Number: 0575–0158.

Expiration Date of Approval: May 31, 2014.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The Agency extends financial assistance to applicants that do not qualify for loans under commercial rates and terms.

The Agency use SBAs as a mechanism to (1) ensure correct disbursement and expenditure of all funds designated for a project; (2) help a borrower properly manage its financial affairs; (3) ensure that the Government's security is protected adequately from fraud, waste and abuse.

SBAs are mandatory for Multi-Family Housing (MFH) reserve accounts. The MFH funds must be kept in the SBA for the full term of a loan. Any funds withdrawn for disbursement for an authorized purpose require a countersignature from an Agency official.

This regulation prescribes the policies and responsibilities for the use of SBAs. In carrying out the mission as a supervised credit Agency, this regulation authorizes the use of supervised accounts for the disbursement of funds. The use may be necessitated to disburse Government

funds consistent with the various stages of any development (construction) work actually achieved. On limited occasions, a supervised account is used to provide temporary credit counseling and oversight of those being assisted who demonstrate an inability to handle their financial affairs responsibly. Another use is for depositing MFH reserve account funds in a manner requiring Agency co-signature for withdrawals. MFH reserve account funds are held in a reserve account for the future capital improvement needs for apartment properties. Supervised accounts are established to ensure Government security is adequately protected against fraud, waste and abuse.

The legislative authority for requiring the use of supervised accounts is contained section 510 of the Housing Act of 1949, as amended (42 U.S.C. 1480). These provisions authorize the Secretary of Agriculture to make such rules and regulations as deemed necessary to carry out the responsibilities and duties the Government is charged with administering.

Estimate of Burden: Public reporting burden for this information collection is estimated to average .43 hours per response.

Respondents: Small Business.

Estimated Average Number of Respondents: 15,000.

Estimated Total Annual Responses: 60,292.

Estimated Total Number of Man Hours: 26,169.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, at (202) 692–0040.

Comments

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 will have practical utility;

(b) 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; (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 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. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0732, 1400 Independence Ave. SW., Washington, DC 20250.

All 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.

Dated: February 10, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–04530 Filed 2–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this Notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for the Guaranteed Rural Rental Housing program.

DATES: Comments on this Notice must be received by May 2, 2014 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Tammy Daniels, Financial and Loan Analyst, Multi-Family Housing Guaranteed Loan Division, Rural Housing Service, USDA, STOP 0781—Room 1263–S, 1400 Independence Avenue SW., Washington, DC 20250, telephone: (202) 720–0021.

SUPPLEMENTARY INFORMATION: *Title:* Guaranteed Rural Rental Housing Program.

OMB Number: 0575–0174.

Expiration Date of Approval: July 31, 2014.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: On March 28, 1996, President Clinton signed the ''Housing Opportunity Program Extension Act of 1996.'' One of the provisions of the Act was the authorization of the Section 538 Guaranteed Rural Rental Housing Loan Program, adding the program to the Housing Act of 1949. The program has been designed to increase the supply of affordable Multi-Family Housing (MFH) through partnerships between RHS and major lending sources, as well as State and local housing finance agencies and bond issuers. Qualified lenders will be authorized to originate, underwrite, and close loans for MFH projects. To be considered, these projects must be either new construction or acquisition with rehabilitation with at least $6,500 per unit.

The housing must be available for occupancy only to low- or moderate-income families or persons, whose incomes at the time of initial occupancy do not exceed 115 percent of the median income of the area. After initial occupancy, the tenant's income may exceed these limits; however, rents, including utilities, are restricted to no more than 30 percent of the 115 percent of area median income for the term of the loan.

The Secretary is authorized under Section 510 (k) of the Housing Act of 1949 to prescribe regulations to ensure that these Federally-funded loans are made to eligible applicants for authorized purposes. The lender must evaluate the eligibility, cost, benefits, feasibility, and financial performance of the proposed project. The Agency collects this information from the lender to determine if funds are being used to meet the goals and mission of Rural Development. The information submitted by the lender to the Agency is used by the Agency to manage, plan, evaluate, and account for Government resources.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1.7 man hours per response.

Respondents: Non-profit and for-profit lending corporations and public bodies.

Estimated Number of Respondents: 150.

Estimated Number of Responses: 2,549.

Estimated Total Annual Burden on Respondents: 1,492 hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, at (202) 692–0040.

Comments

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 will have practical utility; (b) 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; (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 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. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Avenue SW., Washington, DC 20250. All 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.

Dated: February 21, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–04534 Filed 2–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's (RHS's) intention to request an extension for a currently approved information collection in support of 7 CFR 3560, Direct Multi-Family Housing Loans and Grants.

DATES: Comments on this notice must be received by May 2, 2014 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Janet Stouder, Deputy Director, Multi-Family Housing Portfolio Management Division, Rural Housing Service, U.S. Department of Agriculture, Room 1245, South Building, Stop 0781, 1400 Independence Avenue, SW., Washington, DC 20250–0781, telephone (202) 720–9728.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR Part 3560 Direct Multi-Family Housing Loans and Grants.

OMB Number: 0575–0189

Expiration Date of Approval: May 31, 2014

Type of Request: Extension of a currently approved information collection.

Abstract: The information collected is used by the Agency to manage, plan, evaluate, and account for Government resources. The reports are required to ensure the proper and judicious use of public funds.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Individuals, corporations, associations, trusts, Indian tribes, public or private non-profit organizations, which may include faith-based, consumer cooperative, or partnership.

Estimated Average Number of Respondents: 150,000

Estimated Total Annual Responses: 2,284,118

Estimated Total Number of Man Hours: 1,097,330

Copies of this information collection can be obtained from Brigitte Sumter, Regulations and Paperwork Management Branch, at (202) 692–0042.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS 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 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. Comments may be sent to Brigitte Sumter, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All 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.

Dated: February 10, 2014.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2014–04529 Filed 2–28–14; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

Economic Development Administration

[140224172–4172–01]

Extension of Deadline for Applications for Investing in Manufacturing Communities Partnership Designation

AGENCY: Economic Development Administration, Commerce.

ACTION: Notice.

SUMMARY: The Economic Development Administration (EDA) is extending the application period for communities seeking to be designated as manufacturing communities (Manufacturing Community or Manufacturing Communities) through the Investing in Manufacturing Communities Partnership (IMCP). Manufacturing Communities will receive preference for a range of future Federal economic development funding and technical assistance offered by IMCP participating agencies. Some Manufacturing Communities, subject to the availability of funds, may receive financial assistance awards from IMCP participating agencies to assist in cultivating an environment for businesses to create well-paying manufacturing jobs in regions across the country. On December 10, 2013, EDA published a notice describing the IMCP and the application process. The original application period expires on March 14, 2014, and this extension is to ensure that all interested entities have an opportunity to apply to this program.

DATES: Applications must be received on or before 11:59 p.m. Eastern Time on April 14, 2014. Applications received after this deadline will not be reviewed or considered. Applicants are advised to carefully read the application and submission information provided in the Supplementary Information section of the notice published on December 10, 2013.

ADDRESSES: You may send applications, identified by EDA Docket No. 131121981–3981 by one of the following methods:

- Email: *IMCP@eda.gov*. Include ''Proposals for designation as a Manufacturing Community'' and Docket No. 131121981–3981 in the subject line of the message.
- Fax: (202) 482–2838, Attention: Office of Performance and National Programs. Please indicate ''Proposals for designation as a Manufacturing Community'' and Docket No. 131121981–3981 on the cover page.
- Mail: Economic Development Administration, Office of Performance and National Programs, U.S. Department of Commerce, 1401 Constitution Avenue NW., Suite 71030, Washington, DC 20230. Please indicate ''Proposals for designation as a Manufacturing Community'' and Docket No. 131121981–3981 on the envelope.

FOR FURTHER INFORMATION CONTACT: Ryan Hedgepeth, U.S. Department of Commerce, Economic Development Administration, 1401 Constitution

Avenue NW., Suite 78006, Washington, DC 20230 or via email at *rhedgepeth@eda.gov*.

SUPPLEMENTARY INFORMATION: On December 10, 2013, EDA published a notice describing the IMCP (78 FR 74106), as well as the application criteria and process.

The IMCP is a new government-wide initiative that will help communities cultivate an environment for businesses to create well-paying manufacturing jobs in regions across the country and thereby accelerate the resurgence of manufacturing. The IMCP is designed to reward communities that demonstrate best practices in attracting and expanding manufacturing by bringing together key local stakeholders and using long-term planning that integrates targeted investments across a community's industrial ecosystem to create broad-based prosperity. A well-designed public investment is a key part of developing a self-sustaining ecosystem that attracts private investment from new and existing manufacturers and leads to broad-based prosperity.

Designation as an IMCP Manufacturing Community will be given to communities with the best strategies for designing and making such investments in public goods. EDA will designate up to 12 communities as Manufacturing Communities through the IMCP.

See the FRN (78 FR 74106) for further information on how to submit an application and how EDA will handle applications received.

Extension of Application Period

EDA has determined that a 30-day extension of the application period is necessary to provide the public adequate time to submit an application. Accordingly, the application period for the competition is extended through April 14, 2014.

Matthew S. Erskine,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 2014–04631 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–17–2014]

Foreign-Trade Zone (FTZ) 50—Long Beach, California; Notification of Proposed Production Activity; Forged Metals Inc. (Aerospace and Industrial Turbine Engine Parts, Forgings); Fontana, California

The Board of Harbor Commissioners of the Port of Long Beach, grantee of FTZ 50, submitted a notification of proposed production activity to the FTZ Board on behalf of Forged Metals Inc. (FMI), located in Fontana, California. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 4, 2014.

The FMI facility is located within Site 23 of FTZ 50. The facility is used for the production of nickel, aluminum, and titanium-based forgings and parts of turbine engines (*e.g.,* rings and discs) used in aerospace and industrial gas turbine applications. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board. The proposed scope of FTZ production authority would not involve inverted tariff benefits on foreign titanium inputs (all foreign titanium will be admitted to the zone in privileged foreign status (19 CFR 146.41)).

Production under FTZ procedures could exempt FMI from customs duty payments on the foreign status material inputs used in export production. On its domestic sales, FMI would be able to defer payment of customs duties on the foreign titanium inputs (duty rate—15%). Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials sourced from abroad include: titanium alloy, aluminum alloy, and nickel alloy (duty rate ranges from free to 15%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 14, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz*.

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04640 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2014]

Foreign-Trade Zone (FTZ) 126—Reno, Nevada; Notification of Proposed Production Activity; Schlosser Forge Company d/b/a Schlosser Forge Company North (Aerospace and Industrial Turbine Engine Parts, Forgings); Verdi, Nevada

The Economic Development Authority of Western Nevada, grantee of FTZ 126, submitted a notification of proposed production activity to the FTZ Board on behalf of Schlosser Forge Company d/b/a Schlosser Forge Company North (Schlosser), located in Verdi, Nevada. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 4, 2014.

The Schlosser facility is located within Site 20 of FTZ 126. The facility is used for the production of nickel, aluminum, and titanium-based closed die forgings and parts of turbine engines (*e.g.,* rings and discs) used in aerospace and industrial gas turbine applications. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board. The proposed scope of FTZ production authority would not involve inverted tariff benefits on foreign titanium inputs (all foreign titanium will be admitted to the zone in privileged foreign status (19 CFR 146.41)).

Production under FTZ procedures could exempt Schlosser from customs duty payments on the foreign status material inputs used in export production. On its domestic sales, Schlosser would be able to defer payment of customs duties on the foreign titanium inputs (duty rate—15%). Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials sourced from abroad include: Titanium alloy, aluminum alloy, and nickel alloy (duty rate ranges from free to 15%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 14, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04637 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–14–2014]

Foreign-Trade Zone (FTZ) 104—Savannah, Georgia; Notification of Proposed Production Activity; Firth Rixson Forgings LLC (Aerospace and Industrial Turbine Engine Parts, Forgings); Midway, Georgia

The World Trade Center Savannah, LLC, grantee of FTZ 104, submitted a notification of proposed production activity to the FTZ Board on behalf of Firth Rixson Forgings LLC (Firth Rixson), located in Midway, Georgia. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 4, 2014.

The Firth Rixson facility is located within Site 21 of FTZ 104. The facility is used for the production of nickel, aluminum, and titanium-based closed die ISO-thermal forgings and parts of turbine engines (*e.g.,* rings and discs) used in aerospace and industrial gas turbine applications. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board. The proposed scope of FTZ production authority would not involve inverted tariff benefits on foreign titanium inputs (all foreign titanium will be admitted to the zone in privileged foreign status (19 CFR 146.41)).

Production under FTZ procedures could exempt Firth Rixson from customs duty payments on the foreign status material inputs used in export production. On its domestic sales, Firth Rixson would be able to defer payment of customs duties on the foreign titanium inputs (duty rate—15%). Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials sourced from abroad include: Titanium alloy, aluminum alloy, and nickel alloy (duty rate ranges from free to 15%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 14, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

FOR FURTHER INFORMATION CONTACT: Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04634 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–16–2014]

Foreign-Trade Zone (FTZ) 50—Long Beach, California; Notification of Proposed Production Activity; Schlosser Forge Company (Aerospace and Industrial Turbine Engine Parts, Forgings); Rancho Cucamonga, California

The Board of Harbor Commissioners of the Port of Long Beach, grantee of FTZ 50, submitted a notification of proposed production activity to the FTZ Board on behalf of Schlosser Forge Company (Schlosser), located in Rancho Cucamonga, California. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 4, 2014.

The Schlosser facility is located within Site 22 of FTZ 50. The facility is used for the production of nickel, aluminum, and titanium-based forgings and parts of turbine engines (*e.g.,* rings and discs) used in aerospace and industrial gas turbine applications. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board. The proposed scope of FTZ production authority would not involve inverted tariff benefits on foreign titanium inputs (all foreign titanium will be admitted to the zone in privileged foreign status (19 CFR 146.41)).

Production under FTZ procedures could exempt Schlosser from customs duty payments on the foreign status material inputs used in export production. On its domestic sales, Schlosser would be able to defer payment of customs duties on the foreign titanium inputs (duty rate—15%). Customs duties also could possibly be deferred or reduced on foreign status production equipment.

The materials sourced from abroad include: titanium alloy, aluminum alloy, and nickel alloy (duty rate ranges from free to 15%).

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is April 14, 2014.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Pierre Duy at *Pierre.Duy@trade.gov* or (202) 482–1378.

Dated: February 20, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–04639 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for April 2014

The following Sunset Reviews are scheduled for initiation in April 2014 and will appear in that month's Notice of Initiation of Five-Year Sunset Review (''Sunset Review'').

	Department Contact
Antidumping Duty Proceedings	
Citric Acid and Citrate Salt from Canada (A–122–853) (1st Review)	David Goldberger, (202) 482–4136.
Citric Acid and Citrate Salt from China (A–570–937) (1st Review)	David Goldberger, (202) 482–4136
Countervailing Duty Proceedings	
Citric Acid and Citrate Salt from China (C–570–938) (1st Review)	David Goldberger, (202) 482–4136
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in April 2014.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. The Notice of Initiation of Five-Year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 21, 2014

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–04629 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (''the Act''), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (''the Department'') conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department intends to select respondents based on U.S. Customs and Border Protection (''CBP'') data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (''APO'') to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. The Department invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, the Department

will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where the Department considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to reviews requested on the basis of anniversary months on or after March 2014, the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

The Department is providing this notice on its Web site, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which the Department intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of March 2014,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period of review
Antidumping Duty Proceedings	
CANADA:	
Iron Construction Castings, A–122–503	3/1/13—2/28/14
FRANCE:	
Brass Sheet & Strip, A–427–602	3/1/13—2/28/14
GERMANY:	
Brass Sheet & Strip, A–428–602	3/1/13—2/28/14
INDIA:	
Sulfanilic Acid, A–533–806	3/1/13—2/28/14
ITALY:	
Brass Sheet & Strip, A–475–601	3/1/13—2/28/14
RUSSIA:	
Silicon Metal, A–821–817	3/1/13—2/28/14
SPAIN:	
Stainless Steel Bar, A–469–805	3/1/13—2/28/14
TAIWAN:	
Light-Walled Rectangular Welded Carbon Steel Pipe and Tube, A–583–803	3/1/13—2/28/14
THAILAND:	
Circular Welded Carbon Steel Pipes and Tubes, A–549–502	3/1/13—2/28/14
THE PEOPLE'S REPUBLIC OF CHINA:	
Chloropicrin, A–570–002	3/1/13—2/28/14
Circular Welded Austenitic Stainless Pressure Pipe, A–570–930	3/1/13—2/28/14
Drill Pipe, A–570–965	3/1/13—2/28/14
Glycine, A–570–836	3/1/13—2/28/14
Sodium Hexametaphosphate, A–570–908	3/1/13—2/28/14
Tissue Paper Products, A–570–894	3/1/13—2/28/14
Countervailing Duty Proceedings	
INDIA:	
Sulfanilic Acid, C–533–807	1/1/13—12/31/13
IRAN:	
In-Shell Pistachio Nuts, C–507–501	1/1/13—12/31/13
Circular Welded Austenitic Stainless Pressure Pipe, C–570–931	1/1/13—12/31/13
Drill Pipe, C–570–966	1/1/13—12/31/13
TURKEY:	
Circular Welded Carbon Steel Pipes and Tubes, C–489–502	1/1/13—12/31/13
Suspension Agreements	
MEXICO:	
Fresh Tomatoes, A–201–820	3/4/13—2/28/14

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Further, as explained in *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013), the Department has clarified its practice with regard to the conditional review of the non-market economy (NME) entity in administrative reviews of antidumping duty orders. The Department will no longer consider the NME entity as an exporter conditionally subject to administrative reviews. Accordingly, the NME entity will not be under review unless the Department specifically receives a request for, or self-initiates, a review of the NME entity.[3] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, the Department will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity).

Following initiation of an antidumping administrative review when there is no review requested of the NME entity, the Department will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS'') on the IA ACCESS Web site at *http://iaaccess.trade.gov.*[4] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of March 2014. If the Department does not receive, by the last day of March 2014, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 21, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–04630 Filed 2–28–14; 8:45 am]

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[2] *See also* the Enforcement and Compliance Web site at *http://trade.gov/enforcement/.*

[3] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

[4] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 24, 2014. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 14–002. Applicant: University of Minnesota, Dept. of

Biochem., Mol. Biol. & Biophysics, 140 Gortner Lab, 1479 Gortner Ave., St. Paul, MN 55108. Instrument: Anaerobic glovebox for crystallography. Manufacturer: Belle Technology UK Ltd, Great Britain. Intended Use: The instrument will be used to study the growth of crystals of oxygen-sensitive proteins and trapping of catalytic intermediates in crystals of enzymes which utilize oxygen as a substrate. The objective is to produce atomic resolution molecular structures of oxygen-sensitive or oxygen-dependent proteins by x-ray crystallography. The necessary features of this instrument include an entry port in the floor of the microscope box that forms an air-tight seal with a two liter liquid nitrogen dewar mated to the port from outside the box. Air needs to be expelled (purged) from above the liquid nitrogen surface and replaced with gaseous nitrogen. Closure of the port allows removal of the dewar. An air-tight door between the larger anaerobic crystallization box and the anaerobic microscope box is also necessary. Justification for Duty-Free Entry: There are no instruments of the same general category manufactured in the United States. Application accepted by Commissioner of Customs: January 23, 2014.

Dated: February 24, 2014.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2014–04642 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application(s) for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 24, 2014. Address written comments to Statutory Import Programs Staff, Room 3720, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. at the U.S. Department of Commerce in Room 3720.

Docket Number: 14–001. *Applicant:* Baylor College of Medicine, One Baylor Plaza, Houston, TX 77030. *Instrument:* Electron Microscope. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument will be used to analyze medical devices and materials for possible colonization with microorganisms. *Justification for Duty-Free Entry:* There are no instruments of the same general category manufactured in the United States. *Application accepted by Commissioner of Customs:* January 23, 2014.

Dated: February 24, 2014.

Gregory W. Campbell,

Director of Subsidies Enforcement, Enforcement and Compliance.

[FR Doc. 2014–04632 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Automotive Trade Mission to New Delhi, Pune and Chennai, India

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice; cancellation.

SUMMARY: The United States Department of Commerce, International Trade Administration, Industry and Analysis previously published a document in the **Federal Register** on November 25, 2013, 78 FR 70278, regarding the Automotive Trade Mission to New Delhi, Pune and Chennai, India scheduled for April 24—30, 2014. This mission has been cancelled. Please update the existing notice with a note that this mission is cancelled as of February 19, 2014.

FOR FURTHER INFORMATION CONTACT: Frank Spector, Industry and Analysis, Trade Promotion Programs, Phone: 202–482–2054; Fax: 202–482–9000, Email: *Frank.Spector@trade.gov.*

Cancellation Notice

In the **Federal Register** Notice of November 25, 2013, 78 FR 70278 on page 70278, title note at top of page, correct the subject heading of the notice to read: Automotive Trade Mission to New Delhi, Pure and Chennai, India has been cancelled, April 24–30, 2014.

Dated: February 19, 2014.

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2014–04504 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 92–12A001]

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review to Aerospace Industries Association of America, Inc., Application No. 92–12A001.

SUMMARY: The U.S. Department of Commerce issued an amended Export Trade Certificate of Review to Aerospace Industries Association of America, Inc. (''AIA'') on February 18, 2014.

FOR FURTHER INFORMATION CONTACT: Joseph E. Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or email at *etca@trade.gov*.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (2014). The U.S. Department of Commerce, International Trade Administration, Office of Trade and Economic Analysis (''OTEA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish a summary of the issuance in the **Federal Register**. Under Section 305(a) of the Export Trading Company Act (15 U.S.C. 4012(b)(1)) and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

AIA's Export Trade Certificate of Review has been amended to:

1. Add the following companies as new Members of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)): Aero Mechanical Industries (Rio Rancho, NM); Avascent (Washington, DC); Ball Aerospace & Technologies Corp. (Boulder, CO); Castle Metals (Oak Brook, IL); Crane Aerospace & Electronics (Lynnwood, WA); EPS Corporation (Tinton Falls, NJ); Oxford Performance Materials (South Windsor, CT), and The Padina Group, Inc. (Lancaster, PA).

2. Delete the following companies as Members of AIA's Certificate: AeroVironment, Inc.; Broad Reach Engineering Company; CIRCOR International, Inc.; Gentex Corporation; Goodrich Corporation; Omega Air, Inc.; OSI Systems, Inc.; the SI Organization, Inc.; Valent Aerostructures, LLC; W.L. Gore & Associates, Inc.; and Xerox Corporation.

3. Change in name or address for the following Members: Acutec Precision Manufacturing, Inc. (Saegertown, PA) is Acutec Precision Machining, Inc.; Cubic Defense Applications, Inc. (San Diego, CA) has been replaced by Cubic Corporation, Inc. (San Diego, CA); Galactic Ventures, LLC (Las Cruces, NM) has changed its name to Virgin Galactic, LLC.; Groen Brothers Aviation, Inc. (Salt Lake City, UT) has changed its name to Groen Brothers Aviation Global, Inc.; ITT Exelis (McLean, VA) has changed its name to Exelis, Inc.; NYLOCK Corporation (Macomb, MI) has changed its name to NYLOCK, LLC; PARTsolutions, LLC (Milford, OH) has changed its name to CADENAS PARTsolutions, LLC (Cincinnati, OH); and SAP Public Services, Inc. (Washington, DC) has changed its name to SAP America, Inc. (Newtown Square, PA).

AIA's amendment of its Export Trade Certificate of Review results in the following membership list:

1. 3M Company, St. Paul, MN
2. AAR Manufacturing, Inc., Wood Dale, IL
3. Accenture, Chicago, IL
4. Acutec Precision Machining, Inc., Saegertown, PA
5. Aero-Mark, LLC, Ontario CA
6. Aero Mechanical Industries, Rio Rancho, NM
7. Aerojet, Rancho Cordova, CA
8. AGC Aerospace Defense, Oklahoma City, OK
9. Aireon LLC, McLean, VA
10. Alcoa Defense, Crystal City, VA
11. Align Aerospace, LCC, Chatsworth, CA
12. Allfast Fastening Systems, City of Industry, CA
13. Alliant Techsystems, Inc. (ATK), Minneapolis, MN
14. AlliedBarton Security Services, LLC, Conshohocken, PA
15. Allied Telesis, Inc., Bothell, WA
16. American Pacific Corporation, Las Vegas, NV
17. AMT II Corporation, New York, NY
18. Analytical Graphics, Inc., Exton, PA
19. ARINC Aerospace, Annapolis, MD
20. Aurora Flight Sciences Corporation, Manassas, VA
21. AUSCO, Inc., Port Washington, NY
22. Avascent, Washington, DC
23. B&E Group, LLC, Southwick, MA
24. B/E Aerospace, Inc., Wellington, FL
25. BAE Systems, Inc., Rockville, MD
26. Ball Aerospace Technologies Corp., Boulder, CO
27. Barnes Group Inc., Bristol, CT
28. Belcan Corporation, Cincinnati, OH
29. Benchmark Electronics, Inc., Angleton, TX
30. Boeing Company, Chicago, IL
31. Bombardier, Montreal, Canada
32. BRS Aerospace, St. Paul, MN
33. CADENAS PARTsolutions, LLC, Cincinnati, OH
34. CAE USA Inc., Tampa, FL
35. Camcode Division of Horizons, Inc., Cleveland, OH
36. Castle Metals, Oak Brook, IL
37. Celestica Corporation, Toronto, Canada
38. CERTON Software, Inc., Melbourne, FL
39. Chromalloy, San Antonio, TX
40. Click Bond, Inc., Carson City, NV
41. Cobham, Arlington, VA
42. Colt Defense, LLC, West Hartford, CT
43. Computer Sciences Corporation, Falls Church, VA
44. CPI Aerostructures, Inc., Edgewood, NY
45. Crane Aerospace Electronics, Lynnwood, WA
46. Cubic Corporation, Inc., San Diego, CA
47. Curtiss-Wright Corporation, Parsippany, NJ
48. Deloitte Consulting LLP, New York, NY
49. Deltek, Inc., Herndon, VA
50. Denison Industries, Inc., Denison, TX
51. DitigalGlobe, Inc., Longmont, CO
52. Ducommun Incorporated, Carson, CA
53. Dupont Company, New Castle, DE
54. Eaton Corporation, Cleveland, OH
55. Elbit Systems of America, LLC, Fort Worth, TX,
56. Embraer Aircraft Holding, Inc., Fort Lauderdale, FL
57. ENSCO, Inc., Falls Church, VA
58. EPS Corporation; Tinton Falls, NJ
59. Erickson Air-Crane Inc., Portland, OR
60. Ernst Young LLP, New York, NY
61. ESI North America, Bloomfield Hills, MI
62. ESIS, Inc., San Diego, CA
63. Esterline Technologies, Bellevue, WA
64. Exelis, Inc., McLean, VA
65. Exostar, LLC, Herndon, VA
66. Flextronics International USA, Inc., San Jose, CA
67. Flight Safety International, Inc., Flushing, NY
68. Fluor Corporation, Irving, TX
69. FTG Circuits, Inc., Chatsworth, CA
70. Galaxy Technologies, Winfield, KS
71. General Atomics Aeronautical Systems, Inc., Poway, CA
72. General Dynamics Corporation, Falls Church, VA
73. General Electric Aviation, Cincinnati, OH
74. GKN Aerospace North America, Irving, TX
75. Groen Brothers Aviation Global, Inc., Salt Lake City, UT
76. Guardsmark, LLC, New York, NY
77. Harris Corporation, Melbourne, FL
78. HCL America Inc., Sunnyvale, CA
79. HEICO Corporation, Hollywood, FL
80. Hexcel Corporation, Stamford, CT
81. Hi-Shear Technology Corporation, Torrance, CA
82. HITCO Carbon Composites, Inc., Gardena, CA
83. Honeywell Aerospace, Phoenix, AZ
84. HP Enterprise Services—Aerospace, Palo Alto, CA
85. Huntington Ingalls Industries, Inc., Newport News, VA
86. Hydra Electric Company, Burbank, CA
87. IBM Corporation, Armonk, NY
88. IEC Electronics Corporation, Newark, NJ
89. Infotech Enterprises America Inc., East Hartford, CT
90. Jabil Defense & Aerospace Services LLC, St. Petersburg, FL
91. Kaman Aerospace Corporation, Bloomfield, CT
92. Kemet Electronics Corporations, Simpsonville, SC
93. KPMG LLP, New York, NY
94. L–3 Communications Corporation, New York, NY
95. LAI International, Inc., Scottsdale, AZ
96. LMI Aerospace, Inc., St. Charles, MO
97. Lockheed Martin Corporation, Bethesda, MD
98. Lord Corporation, Cary, NC
99. Marotta Controls, Inc., Montville, NJ
100. Meggitt-USA, Inc., Simi, CA
101. Micro-Coax, Inc., Pottstown, PA
102. Microsemi Corporation, Aliso Viejo, CA
103. MOOG Inc., East Aurora, NY
104. Natel Engineering Company, Inc., Chatsworth, CA
105. National Technical Systems, Inc., Calabasas, CA
106. NobleTek, Wooster, OH
107. The NORDAM Group, Inc., Tulsa, OK
108. Northrop Grumman Corporation, Los Angeles, CA
109. NYLOCK, LLC, Macomb, MI
110. O'Neil & Associates Inc., Miamisburg, OH
111. Ontic Engineering and Manufacturing, Inc., Chatsworth, CA
112. Oracle USA, Inc., Redwood Shores, CA

113. Oxford Performance Materials, South Windsor, CT
114. Pacifica Engineering, Inc., Mukiliteo, WA
115. The Padina Group, Inc.; Lancaster, PA
116. Pall Aeropower Corporation, New Port Richey, FL
117. Parametric Technology Corporation, Needham, MA
118. Parker Aerospace, Irvine, CA
119. Pinkerton Government Services, Inc., Springfield, VA
120. Plexus Corporation, Neenah, WI
121. PPG Aerospace-Sierracin Corporation, Sylmar, CA
122. PWC Aerospace & Defense Advisory Services, McLean, VA
123. RAF Tabtronics LLC, Deland, FL
124. Raytheon Company, Waltham, MA
125. Realization Technologies Inc., San Jose, CA
126. Rhinestahl Corporation, Mason, OH
127. Rix Industries, Benicia, CA
128. Rockwell Collins, Inc., Cedar Rapids, IA
129. Rolls-Royce North America, Inc., Reston, VA
130. RTI International Metals, Inc., Pittsburgh, PA
131. Satair USA Inc., Atlanta, GA
132. SAP America, Inc., Newtown Square, PA
133. SCB Training Inc., Santa Fe Springs, CA
134. Science Applications International Corporation, McLean, VA
135. Seal Science, Inc., Irvine, CA
136. Siemens PLM Software, Plano, TX
137. Sierra Nevada Corporation, Littleton, CO
138. SIFCO Industries, Inc., Cleveland, OH
139. Sila Solutions Group, Tukwila, WA
140. SITA, Atlanta, GA
141. Space Exploration Technologies Corporation, Hawthorne, CA
142. Sparton Corporation, Schaumburg, IL
143. Spirit AeroSystems, Inc., Wichita, KS
144. SRA International, Inc., Fairfax, VA
145. TASC, Inc., Chantilly, VA
146. Tech Manufacturing, LLC, Wright City, MO
147. Textron Inc., Providence, RI
148. Therm, Incorporated, Ithaca, NY
149. Timken Aerospace Transmissions, LLC, Manchester, CT
150. Triumph Group Inc., Wayne, PA
151. United Technologies Corporation, Hartford, CT
152. Virgin Galactic, LLC, Las Cruces, NM
153. Wesco Aircraft Hardware Corporation, Valencia, CA
154. Woodward, Inc., Fort Collins, CO

The effective date of the amendment is November 21, 2013, the date on which AIA's application to amend was deemed submitted. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Dated: February 24, 2014.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482–5131, etca@trade.gov.

[FR Doc. 2014–04720 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Review

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year reviews (''Sunset Reviews'') of the antidumping and countervailing duty (''AD/CVD'') orders listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notice of *Institution of Five-Year Review* which covers the same orders.

DATES: *Effective Date:* March 1, 2014.

FOR FURTHER INFORMATION CONTACT: The Department official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

The Department's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty orders:

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–533–847	731–TA–1147	India	1-Hydroxyethylidene-1, 1-Diphosphonic (HEDP) Acid (1st Review).	Charles Riggle (202) 482–0650.
A–570–934	731–TA–1146	China	1-Hydroxyethylidene-1, 1-Diphosphonic (HEDP) Acid (1st Review).	Charles Riggle (202) 482–0650.
A–570–933	731–TA–1148	China	Fronstseating Service Valves (1st Review).	David Goldberger.
A–570–881	731–TA–1021	China	Malleable Cast Iron Pipe Fittings (2nd Review).	David Goldberger (202) 482–4136.
A–570–879	731–TA–1014	China	Polyvinyl Alcohol (2nd Review)	David Goldberger 482–4136.
A–570–932	731–TA–1145	China	Steel Threaded Rod (1st Review)	Charles Riggle (202) 482–0650.
A–588–861	731–TA–1016	Japan	Polyvinyl Alcohol (2nd Review)	David Goldberger (202) 482–4136.
A–580–850	731–TA–1017	Republic of Korea.	Polyvinyl Alcohol (2nd Review)	David Goldberger (202) 482–4136.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Department's regulations, the Department's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on the Department's Web site at the following address: ''*http://enforcement.trade.gov/sunset/.*'' All submissions in these Sunset Reviews must be filed in accordance with the Department's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''), can be found at 19 CFR 351.303.[1]

This notice serves as a reminder that any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all AD/CVD investigations or proceedings initiated on or after August 16, 2013.[3] The formats for the revised certifications are provided at the end of the *Final Rule.* The Department intends to reject factual submissions if the submitting party does not comply with the revised certification requirements.

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty proceedings: the definition of factual information (19 CFR 351.102(b)(21), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied.

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Extension of Time Limits,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under part 351 of the Department's regulations expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm*, prior to submitting factual information in these segments.

Pursuant to 19 CFR 351.103(d), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required from Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with the Department's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.[4]

If we receive an order-specific notice of intent to participate from a domestic interested party, the Department's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*'') (amending 19 CFR 351.303(g)).

[4] *See* 19 CFR 351.218(d)(1)(iii).

that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Please consult the Department's regulations for information regarding the Department's conduct of Sunset Reviews. Please consult the Department's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: February 24, 2014.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2014–04623 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Travel and Tourism Trade Mission to Russia September 15—19, 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Description

The United States Department of Commerce, International Trade Administration, including the National Travel and Tourism Office (*http://travel.trade.gov/*), with support from Brand USA (*http://www.thebrandusa.com/*) is organizing an Executive-led trade mission to Moscow and St. Petersburg, Russia with an optional stop in Yekaterinburg, Russia, September 15–19, 2014. The purpose of this mission is to help U.S. firms in the travel and tourism industry find business partners and sell services in Russia. The targeted sector for participation in this mission is travel and tourism, including U.S.-based travel and tourism suppliers, destination marketing organizations (i.e., convention and visitors bureaus), travel promotion organizations and other travel and tourism entities promoting and selling travel to the United States including trade associations.

The mission will include stops in Moscow and St. Petersburg, where participants will receive market briefings and participate in customized meetings with key officials and prospective partners. There will be an optional stop in Yekaterinburg, Russia.

The mission supports President Obama's National Export Initiative (NEI) to strengthen the U.S. economy and U.S. competitiveness through meaningful job creation and furthers the National Travel and Tourism Strategy. The mission will help U.S. companies already doing business in Russia to increase their footprint and deepen their business interests.

The mission will help participating firms and associations/organizations gain market insights, make industry contacts, solidify business strategies, and advance specific projects, with the goal of increasing U.S. exports of services to Russia. The mission will include one-on-one business appointments with pre-screened potential buyers, agents, distributors and joint venture partners; meetings with state and local government officials and industry leaders; and networking events. Participating in an official U.S. industry delegation, rather than traveling to Russia on their own, will enhance the companies' ability to secure meetings in Russia.

The mission will be supported by the Brand USA (*http://www.thebrandusa.com/*). The mission of Brand USA is to encourage increased international visitation to the United States and to grow America's share of the global travel and tourism market. In doing so, Brand USA aims to bring millions of new international visitors who will spend billions of dollars to the United States, creating tens of thousands of new American jobs.

All travel and tourism companies, including U.S.-based travel and tourism suppliers, destination marketing organizations (i.e., convention and visitors bureaus), travel promotion organizations and other travel and tourism entities promoting and selling travel to the United States including trade associations are encouraged to apply.

Commercial Setting

In 2012, about 260,000 visitors from Russia traveled to the United States. If current trends continue, more than 300,000 visitors from Russia will have traveled to the U.S. in 2013, representing an increase of 30%. Since 2010, the number of visitors from Russia to the United States has increased by an average of more than 20% each year. The forecast is for the number of Russians visitors to the United States to reach nearly 500,000 per year by 2018.

With a population of over 140 million, Russia is the ninth most populous country in the world and is a huge market for outbound travel. Sustained economic growth, low unemployment and rising personal income levels mean that more Russians are able to travel more often and to long-haul destinations, such as the United States. According to the United Nation's World Tourism Organization, Russians are among the top tourism spenders in the world, ranking number five and spending an estimated $42 billion in 2012. The vast majority of Russians visit the United States for holidays and to see family and friends. Russians enjoy shopping, dining out, sightseeing in cities, experiencing amusement and theme parks, and visiting historical places. It is noteworthy that nearly 40% of Russians who visited the United States in 2012 were first-time visitors. The average income of Russians visiting the United States is approximately $60,000, which means they have disposable income to spend on shopping, dining and leisure activities. Also, the continued strength of the Euro and British Pound against the U.S. dollar has helped make travel to the United States more attractive and affordable for Russian travelers.

For Russians, outbound travel is both a vital part of doing business and a trendy form of leisure holidays. Russians experience a very cold winter each year, and they are always searching for sunny and dry destinations for their holiday adventure. A significant development is that more airlines, both U.S. and international, have launched non-stop service connecting Moscow with U.S. destinations. Delta Airlines, Aeroflot Russian Airlines, Transaero, and Singapore Airlines all offer direct flights to U.S. cities. Aeroflot flies to New York City, Washington, DC, and Los Angeles; Delta flies to New York; Transaero to New York and Miami, and Singapore Airlines flies to Houston. Many more international airlines transport Russian travelers to the U.S. via hubs such as Frankfurt, Copenhagen, Amsterdam, Madrid, London, and others.

Overall growth in demand for the United States as a tourism destination has also been driven by an increase in disposable income in a discrete segment of Russian society. Those travelers have generally already traveled to Europe and Asia, and the United States is now an affordable destination. A supporting factor behind the steady growth in the number of Russian tourism to the United States is the publicity surrounding the improvements in the visa application process that has taken place in recent years. The U.S. Embassy has made great progress in improving the process in the face of a rapidly

growing number of applications including: increasing staffing; public speaking and outreach; providing visa information available online in Russian; allowing application fees and supporting documents to be sent to the Embassy via a courier service with offices across Russia; and accepting payments at Russian post offices and online. Because of an increase in visa reciprocity, Russians now have the opportunity to secure three-year, multiple entry visas. As part of a worldwide change, most of those wishing to renew a tourist visa within 47 months following their previous visa expiration date can obtain their new visa without an in-person interview. The availability of visa information online has made it possible to counter the market's impression that U.S. visas are expensive, difficult to obtain and take a long time to process. Russian tour operators are also educating their travelers regarding these improvements.

Based on the results of a recent survey of Russian tour operators conducted by U.S. Commercial Service Moscow, the most promising destinations in the United States include:

- Cities: New York City, Miami, and Las Vegas;
- National Parks;
- Ski/Winter Resorts; and
- Leisure/Entertainment Complexes.

New York City has been and will likely remain the most popular city destination for Russian tourists in the near future. Russians will often combine their business travel to New York City with a pleasure trip. Their family, historical, and cultural ties to New York City put it on the top of the list for brand awareness, followed by Miami and other locations in Florida, famous for their comfort and opportunities for various forms of leisure. As more Russian tourists reach the U.S. West Coast, California resorts and attractions are becoming increasingly popular in this respect as well. Las Vegas, historically considered by many Russians the gambling and entertainment capital of the world, has gained in popularity after July 1, 2009, when gambling was officially banned in Russia. Interest in national parks is growing as Russian tourists learn more about what they have to offer. Ski and winter sports resorts have become more popular in recent years as an alternative to European resorts as they provide a unique travel experience in terms of variety, beauty and quality of service.

Other Products and Services

The foregoing analysis of the travel and tourism opportunities in Russia is not intended to be exhaustive, but illustrative of the many opportunities available to U.S. businesses. Applications from companies selling products or services within the scope of this mission, but not specifically identified, will be considered and evaluated by the U.S. Department of Commerce. Companies whose products or services do not fit the scope of the mission may contact their local U.S. Export Assistance Center (USEAC) to learn about other business development missions and services that may provide more targeted export opportunities. Companies may call 1–800–872–8723, or go to *http://help.export.gov/* to obtain such information. This information also may be found on the Web site: *http://www.export.gov.*

Mission Goals

The goal of this Trade Mission is to help U.S. destinations and tourism suppliers, including receptive tour operators, to develop their contacts and generate exports to Russia by providing business-to-business introductions and market access information so they can position themselves to enter or expand their presence in Russia.

Mission Scenario

The Russia Travel and Tourism Trade Mission will visit Moscow and St. Petersburg with an optional stop in Yekaterinburg, allowing participants to access the largest markets and business centers in Russia. In each city, participants will meet with potential business contacts.

PROPOSED TIME TABLE

Date	Day	Activity
September 14	Sunday—Yekaterinburg	Arrive in Yekaterinburg (optional).
September 15	Monday—Yekaterinburg	Mission Meetings Officially Start; Seminar presentation; One-one-one business appointments; Business/Media Breakfast.
	Monday—Moscow	Arrive/Travel to Moscow.
September 16/17	Tuesday/Wednesday—Moscow	Breakfast briefing with U.S. Embassy staff; Seminar presentation; One-on-one business appointments; Media events; Evening business reception.
September 18	Thursday Travel to St. Petersburg.	
September 18/19	Thursday/Friday—St. Petersburg	Seminar presentation; Trade Fair; One-on-one business appointments; Evening business reception; Mission ends.

Participation Requirements

All applicants will be evaluated on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. The mission is designed for a minimum of 15 and a maximum of 20 participants. U.S. companies already doing business in the target markets as well as U.S. companies seeking to enter these markets for the first time are encouraged to apply.

Fees and Expenses

After a company has been selected to participate on the mission, a participation fee to the U.S. Department of Commerce is required. The participation fee for one representative is $1900 for a small or medium-sized enterprise (SME) [1] and $2250 for large firms. The fee for each additional firm representative (SME or large) is $500. For the Yekaterinburg option, there is an additional fee of $750 for SMEs and $850 for large companies, and $200 for each additional firm representative (SME or large). Expenses for travel, lodging, some meals, and incidentals will be the responsibility of each mission participant.

Conditions for Participation

An applicant must submit a completed and signed mission application and supplemental application materials, including adequate information on the company's products and/or services, primary

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations. *See http://www.sba.gov/contractingopportunities/owners/basics/whatismallbusiness/index.html.* Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008. *See http://www.export.gov/newsletter/march2008/initiatives.html.*

market objectives, and goals for participation. If the U.S. Department of Commerce receives an incomplete application, the Department may reject the application, request additional information, or take the lack of information into account when evaluating the applications. Each applicant must also certify that the products and services it seeks to export through the mission are either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Selection Criteria for Participation

Suitability of the company's products or services to the mission goals. Applicant's potential for business in Russia, including likelihood of exports resulting from the mission.

Consistency of the applicant's goals and objectives with the stated scope of the mission. Diversity of company size, sector or subsector, and location may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Applications

Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar—*www.ita.doc.gov/doctm/tmcal.html*—and other Internet Web sites, press releases to general and trade media, direct mail, broadcast fax, notices by industry trade associations and other multiplier groups, and publicity at industry meetings, symposia, conferences, and trade shows.

Recruitment for the mission will begin immediately, and conclude July 15, 2014. The U.S. Department of Commerce will review applications and make selection decisions on May 7, 2014 and again on July 28, 2014 until the maximum of 20 participants is selected. Applications received after July 15, 2014, will be considered only if space and scheduling constraints permit.

Contacts

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[FR Doc. 2014–04506 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD119

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Central Gulf of Alaska Rockfish Program

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

ACTION: Notification of standard prices and fee percentage.

SUMMARY: NMFS publishes the standard ex-vessel prices and fee percentage for cost recovery under the Central Gulf of Alaska Rockfish Program. This action is intended to provide participants in a rockfish cooperative with the standard prices and fee percentage for the 2013 fishing year, which was authorized from May 1 through November 15. The fee percentage is 2.5 percent. The fee liability payments were due from each rockfish cooperative by February 15, 2014.

DATES: Effective March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Troie Zuniga, 907–586–7255.

SUPPLEMENTARY INFORMATION:

Background

The rockfish fisheries are conducted in Federal waters near Kodiak, AK, by trawl and longline vessels. Regulations implementing the Central Gulf of Alaska (GOA) Rockfish Program (Rockfish Program) are set forth at 50 CFR part 679. Exclusive harvesting privileges are allocated under the Rockfish Program for rockfish primary and secondary species. The rockfish primary species are northern rockfish, Pacific ocean perch, and dusky rockfish. In 2012, dusky rockfish replaced the pelagic shelf rockfish species group in the GOA Groundfish Harvest Specifications (77 FR 15194, March 14, 2012). The rockfish secondary species include Pacific cod, rougheye rockfish, shortraker rockfish, sablefish, and thornyhead rockfish. Rockfish cooperatives began fishing under the Rockfish Program on May 1, 2012.

The Rockfish Program is a type of limited access privilege program established under the provisions of section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Section 303A requires that NMFS collect fees for limited access programs to recover the actual costs directly related to management, data collection and analysis, and enforcement activities. Section 304(d)(2) of the MSA requires that NMFS collect fees for the Rockfish Program equal to the actual costs directly related to management, enforcement, and data collection (management costs). Section 304(d)(2) of the MSA also limits the cost recovery fee so that it may not exceed 3 percent of the ex-vessel value of the fish harvested under the Rockfish Program.

Standard Prices

NMFS calculates cost recovery fees based on standard ex-vessel value price, rather than actual price data provided by each rockfish cooperative quota (CQ) holder. Use of a standard ex-vessel price is allowed under sections 303A and 304(d)(2) of the MSA. NMFS generates a standard ex-vessel price for each rockfish primary and secondary species on a monthly basis to determine the average price paid per pound for all shoreside processors receiving rockfish primary and secondary species CQ.

Regulations at § 679.85(b)(2) require the Regional Administrator to publish rockfish standard ex-vessel values during the first quarter of each calendar year. The standard prices are described in U.S. dollars per pound for rockfish primary and secondary species CQ landings made during the previous year.

Fee Percentage

NMFS assesses a fee on the standard ex-vessel value of rockfish primary species and rockfish secondary species CQ harvested by rockfish cooperatives in the Central GOA and waters adjacent to the Central GOA when rockfish primary species caught by a cooperative is deducted from the Federal total allowable catch. The rockfish entry level longline fishery and opt-out vessels are not subject to cost recovery fees because those participants do not receive rockfish CQ. Specific details on the Rockfish Program's cost recovery provision may be found in the

implementing regulations set forth at § 679.85.

NMFS informs—by letter—each rockfish cooperative of the fee percentage applied to the previous year's landings and the total amount due. Fees are due on February 15 of each year. Failure to pay on time would result in the permit holder's quota share becoming non-transferable and the person would be ineligible to receive any additional quota share by transfer. In addition, cooperative members would not receive any rockfish CQ the following year until full payment of the fee liability is received by NMFS.

NMFS calculates and publishes in the **Federal Register** the fee percentage in the first quarter of each year according to the factors and methodology described in Federal regulations at § 679.85(c)(2). NMFS determines the fee percentage that applies to landings made in the previous year by dividing the total actual costs during the previous year by the total value of the rockfish primary species and rockfish secondary species for all rockfish CQ landings made during the previous year. NMFS captures the actual cost of managing the fishery through an established accounting system that allows staff to track labor, travel, and procurement. Fee collections in any given year may be less than, or greater than, the actual costs and fishery value for that year, because, by regulation, the fee percentage is established in the first quarter of the calendar year based on the fishery value and the costs of the previous calendar year. The rockfish fee percentage amount must not exceed 3.0 percent pursuant to 16 U.S.C. 1854(d)(2)(B). This is the second year of fee collection under the Rockfish Program.

Using the fee percentage formula described above, the estimated percentage of costs to value for the 2013 calendar year is 2.5 percent of the standard ex-vessel value. The 2013 fee liability percentage of 2.5 is an increase of 1.1 percent from the 2012 fee liability of 1.4 percent (78 FR 14076, March 4, 2013). The change in the fee percentage between 2012 and 2013 can be attributed primarily to a decrease in the standard ex-vessel value and volume of rockfish and to a lesser extent an increase in NMFS management and enforcement costs.

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2013 ROCKFISH PROGRAM SEASON IN KODIAK, ALASKA.

Species	Period ending	Standard ex-vessel price per pound
Dusky rockfish*	May 31	0.17
	June 30	0.15
	July 31	0.15
	August 31	0.00
	September 30	0.15
	October 31	0.15
	November 30	0.18
Northern rockfish	May 31	0.17
	June 30	0.15
	July 31	0.15
	August 31	0.00
	September 30	0.15
	October 31	0.15
	November 30	0.17
Pacific cod	May 31	0.24
	June 30	0.23
	July 31	0.24
	September 30	0.20
	October 31	0.23
	November 30	0.22
Pacific ocean perch	May 31	0.21
	June 30	0.28
	July 31	0.20
	August 31	0.00
	September 30	0.19
	October 31	0.20
	November 30	0.20
Rougheye rockfish	May 31	0.16
	June 30	0.00
	July 31	0.23
	August 31	0.00
	September 30	0.25
	October 31	0.17
	November 30	0.20
Sablefish	May 31	2.37
	June 30	2.12
	July 31	2.37
	August 31	0.00
	September 30	2.09
	October 31	1.70
	November 30	2.20
Shortraker rockfish	May 31	0.20
	June 30	0.23
	July 31	0.22
	August 31	0.00
	September 30	0.26
	October 31	0.28

TABLE 1—STANDARD EX-VESSEL PRICES BY SPECIES FOR THE 2013 ROCKFISH PROGRAM SEASON IN KODIAK, ALASKA.—Continued

Species	Period ending	Standard ex-vessel price per pound
Thornyhead rockfish	November 30	0.23
	May 31	0.49
	June 30	0.32
	July 31	0.15
	August 31	0.00
	September 30	0.46
	October 31	0.59
	November 30	0.35

*The pelagic shelf rockfish (PSR) species group has been changed to ''dusky rockfish.''

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447.

Dated: February 26, 2014.

James P. Burgess,

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

[FR Doc. 2014–04636 Filed 2–28–14; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2013–0016]

Petition Requesting Exception From Lead Content Limits: BIC USA Inc.; Reopening of the Comment Period

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Comment request.

SUMMARY: The Consumer Product Safety Commission (Commission or CPSC) has received a petition requesting an exception from the 100 ppm lead content limit under section 101(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), as amended by Public Law 112–28, for a children's pen from BIC USA Inc. (BIC). On April 30, 2013 (78 FR 25256), the CPSC published notice of the petition inviting written comments concerning the petition. On January 21, 2014, BIC submitted a letter to the Commission to provide additional information about the possible availability of a low lead stainless steel alternative to the nickel silver alloy point for which a lead limit exception would be required. A copy of the letter may be viewed on: *http://www.regulations.gov,* under docket number CPSC–2013–0016, Supporting and Related Materials. To allow interested parties to comment on the additional information, the Commission is reopening the comment period for 30 days.

DATES: Submit comments by April 2, 2014.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2013–0016, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *http://www.regulations.gov*. Follow the instructions for submitting comments. The Commission does not accept comments submitted by electronic mail (email), except through *www.regulations.gov*. The Commission encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Written Submissions: Submit written submissions in the following way: Mail/hand delivery/courier to: Office of the Secretary, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7923.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received may be posted without change, including any personal identifiers, contact information, or other personal information provided, to: *http://www.regulations.gov*. Do not submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If furnished at all, such information should be submitted in writing.

Docket: For access to the docket to read background documents or comments received, go to: *http://www.regulations.gov,* and insert the docket number CPSC–2013–0016, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Kristina Hatlelid, Ph.D., M.P.H., Directorate for Health Sciences, Consumer Product Safety Commission, 5 Research Pl, Rockville, MD 20850; email: *khatlelid@cpsc.gov;* telephone: 301–987–2558.

SUPPLEMENTARY INFORMATION: On March 25, 2013, BIC submitted a petition requesting an exception from the lead content limit of 100 ppm under section 101(b) of the CPSIA for a new line of writing instrument products intended for children age five and up (BIC Children's Pen) to address the needs of young children who are in the early stages of learning to write. BIC specifically requested an exception for the accessible portion of the nickel silver point assembly (which includes the point and point support subassembly) that BIC proposed to use in the BIC Children's Pen. The petition noted that the point and point support subassembly in the BIC Children's Pen contained total lead of approximately 8720 ppm. According to BIC, all of the other accessible components of the BIC Children's Pen contained total lead below 100 ppm. BIC asserted that removing or making excess lead inaccessible in manufacturing the BIC Children's Pen is neither practicable nor technologically feasible.

In the **Federal Register** of April 30, 2013 (78 FR 25256), the CPSC invited comments on the issues raised by the petition. The Commission received five comments in response to the notice.

On January 21, 2014, BIC submitted a letter to the CPSC to inform the Commission about the possible availability of a low lead stainless steel alternative to the nickel silver alloy point currently used in BIC's solvent based ink pens and for which a lead limit exception would be required. BIC states that a trial batch of the stainless steel points passed BIC's technical qualification when tested with BIC's solvent based inks. BIC further states that production of the low lead stainless steel points on a consistent basis in industrial quantities to meet the volume and timing demands of customers is not technically feasible. Accordingly, BIC suggests that BIC's earlier request for an exception for the continued use of the nickel silver alloy point be limited to

five years to allow BIC additional time to develop a compliant Children's Pen.

Through this notice, we are reopening the comment period to give all interested parties an opportunity to comment on the additional information provided by BIC. A copy of the letter may be viewed on *http://www.regulations.gov,* under docket number CPSC–2013–0016, Supporting and Related Materials.

Dated: February 26, 2014.

Todd A. Stevenson,

Secretary, U.S. Consumer Product Safety Commission.

[FR Doc. 2014–04581 Filed 2–28–14; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

Public Health Authority Notification

AGENCY: Consumer Product Safety Commission (CPSC).

ACTION: Notice .

SUMMARY: CPSC is publishing this notice to inform hospitals and other health care organizations of CPSC's status as a ''public health authority'' under the medical privacy requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

FOR FURTHER INFORMATION CONTACT: Melissa Buford, CPSC Office of the General Counsel, 4330 East West Highway, Suite 704, Bethesda MD 20814. 301–504–7636.

SUPPLEMENTARY INFORMATION: Congress enacted HIPAA to improve portability and continuity of health insurance, among other purposes. (Pub. L. 104–191, 110 Stat. 1936 (1996)). The U.S. Department of Health and Human Services (HHS) promulgated regulations pursuant to HIPAA to address the security and privacy of health data. Known as the Privacy Rule, *Standards for Privacy of Individually Identifiable Health Information,* 45 CFR parts 160 and 164, the regulations established procedures to protect the privacy of individually identifiable health information and to address the use and disclosure of such information.

The Privacy Rule provides that covered entities, including health care providers, health plans, and health care clearinghouses, may not use or disclose protected health information, except in certain expressly permitted circumstances. Covered entities, however, may disclose protected health information to a ''public health authority.'' As HHS recognized in guidance issued on December 3, 2002, and revised on April 3, 2003, disclosure in certain circumstances is necessary to support the work of public health authorities:

> The HIPAA Privacy Rule recognizes the legitimate need for public health authorities and others responsible for ensuring public health and safety to have access to protected health information to carry out their public health mission. The Rule also recognizes that public health reports made by covered entities are an important means of identifying threats to the health and safety of the public at large, as well as individuals. Accordingly, the Rule permits covered entities to disclose protected health information without authorization for specified public health purposes.

The regulations define a ''public health authority'' broadly to include:

> an agency or authority of the United States, a State, a territory, a political subdivision of a State or territory, or an Indian tribe, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has grant authority, that is responsible for public health matters as part of its official mandate.

45 CFR 164.501. Moreover, the preamble to the final Privacy Rule underscored the expansive meaning of ''public health authority.'' Noting the clear congressional mandate not to interfere with current public health practices, the preamble stated: ''the broad definition of 'public health authority' is appropriate to achieve that end.'' 65 FR 82462 (December 28, 2000).

Thus, the Privacy Rule provides that protected health information may be disclosed to a public health authority that is authorized by law to collect certain health-related information. Specifically, the Privacy Rule allows for the disclosure of protected health information to a public health authority that is:

> authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death and the conduct of public health surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority.

45 CFR 164.512(b)(1)(i).

CPSC is a public health authority authorized by law to collect certain health-related information in pursuit of its official mandate. CPSC's mission is to protect the public against unreasonable risks of injury associated with consumer products and to promote research and investigation into the causes and prevention of product-related deaths, illnesses, and injuries. 15 U.S.C. 2051(b). As such, CPSC's mission falls well within the broad parameters of a public health authority responsible for public health matters as defined in the Privacy Rule.

Additionally, in furtherance of its mandate, CPSC is authorized by law to, among other things, collect information for the purpose of preventing injury or death, report injury or death, and conduct public health investigations. For example, pursuant to statutory direction, CPSC must ''maintain an Injury Information Clearinghouse to collect, investigate, analyze, and disseminate injury data, and information, relating to the causes and prevention of death, injury, and illness associated with consumer products'' and to ''conduct such continuing studies and investigations of deaths, injuries, diseases, other health impairments, and economic losses resulting from accidents involving consumer products as it deems necessary.'' 15 U.S.C. 2054(a)(1) and (2). In addition, CPSC is authorized to ''conduct research, studies, and investigations on the safety of consumer products and on improving the safety of such products.'' 15 U.S.C. 2054(b). Additionally, each fiscal year CPSC is required to submit a comprehensive report to the President and Congress documenting ''thorough appraisal, including statistical analyses, estimates, and long-term projections, of the incidence of injury and effects to the population resulting from consumer products, with a breakdown, insofar as practicable, among the various sources of such injury'' and ''statistics with respect to injuries and deaths associated with products that the Commission determines present a substantial product hazard under section 15(c).'' 15 U.S.C. 2076(j)(1) and (6)(B).

As an agency responsible for public health matters pursuant to its official mandate, and with statutory authorization to collect and report information to prevent injury and death, CPSC falls squarely within the definition of a ''public health authority.'' Accordingly, CPSC is providing notice that it is a public health authority within the meaning of the Privacy Rule, entitled to receive protected health information from hospitals and other health care organizations, without written authorization or consent. The disclosure of protected health information to a public health authority is a permitted disclosure under the Privacy Rule. 45 CFR 164.502(a)(1)(vi).

Dated: February 26, 2014.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2014–04590 Filed 2–28–14; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2013–OS–0222]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense 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 April 2, 2014.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for DoD Impact Aid for Children with Severe Disabilities; SD 816; SD 816–C; OMB Control Number 0704–0425.

Type of Request: Extension.

Number of Respondents: 50.

Responses Per Respondent: .1

Annual Responses: 50.

Average Burden per Response: 8 hours.

Annual Burden Hours: 400.

Needs and Uses: DoD funds are authorized for local educational agencies (LEAs) that educate military dependent students with severe disabilities and meet certain criteria. This application will be requested of military-impacted LEAs to determine if they meet the DoD criteria to receive compensation for the cost of educating military dependents with severe disabilities.

Affected Public: Local Education Agencies (LEAs).

Frequency: On occasion.

Respondent's Obligation: Annually.

OMB Desk Officer: Ms. Jasmeet Seehra.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jasmeet 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 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.

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, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: February 26, 2014.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2014–04614 Filed 2–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket No. DARS–2014–0015]

Waiver for Certain Defense Items Produced in the United Kingdom

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: The Under Secretary of Defense (Acquisition, Technology, and Logistics) is waiving the limitation of 10 U.S.C. 2534 for certain defense items produced in the United Kingdom (UK). United States Code, Title 10, section 2534, limits DoD procurement of certain items to sources in the national technology and industrial base. The waiver will permit procurement of enumerated items from sources in the UK, unless otherwise restricted by statute.

DATES: *Effective Date:* This waiver is effective for one year, beginning March 18, 2014 until March 17, 2015.

FOR FURTHER INFORMATION CONTACT: Director, Defense Procurement and Acquisition Policy (DPAP), Contract Policy and International Contracting (CPIC), Room 5E621, 3060 Defense Pentagon, Washington, DC 20301–3060, Attention: Ms. Patricia Foley, OUSD(AT&L), telephone (703) 693–1145.

SUPPLEMENTARY INFORMATION: Subsection (a) of 10 U.S.C. 2534 provides that the Secretary of Defense may procure the items listed in that subsection only if the manufacturer of the item is part of the national technology and industrial base. Subsection (i) of 10 U.S.C. 2534 authorizes the Secretary of Defense to exercise the waiver authority in subsection (d), on the basis of the applicability of paragraph (2) or (3) of that subsection, only if the waiver is made for a particular item listed in subsection (a) and for a particular foreign country. Subsection (d) authorizes a waiver if the Secretary of Defense determines that application of the limitation ''would impede the reciprocal procurement of defense items under a memorandum of understanding providing for reciprocal procurement of defense items'' and if the Secretary of Defense determines that ''that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.'' The Secretary of Defense has delegated the waiver authority of 10 U.S.C. 2534(d) to the Under Secretary of Defense (Acquisition, Technology, and Logistics).

DoD has had a Reciprocal Defense Procurement Memorandum of Understanding (MOU) with the UK since 1975, most recently renewed on December 16, 2004.

The Under Secretary of Defense (Acquisition, Technology, and Logistics) finds that the UK does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in the UK, and also finds that application of the limitation in 10 U.S.C. 2534 against defense items produced in the UK would impede the reciprocal procurement of defense items under the MOU.

Under the authority of 10 U.S.C. 2534, the Under Secretary of Defense (Acquisition, Technology, and Logistics) has determined that application of the limitation of 10 U.S.C. 2534(a) to the procurement of any defense item produced in the UK that is listed below would impede the reciprocal procurement of defense items under the MOU with the UK.

On the basis of the foregoing, the Under Secretary of Defense (Acquisition, Technology, and Logistics) is waiving the limitation in 10 U.S.C. 2534(a) for procurements of any defense item listed below that is produced in the UK. This waiver applies only to the

limitations in 10 U.S.C. 2534(a). The waiver does not apply to any other limitation, including section 8017 of the DoD Appropriations Act for Fiscal Year 2008 (Public Law 110–116). This waiver applies to procurements under solicitations issued during the period from March 18, 2014 to March 17, 2015. Similar waivers have been granted since 1998, most recently in 2013 (78 FR 10610 February 14, 2013).

List of Items to Which This Waiver Applies

1. Air circuit breakers
2. Gyrocompasses
3. Electronic navigation chart systems
4. Steering controls
5. Pumps
6. Propulsion and machinery control systems
7. Totally enclosed lifeboats

Manuel Quinones,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2014–04410 Filed 2–28–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0149]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; G5 System Post Award Budget Drawdown e-Form

AGENCY: Department of Education (ED), Office of Innovation and Improvement (OII).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before April 2, 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–0149 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at ICDocketMgr@ed.gov. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. 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, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kelly Terpak, 202–205–5231.

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: G5 System Post Award Budget Drawdown e-Form.

OMB Control Number: 1855–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Private sector, State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 30,496.

Total Estimated Number of Annual Burden Hours: 30,496 .

Abstract: In response to grant monitors need for a better reporting mechanism for grantee budgets, the G5 team developed a new electronic budget form for grantees to complete. This new electronic form requires grantees to detail the budget categories from which they are expending funds in order for Department grant monitors to track more carefully the drawdowns and financial management systems of grantees. Although this form may be used by all grantees, at this time only grantees on cost reimbursement or route payment status will be required to use this form when reporting their budget, requesting funds, and accessing funds. Current Department regulations sections 74.20–74.28 and 74.50–74.53 address the financial management and reporting requirements of grantees. The new form developed in G5 serves as the mechanism for grantees to report expenditures and track their spending in order to ensure compliance with Department regulations. The currently used budget form, the SF 524, is not comprehensive enough to meet the needs of grant monitors to efficiently and effectively monitor this sub-set of grantees. This new data collection will enhance the ability of grant monitors to track the budgeting of grantees and the management of their funds.

Dated: February 25, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–04528 Filed 2–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2013–ICCD–0140]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Special Education-Individual Reporting on Regulatory Compliance Related to the Personnel Development Program's Service Obligation and the Government Performance and Results Act (GPRA)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), 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 revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before April 2, 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–0140 or via postal mail, commercial delivery, or hand delivery. If the regulations.gov site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted; ED will only accept comments during the comment period in this mailbox when the regulations.gov site is not available. 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, Mailstop L–OM–2–2E319, Room 2E115, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Bonnie Jones, 202–245–7395.

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: Special Education-Individual Reporting on Regulatory Compliance Related to the Personnel Development Program's Service Obligation and the Government Performance and Results Act (GPRA)

OMB Control Number: 1820–0686

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Private sector, Individuals or households

Total Estimated Number of Annual Responses: 29,600

Total Estimated Number of Annual Burden Hours: 12,269

Abstract: The data collection under this revision and renewal request is governed by the ''Additional Requirements'' section of the Personnel Preparation to Improve Services and Results for Children with Disabilities—Combined Priority for Personnel Preparation and Preparation of Leadership Personnel notice, published in the **Federal Register** on March 25, 2005 and by Sections 304.23–304.30 of the June 5, 2006, regulations that implement Section 662 (h) of the IDEA Amendments of 2004, which require that individuals who receive a scholarship through the Personnel Development Program funded under the Act subsequently provide special education and related services to children with disabilities for a period of two years for every year for which assistance was received. Scholarship recipients who do not satisfy the requirements of the regulations must repay all or part of the cost of assistance, in accordance with regulations issued by the Secretary. These regulations implement requirements governing, among other things, the service obligation for scholars, reporting requirements by grantees, and repayment of scholarships by scholars. In order for the federal government to ensure that the goals of the program are achieved, certain data collection, recordkeeping, and documentation are necessary. In addition this data collection is governed by the Government Performance Results Act (GPRA). GPRA requires Federal agencies to establish performance measures for all programs, and the Office of Special Education Programs' (OSEP) has established performance measures for the Personnel Development Program. Data collection from scholars who have received scholarships under the Personnel Development Program is necessary to evaluate these measures.

Dated: February 25, 2014.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2014–04527 Filed 2–28–14; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 26, 2014; 1:00 p.m.–5:00 p.m.

ADDRESSES: Sandia Resort, 30 Rainbow Road, Albuquerque, New Mexico 87113.

FOR FURTHER INFORMATION CONTACT: Menice Santistevan, Northern New Mexico Citizens' Advisory Board (NNMCAB), 94 Cities of Gold Road, Santa Fe, NM 87506. Phone (505) 995–0393; Fax (505) 989–1752 or Email: *Menice.Santistevan@nnsa.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1:00 p.m.

Call to Order by Deputy Designated Federal Officer (DDFO), Lee Bishop
Establishment of a Quorum: Roll Call and Excused Absences, William Alexander
Welcome and Introductions, Carlos Valdez, Chair
Approval of Agenda and January 29, 2014 Meeting Minutes

1:15 p.m.

Old Business
- Written Reports
- Report on Waste Management Symposia
- Other Items

1:45 p.m.

New Business

2:00 p.m.

Update on Chromium and Perchlorate Plumes

3:00 p.m.

Break

3:15 p.m.

Update from Liaison Members

- New Mexico Environment Department, John Kieling
- Los Alamos National Laboratory, Jeffrey Mousseau
- DOE, Peter Maggiore

4:00 p.m.

Items from DDFO, Lee Bishop
- EM News Flash
- Budget Update
- Other Items

4:30 p.m.

Public Comment Period

4:45 p.m.

Wrap-Up and Comments from Board Members, Carlos Valdez

5:00 p.m.

Adjourn

Public Participation: The EM SSAB, Northern New Mexico, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Menice Santistevan at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Menice Santistevan at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Menice Santistevan at the address or phone number listed above. Minutes and other Board documents are on the Internet at: *http://www.nnmcab.energy.gov/*.

Issued at Washington, DC, on February 25, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–04604 Filed 2–28–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Nevada

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 19, 2014; 5:00 p.m.

ADDRESSES: National Atomic Testing Museum, 755 E. Flamingo Road, Las Vegas, Nevada 89119.

FOR FURTHER INFORMATION CONTACT: Barbara Ulmer, Board Administrator, 232 Energy Way, M/S 505, North Las Vegas, Nevada 89030. Phone: (702) 630–0522; Fax (702) 295–5300 or Email: *NSSAB@nnsa.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. Fiscal Year (FY) 2016 Baseline Prioritization Briefing—Work Plan Item #6
2. Recommendation Development for FY 2016 Baseline Prioritization—Work Plan Item #6

Public Participation: The EM SSAB, Nevada, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Barbara Ulmer at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral presentations pertaining to agenda items should contact Barbara Ulmer at the telephone number listed above. The request must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments can do so during the 15 minutes allotted for public comments.

Minutes: Minutes will be available by writing to Barbara Ulmer at the address listed above or at the following Web site: *http://nv.energy.gov/nssab/MeetingMinutes.aspx*.

Issued at Washington, DC, on February 25, 2014.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2014–04602 Filed 2–28–14; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. Ic14–5–000]

Commission Information Collection Activities (FERC–725d); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 USC 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–725D (Facilities Design, Connections and Maintenance Reliability Standards).

DATES: Comments on the collection of information are due May 2, 2014.

ADDRESSES: You may submit comments (identified by Docket No. IC14–5–000) by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp*.
- *Mail/Hand Delivery/Courier:* Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp*. For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov*, or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp*.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: Facilities Design, Connections and Maintenance Reliability Standards.

OMB Control No.: 1902–0247.

Type of Request: Three-year extension of the FERC–725D information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission requires the FERC–725D information collection to implement the statutory provisions of Section 215 of the Federal Power Act (FPA).[1] On August 8, 2005, the Electricity Modernization Act of 2005 of the Energy Policy Act of 2005 (EPAct 2005), was enacted into law.[2] EPAct 2005 added a new Section 215 to the FPA, which required a Commission-certified Electric Reliability Organization (ERO) to develop mandatory and enforceable reliability standards which are subject to Commission review and approval. Once approved, the reliability standards may be enforced by the ERO subject to Commission oversight or the Commission can independently enforce reliability standards.[3]

On February 3, 2006, the Commission issued Order No. 672, implementing Section 215 of the FPA. Pursuant to Order No. 672, the Commission certified one organization [North American Electric Reliability Council (NERC)] as the ERO. The reliability standards developed by the ERO and approved by the Commission will apply to users, owners, and operators of the Bulk-Power System (BPS) as set forth in each reliability standard.

On November 15, 2006, NERC filed 20 revised reliability standards and three new reliability standards for Commission approval. The Commission addressed revisions to the 20 Reliability Standards in Order No. 693. The Commission approved the three new reliability standards on 12/27/2007 in Order No. 705 and NERC designated them as follows:

- FAC–010–1 (System Operating Limits Methodology for the Planning Horizon)
- FAC–011–1 (System Operating Limits Methodology for the Operations Horizon)
- FAC–014–1 (Establish and Communicate System Operating Limits).

Subsequently, NERC modified these standards in April of 2008 and submitted to the Commission for approval. On 3/20/2009 the Commission approved NERC's modifications to the FAC standards in Order No. 722 and NERC now designates these standards as FAC–010–2, FAC–011–2, and FAC–014–2. These three approved FAC reliability standards require planning authorities and reliability coordinators to establish methodologies to determine system operating limits (SOLs) for the bulk-power system in the planning and operation horizons.

The three reliability standards do not require responsible entities to file information with the Commission. Nor, with the exception of a three year self-certification of compliance, do the Reliability Standards require responsible entities to file information with the ERO or Regional Entities. However, the Reliability Standards do require responsible entities to develop and maintain certain information for a specified period of time, subject to inspection by the ERO or Regional Entities.

Reliability standard FAC–010–2 requires the planning authority to have a documented methodology for use in developing SOLs and must retain evidence that it issued its SOL methodology to relevant reliability coordinators, transmission operators and adjacent planning authorities. Further, each planning authority must self-certify its compliance to the compliance monitor once every three years. Reliability standard FAC–011–2 requires similar documentation by the reliability coordinator. Reliability standard FAC–014–2 requires the reliability coordinator, planning authority, transmission operator, and transmission planner to verify compliance through self-certification submitted to the compliance monitor annually. These entities must also document that they have developed SOLs consistent with the applicable SOL methodology and that they have provided SOLs to entities identified in Requirement 5 of the reliability standard. Further, the planning authority must maintain a list of multiple contingencies and their associated stability limits.

Type of Respondents: Planning authorities, reliability coordinators, transmission planners, and transmission operators.

Estimate of Annual Burden[4]*:* The Commission estimates the total Public Reporting Burden and cost for this information collection as:

FERC–725D—(MANDATORY RELIABILITY STANDARDS: FAC (FACILITIES, DESIGN, CONNECTIONS, AND MAINTENANCE)

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hours & cost per response[5]	Total annual burden hours & total annual cost[6]	Average annual cost per respondent
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Annual Reporting	470	1	470	295.7 $20,992	138,980 $9,866,240	$20,992

[5] The estimate for cost per response is derived using the following formula: Total Annual Cost (Column 5) ÷ Total Number of Responses (Column 3) = Average Cost per Response.

[6] The total annual cost is derived from salary figures from the Bureau of Labor Statistics for two positions involved in the reporting and record-keeping associated with this collection. These figures include salary (*http://bls.gov/oes/current/naics2_22.htm*) and other associated benefits (*http://www.bls.gov/news.release/ecec.nr0.htm*): • Manager: $82.36/hour. • Engineer: $59.62/hour. This results in an average hourly wage of $70.99. 138,980 hours (total annual burden) * $70.99/hour = $9,866,240.

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use

[1] 16 U.S.C. 842o.

[2] Energy Policy Act of 2005, Public Law 109–58, Title XII, Subtitle A, 119 Stat. 594, 941 (2005), 16 U.S.C. 824o.

[3] 16 U.S.C .824o(e)(3).

[4] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

of automated collection techniques or other forms of information technology.

Dated: February 21, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04543 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP14–71–000, CP14–72–000, CP14–73–000]

Excelerate Liquefaction Solutions (Port Lavaca 1), LLC; Excelerate Liquefaction Solutions (Port Lavaca 2), LLC; Lavaca Bay Pipeline System, LLC; Notice of Application

Take notice that on February 6, 2014, Excelerate Liquefaction Solutions (Port Lavaca 1), LLC (ELS 1) and Excelerate Liquefaction Solutions (Port Lavaca 2), LLC (ELS 2), 1450 Lake Robbins, Suite 200, The Woodlands, Texas, 77380, filed an application in Docket Nos. CP14–71–000 and CP14–72–000 pursuant to Section 3(a) of the Natural Gas Act (NGA), and Parts 153 and 380 of the regulations of the Commission's regulations, for authority to site, construct, and operate a liquefied natural gas (LNG) floating liquefaction, storage, and offloading unit (FLSO) and related facilities (LNG Terminal) to be located in and around the Port of Port Lavaca-Point Comfort, Texas. Each proposed FLSO will have an LNG peak production capacity of up to 5 million tonnes per annum (mtpa), for a total peak production capacity of up to 10 mtpa.

In addition, pursuant to Section 7(c) of the NGA, as amended, and Parts 157, 284, and 380 of the Commission's regulations, Lavaca Bay Pipeline System LLC (Lavaca Bay Pipeline), 1450 Lake Robbins, Suite 200, The Woodlands, Texas, 77380, together with ELS 1 and ELS 2, requests, in Docket No. CP14–73–000, a certificate of public convenience and necessity for a proposed 29.5-mile long, 42-inch diameter natural gas pipeline, with associated compressor units, interconnection facilities, and other appurtenant facilities required to transport natural gas from interconnections with existing pipeline systems to the LNG Terminal for processing, liquefaction, and export, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to Jessica Fore, Baker Botts LLP, 1299 Pennsylvania Avenue NW., Washington, DC 20004, or by calling (202) 639–7727 (telephone), or (202) 585–1080 (fax), or email *jessica.fore@bakerbotts.com*, or to Martin Hruska, Excelerate Energy LP, 1450 Lake Robbins, Suite 200, The Woodlands, Texas 77380, or by calling (832) 813–7606 (telephone), or (832) 813–7103 (fax) or email *martin.hruska@excelerateenergy.com*.

On November 20, 2012, the Commission staff granted ELS 1, ELS 2, and Lavaca Bay Pipeline's request to use the pre-filing process and assigned Docket No. PF13–1–000 to staff activities involving the project. Now, as of the filing of this application on February 6, 2014, the NEPA Pre-Filing Process for this project has ended. From this time forward, this proceeding will be conducted in Docket Nos. CP14–71–000, CP14–72–000, and CP14–73–000 as noted in the caption of this Notice.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) for this proposal. The issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: March 17, 2014.

Dated: February 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04509 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–70–000]

National Fuel Gas Supply Corporation; Notice of Application

Take notice that on February 6, 2014, National Fuel Gas Supply Corporation (National Fuel), 6363 Main Street, Williamsville, New York 14221 filed an application in Docket No. CP14–70–000 pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations, for a certificate of public convenience and/or necessity requesting authorization of its West Side Expansion and Modernization Project. Specifically, National Fuel requests authorization to: (1) Replace approximately 23 miles of 20-inch diameter pipeline in Western Pennsylvania with 24-inch diameter pipeline; (2) convert the replaced pipeline to inactive status; (3) install one 3,550-horsepower compressor unit at the Mercer Compressor Station; and (4) install various auxiliary facilities in connection with the pipeline replacement, and the work at the Mercer and Henderson Compressor Stations, all as more fully set forth in the application which is on file with the Commission and open for public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application may be directed to David W. Reitz, Deputy General Counsel, National Fuel Gas Supply Corporation, 6363 Main Street, Williamsville, New York 14221, or by calling 716–857–7949.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenter's will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with he Commission's environmental review process. Environmental commenter's will not be required to serve copies of filed documents on all other parties. However, the non-party commentary, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and ill not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: March 17, 2014.

Dated: February 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04508 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP14–492–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/20/14 Negotiated Rates—Sequent Energy Management (HUB) 3075–89 to be effective 2/19/2014.

Filed Date: 2/20/14.

Accession Number: 20140220–5084.

Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–493–000.

Applicants: Florida Gas Transmission Company, LLC.

Description: Curtailment Priority Filing on 2–20–14 to be effective 3/23/2014.

Filed Date: 2/20/14.

Accession Number: 20140220–5086.

Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–494–000.

Applicants: Questar Pipeline Company.

Description: Remove expired contracts from Statements of Rates to be effective 3/22/2014.

Filed Date: 2/20/14.
Accession Number: 20140220–5090.
Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–495–000.
Applicants: Natural Gas Pipeline Company of America.
Description: BG Energy's Negotiated Rate to be effective 4/1/2014.
Filed Date: 2/20/14.
Accession Number: 20140220–5097.
Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–496–000.
Applicants: Southern LNG Company, L.L.C.
Description: SLNG Fuel and Electricity Recovery Revisions to be effective 4/1/2014.
Filed Date: 2/20/14.
Accession Number: 20140220–5099.
Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–497–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: 02/20/14 Negotiated Rates—Tenaska Gas Storage, LLC (HUB) 1175–89 to be effective 2/21/2014.
Filed Date: 2/20/14.
Accession Number: 20140220–5144.
Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–498–000.
Applicants: Northern Natural Gas Company.
Description: 20140220 Negotiated Rate to be effective 2/21/2014.
Filed Date: 2/20/14.
Accession Number: 20140220–5198.
Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–499–000.
Applicants: Northwest Pipeline LLC.
Description: Conditional Extensions Filing to be effective 4/1/2014.
Filed Date: 2/20/14.
Accession Number: 20140220–5217.
Comments Due: 5 p.m. ET 3/4/14.

Docket Numbers: RP14–500–000.
Applicants: Transwestern Pipeline Company, LLC.
Description: Settlement Fuel Filing on 2–21–2014 to be effective 4/1/2014.
Filed Date: 2/21/14.
Accession Number: 20140221–5022.
Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: RP14–501–000.
Applicants: Southern Natural Gas Company, L.L.C.
Description: Fuel Retention Rates—2014 to be effective 4/1/2014.
Filed Date: 2/21/14.
Accession Number: 20140221–5025.
Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: RP14–502–000.
Applicants: Gulf South Pipeline Company, LP.
Description: PAL Neg Rate Agmts Filing (42027, 42028, 42029, 42031, 42033, 42034, 42035) to be effective 2/20/2014.
Filed Date: 2/21/14.
Accession Number: 20140221–5033.
Comments Due: 5 p.m. ET 3/5/14.

Docket Numbers: RP14–503–000.
Applicants: Guardian Pipeline, L.L.C.
Description: Negotiated Rate PAL Agreement—Chevron U.S.A. to be effective 2/22/2014.
Filed Date: 2/21/14.
Accession Number: 20140221–5170.
Comments Due: 5 p.m. ET 3/5/14.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP14–370–001.
Applicants: Bear Creek Storage Company, L.L.C.
Description: Operational Transactions—Compliance to be effective 2/14/2014.
Filed Date: 2/20/14.
Accession Number: 20140220–5082.
Comments Due: 5 p.m. ET 3/4/14.

Any person desiring to protest in any of the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated February 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–04517 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC14–60–000.
Applicants: Pheasant Run Wind II, LLC, DTE Energy Company, DTE Electric Company.
Description: Application for Authorization for Disposition of Jurisdictional Facilities of Pheasant Run Wind II, LLC, et. al.
Filed Date: 2/20/14.
Accession Number: 20140220–5226.
Comments Due: 5 p.m. ET 3/13/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2721–003.
Applicants: El Paso Electric Company.
Description: Second Letter responding to telephone request of Commission Staff of El Paso Electric Company.
Filed Date: 2/21/14.
Accession Number: 20140221–5096.
Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER11–3417–005; ER10–2895–009; ER13–2143–002; ER10–3167–001; ER13–203–001; ER11–2292–008; ER11–3942–007; ER11–2293–008; ER10–2917–009; ER11–2294–008; ER12–2447–006; ER13–1613–002; ER10–2918–010; ER12–199–008; ER10–2920–009; ER11–3941–007; ER10–2921–009; ER10–2922–009; ER10–3048–007; ER10–2966–009; ER10–3178–002.
Applicants: Alta Wind VIII, LLC, Bear Swamp Power Company LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners LLC, Black Bear SO, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Coram California Development, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Mesa Wind Power Corporation, Rumford Falls Hydro LLC, Windstar Energy, LLC.
Description: Notice of Change in Status of the Brookfield Companies under ER11–3417, et al.
Filed Date: 2/20/14.
Accession Number: 20140220–5229.
Comments Due: 5 p.m. ET 3/13/14.

Docket Numbers: ER14–206–003.
Applicants: Midcontinent Independent System Operator, Inc.
Description: 2014–02–21 TOA SOC App A Compliance ER14–206–000 and -002 to be effective 12/28/2013.
Filed Date: 2/21/14.
Accession Number: 20140221–5120.
Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–503–001.
Applicants: PJM Interconnection, L.L.C.

Description: Deficiency filing per 1/28/2014 Order in ER14–503–000 to be effective 1/31/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5000.

Comments Due: 5 p.m. ET 3/7/14.

Docket Numbers: ER14–1348–000.

Applicants: The Dow Chemical Company.

Description: The Dow Chemical Company—Baseline Tariff Filing to be effective 2/21/2014.

Filed Date: 2/20/14.

Accession Number: 20140220–5199.

Comments Due: 5 p.m. ET 3/13/14.

Docket Numbers: ER14–1349–000.

Applicants: Union Carbide Corporation.

Description: Union Carbide Corporation—Baseline Tariff Filing to be effective 2/21/2014.

Filed Date: 2/20/14.

Accession Number: 20140220–5200.

Comments Due: 5 p.m. ET 3/13/14.

Docket Numbers: ER14–1350–000.

Applicants: California Independent System Operator Corporation.

Description: 2014–02–21_EIMImplemantationAgmt to be effective 4/23/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5063.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–1351–000.

Applicants: Southern California Edison Company.

Description: Amended IFA With City of Industry for Grand Crossing Development Project to be effective 2/22/2014.

Filed Date: 2/21/14.

Accession Number: 20140221–5079.

Comments Due: 5 p.m. ET 3/14/14.

Docket Numbers: ER14–1352–000.

Applicants: Puget Sound Energy, Inc.

Description: SGIP and SGIA Pro Forma to be effective 11/14/2011.

Filed Date: 2/21/14.

Accession Number: 20140221–5122.

Comments Due: 5 p.m. ET 3/14/14.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES14–21–000.

Applicants: AEP Indiana Michigan Transmission Company, Inc., AEP Kentucky Transmission Company, Inc., AEP Oklahoma Transmission Company, Inc., AEP Southwestern Transmission Company, Inc., AEP West Virginia Transmission Company, Inc.

Description: Supplement to January 13, 2014 Application under Section 204 of the Federal Power Act of AEP Indiana Michigan Transmission Company, Inc. et. al. for Authorization to Issue Securities.

Filed Date: 2/21/14.

Accession Number: 20140221–5115.

Comments Due: 5 p.m. ET 3/3/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 21, 2014..

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–04515 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR14–22–000.

Applicants: Bridgeline Holdings, L.P.

Description: Tariff filing per 284.123(b)(2) +: Petition for Rate Approval to be effective 2/14/2014; TOFC: 1310.

Filed Date: 2/14/14.

Accession Number: 20140214–5023.

Comments Due: 5 p.m. ET 3/7/14.

284.123(g) Protests Due: 5 p.m. ET 4/15/14.

Docket Numbers: RP14–484–000.

Applicants: TC Offshore LLC.

Description: M21K United Energy Neg Rate Agmts to be effective 2/14/2014.

Filed Date: 2/18/14.

Accession Number: 20140218–5196.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–485–000.

Applicants: Gulf South Pipeline Company, LP.

Description: PAL Neg Rate Agmts Filing (42018, 42019, 42020, 42021, 42022, 42024) to be effective 2/19/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5036.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–486–000.

Applicants: Texas Eastern Transmission, LP.

Description: Description of Rates for Rate Schedules FT–1 and IT–1 to be effective 4/1/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5061.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–487–000.

Applicants: Northwest Pipeline LLC.

Description: Plymouth LNG Rate Schedules Actual Tariff Sheets Filing to be effective 4/1/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5139.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–488–000.

Applicants: Midwestern Gas Transmission Company.

Description: Negotiated Rate PAL Agreement—NJR Energy Services to be effective 2/20/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5164.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–489–000.

Applicants: Guardian Pipeline, L.L.C.

Description: PAL Negotiated Rate Agreement—Chevron U.S.A., Inc. to be effective 2/19/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5172.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–490–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/19/14 Negotiated Rates—Tenaska Gas Storage, LLC (HUB) 1175–89 to be effective 2/20/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5191.

Comments Due: 5 p.m. ET 3/3/14.

Docket Numbers: RP14–491–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 02/19/14 Negotiated Rates—Trafigura AG (HUB) 7445–89 to be effective 2/20/2014.

Filed Date: 2/19/14.

Accession Number: 20140219–5192.

Comments Due: 5 p.m. ET 3/3/14.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified date(s). Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated February 20, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–04516 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL12–98–002]

Hudson Transmission Partners, LLC v. New York Independent System Operator, Inc.; Notice of Compliance Filing

Take notice that on February 21, 2014 New York Independent System Operator, Inc. submitted a compliance filing, in response to the Commission's November 21, 2013 Order on Complaint,[1] and February 11, 2014 Order on Motion for Extension of Time.[2]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on March 14, 2014.

Dated: February 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04511 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

[1] *Hudson Transmission Partners, LLC* v. *New York Indep. Sys. Operator, Inc.,* 145 FERC ¶ 61,156 (2013).

[2] *Hudson Transmission Partners, LLC* v. *New York Indep. Sys. Operator, Inc.,* 146 FERC ¶ 61,082 (2014).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–1343–000]

Bargain Energy, 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 Bargain Energy, 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 March 17, 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: February 24, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–04518 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2290–109]

Southern California Edison Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to recreational flow releases pursuant to Article 422 of the project license.

b. *Project No:* 2290–109

c. *Date Filed:* May 1, 2013

d. *Applicant:* Southern California Edison Company

e. *Name of Project:* Kern No. 3 Hydroelectric Project

f. *Location:* The Kern No. 3 Hydroelectric Project is located on the North Fork of the Kern River and Salmon and Corral Creeks in Tulare and Kern Counties, California. The project occupies lands of the United States within the Sequoia National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r

h. *Applicant Contact:* Mr. Russ Krieger, SCE Vice President of Power Production, 300 N. Lone Hill Ave., San Dimas, CA 91773–1741, (909) 394–8983.

i. *FERC Contact:* Mary Karwoski at (202) 502–6543, or email: *mary.karwoski@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protests:* March 26, 2014.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site 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* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (p–2290–109) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes to modify the language of Article 422 to more closely conform to the requirements agreed to in a 2002 Settlement Agreement among American Whitewater, Friends of the River, Natural Heritage Institute, and Southern California Edison Company. The proposed language modification would still comply with the requirements of U.S. Forest Service Section 4(e) condition 6f, incorporated into the project license as required by the Order Amending License to Include U. S. Forest Service Revised Final Terms and Conditions Pursuant to Section 4(e) of the Federal Power Act (issued May 12, 2004), but would provide additional days of whitewater recreational flows.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: February 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04607 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10522–022]

Franklin Hydro, Inc.; Malone's Next Gen LLC; Notice of Application for Transfer of License and Soliciting Comments and Motions To Intervene

On February 18, 2014, Franklin Hydro, Inc. (transferor) and Malone's Next Gen LLC (transferee) filed an application for transfer of license of the Whittelsey Hydroelectric Project, FERC No. 10522, located on the Salmon River in Franklin County, New York.

The transferor and transferee seek Commission approval to transfer the license for the Whittelsey Hydroelectric Project from the transferor to the transferee.

Applicant Contacts: For Transferor: Mr. John Webster, General Partner, Marlborough Hydro Associates, P.O. Box 178, South Berwick, ME 03908, telephone 207–384–5334 and Ms. Elizabeth W. Whittle, Nixon Peabody, LLP, 401 Ninth Street NW., Suite 900, Washington, DC 20004, telephone 202–585–8338. For Transferee: Mr. Travis Pritchard, Operating Partner, Malone's Next Gen LLC, 428 East Main Street, Malone, New York 12953, telephone 518–483–2200.

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments and motions to intervene: 30 days from the issuance date of this notice, by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The first page of any filing should include docket number P–10522–022.

Dated: February 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04608 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–84–000]

Northwest Pipeline LLC; Notice of Request Under Blanket Authorization

Take notice that on February 14, 2014 Northwest Pipeline, Inc. (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in the above Docket, a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA) and Northwest's blanket authorization in CP82–433, for authorization to expand the function of an existing compressor unit (1,339 horsepower) to include operating the unit in tandem with an existing reciprocating compressor unit located at Northwest's Oregon City compressor station in Clackamas County, Oregon, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Pam Barnes, Project Manager, Business Development, at (801) 584–6857, Northwest Pipeline LLC, P.O. Box 58900, Salt Lake City, Utah 84158.

Specifically, Northwest states that the project will only result in an operational change to comply with current Environmental Protection Agency emissions standards. There will be no change in current daily design capacity, daily maximum capacity, and/or maximum operating pressures of existing facilities as a result of this proposal. Northwest states that the mobile unit will maintain its primary function of replacing out-of-service permanent compression elsewhere on the system when needed, and the project requires no additional capital cost expenditures.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention. Any person filing to intervene or the Commission's staff may, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) file a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Dated: February 24, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04510 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14241–000]

Alaska Energy Authority; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.[1] The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission staff is consulting with the Alaska State Historic Preservation Officer (hereinafter, Alaska SHPO), and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR Part 800, implementing section 106 of the National Historic Preservation Act, *as amended,* (16 U.S.C. section 470 f), to prepare and execute a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at the Susitna-Watana Hydroelectric Project No. 14241.

The programmatic agreement, when executed by the Commission and the Alaska SHPO would satisfy the Commission's section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to section 106 for the Susitna-Watana Project would be fulfilled through the programmatic agreement, which the Commission proposes to draft in consultation with certain parties listed below. The executed programmatic agreement would be incorporated into any Order issuing a license.

Alaska Energy Authority, as the prospective licensee applicant for the Proposed Susitna-Watana Hydroelectric Project No. 14241, and the parties below have expressed an interest in this preceding and are invited to participate

[1] 18 CFR section 385.2010.

in consultations to develop the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for the aforementioned project as follows:

John Eddins or Representative, Office of Planning and Review, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave. NW., Suite 809, Washington, DC 20004

Ethan Schutt or Representative, Cook Inlet Region, Inc., 2525 C St. #500, Anchorage, AK 99503

Tom Harris or Representative, Knikatnu, Inc., P.O. Box 872130, Wasilla, AK 99687–2130

Don Kashevaroff or Representative, Seldovia Native Association, Inc., 700 E. Dimond Blvd., Anchorage, AK 99515

Bart Garber or Representative, Tyonek Native Corporation, Inc., 1689 C Street, Suite 219, Anchorage, AK 99501–5131

Col. Christopher Lestochi or Representative, U.S. Army Corps of Engineers, Box 6898, JBER, AK 99506–0898

Kathryn Martin or Representative, Ahtna Incorporated, P.O. Box 649, Glennallen, AK 99588

Judith Bittner or Representative, Alaska State Historic Preservation Office/ Office of History and Archeology, 550 W. 7th Ave., Suite 1310, Anchorage, AK 99501–3565

Gary Stevig or Representative, Chickaloon Moose-Creek Native Assoc. Inc., P.O. Box 875046, Wasilla, AK 99687

Richard Encelewski or Representative, Ninilchik Natives Association, Inc., P.O. Box 39130, Ninilchik, AK 99639

Leo Barlow or Representative, Seldovia Native Association, Inc., 206 Main St., Seldovia, AK 99663

Penny Carty or Representative, Salamatof Native Association, Inc., 230 Main Street Loop, Kenai, AK 99611

Anita Eskillda or Representative, Native Village of Chitina, P.O. Box 31, Chitina, AK 99566–0031

Anne Thomas or Representative, Chitina Native Corporation, P.O. Box 3, Chitina, AK 99566–0031

Stephanie Thompson or Representative, Alexander Creek Incorporated, 8128 Cranberry, Anchorage, AK 99502

Veronica Nicholas or Representative, Native Village of Cantwell, P.O. Box 94, Cantwell, AK 99729

Debra Call or Representative, Knik Tribe, P.O. Box 871565, Wasilla, AK 99687

Charlene Nollner or Representative, Native Village of Gakona, P.O. Box 102, Gakona, AK 99586

Rose Tepp or Representative, Kenaitze Indian Tribe, P.O. Box 988, Kenai, AK 99611–0988

Beverley Matthews or Representative, Little Lake Louise Corporation, HC01 Box 1684B, Glennallen, AK 99588

Robin Campbell or Representative, Nenana Native Association, P.O. Box 369, Nenana, AK 99760

Penny Carty or Representative, Village of Salamatof, P.O. Box 2682, Kenai, AK 99611

Fran Seager-Boss or Representative, Matanuska-Susitna Borough, 350 East Dahlia Ave., Palmer, AK 99645

Robert Brean or Representative, Tanacross, Inc., P.O. Box 76029, Tanacross, AK 99776

Ethan Schutt or Representative, Cook Inlet Region, Inc., 2525 C. Street, Suite 500, Anchorage, AK 99503

Eric Rice or Representative, Village of Dot Lake, P.O. Box 2279, Dot Lake, AK 99737–2279

Jim Arnesen or Representative, Eklutna, Inc., 16515 Centerfield Dr., #201, Eagle River, AK 99577

Eileen Ewan or Representative, Gulkana Village, P.O. Box 254, Gakona, AK 99586

Michelle, Bayless or Representative, Native Village of Kluti-Kaah, P.O. Box 68, Copper Center, AK 99573–0068

Angie David or Representative, Mentasta Traditional Council, P.O. Box 6019, Mentasta Lake, AK 99780–6019

Ivan Encelewski or Representative, Ninilchik Village Tribe, P.O. Box 39070, Ninilchik, AK 99639

Crystal Collier or Representative, Seldovia Village Tribe, P.O. Drawer L, Seldovia, AK 99663

Ernest Arnold or Representative, Native Village of Tanacross, P.O. Box 76009, Tanacross, AK 99776

Rick Young or Representative, Native Village of Tazlina, P.O. Box 87, Glennallen, AK 99588–0087

Donald Adams or Representative, Native Village of Tetlin, P.O. Box 797, Tetlin, AK 99779

Jim Sackett or Representative, Toghotthele Corporation, P.O. Box 249, Nenana, AK 99760

Jennifer Harrison or Representative, Chickaloon Village Traditional Council, P.O. Box 1105, Chickaloon, AK 99674

Jerry Isaacs or Representative, Tanana Chiefs Conference, 122 1st Avenue, Suite 600, Fairbanks, AK 99701

Richard Segura or Representative, Kenai Native Association, Inc., 215 Fidalgo Avenue, Kenai, AK 99611

Representative, Montana Creek Native Association, P.O. Box 100379, Anchorage, AK 99510–0379

Larry Sinyon or Representative, Cheesh-Na Tribal Council/Mount Sanford Tribal Consortium, P.O. Box 357, Gakona, AK 99586

Ricky Hoff or Representative, Division of Environmental and Cultural Resources, Bureau of Indian Affairs, U.S. Department of the Interior, 3601 C. Street, Suite 1100, Anchorage, AK 99503–5947.

Gary David, Sr. or Representative, Tetlin Native Corporation, P.O. Box 657, Tok, AK 99780

Le Stephan or Representative, Native Village of Eklutna, 26339 Eklutna Village Road, Chugiak, AK 99567

Frank Standifer or Representative, Native Village of Tyonek, P.O. Box 82029, Tyonek, AK 99682

Jo Ann Polston or Representative, Healy Lake Traditional Council, P.O. Box 60300-Healy Lake #19, Fairbanks, AK 99706

Belinda Thomas or Representative, Northway Tribal Council, P.O. Box 516, Northway, AK 99764

Representative, Mendas Cha-ag Native Corporation, 457 Cindy Drive, Fairbanks, AK 99701

Sarah Obed or Representative, Doyon, Ltd., 1 Doyon Place, Suite 300, Fairbanks, AK 99701–2941

Any person on the official service list for the above-captioned proceeding may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date. In a request for inclusion, please identify the reason(s) why there is an interest to be included. Also please identify any concerns about historic properties, including Traditional Cultural Properties. If historic properties are to be identified within the motion, please use a separate page, and label it NON-PUBLIC Information.

Any such motions may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link. For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERC OnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please put the project number (P–14241–000) on the first page of the filing.

If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on any motion or motions filed within the 15 day period.

Dated: February 25, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–04609 Filed 2–28–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OARM–2014–0058 FRL 9907–43–OARM]

Agency Information Collection Activities; Proposed Collection; Comment Request; Contractor Conflicts of Interest

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), Contractor Conflicts of Interest; EPA ICR No. 1550.10, OMB Control No. 2030–0023 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.). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a ''proposed extension of the ICR, which is currently approved through August 31, 2014. 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: Comments must be submitted on or before May 2, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OARM–2014–0058, online using www.regulations.gov (our preferred method), by email to *Humphries.daniel@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460. 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: Daniel Humphries, Policy, Training, and Oversight Division, Acquisition Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington DC 20460; telephone number: 202–564–4377; fax number 202–565–2553; email address: *humphries.daniel@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*.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA contractors will be required to disclose business relationships and corporate affiliations to determine whether EPA's interests are jeopardized by such relationships. Because EPA has the dual responsibility of cleanup and enforcement and because its contractors are often involved in both activities, it is imperative that contractors are free from conflicts of interest so as not to prejudice response and enforcement actions. Contractors will be required to maintain a database of business relationships and report information to EPA on either an annual basis or when each work order is issued.

ICR numbers: EPA ICR No. 1550.10, OMB Control No. 2030–0023.

Respondents/affected entities: Entities potentially affected by this action are businesses or organizations performing contracts for the EPA.

Respondent's obligation to respond: Mandatory to continue performance on the respective contract, in accordance with respective contract clause terms.

Estimated number of respondents: 135 (total).

Frequency: 1,138 hours per response

Total estimated burden: 153,626 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: Estimated total annual costs are $10,978,201.08. This includes an estimated contractor burden cost of $9,858,202.20 and an estimated agency burden cost of $1,119,998.88. These amounts were calculated using the hours above and the labor rates from the 2009 Bureau of Labor National Mean Statistics and the General Schedule.

Changes in Estimates: The Agency does not anticipate a change in the hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. Further, for the current ICR renewal, EPA estimates no incurred capital/start-up costs as it is not necessary for respondents to acquire any capital goods to provide the requested information.

Dated: February 25, 2014.

John R. Bashista,

Director, Office of Acquisition Management.

[FR Doc. 2014–04616 Filed 2–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2013–0803; FRL 9907–40–OEI]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Proposed Collection; Toxic Chemical Release Reporting; Request for Comments on Proposed Renewal of Form R and Form A

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency plans to submit a request to renew an existing approved Information Collection Request (ICR), ''Toxic

Chemical Release Reporting; Request for Comments on Proposed Renewal of Form R and Form A'' 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.*). The current ICR expires on October 31, 2014. Before submitting a request to renew this ICR, EPA is soliciting public comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before May 2, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OEI–2013–0803, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: oei.docket@epa.gov.*
- *Fax:* 202–566–0715.
- *Mail:* Office of Environmental Information (OEI) Docket, U.S. Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.
- *Hand Delivery:* Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Such deliveries are only accepted during the docket's normal hours of operations, 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OEI–2013–0803. EPA's policy is that all comments received will be included in the public docket without change and made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption and must 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.*

FOR FURTHER INFORMATION CONTACT: Cassandra Vail, Toxics Release Inventory Program Division, Office of Information Analysis and Access (2844T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number, 202–566–0753; email address, *vail.cassandra@epa.gov.*

SUPPLEMENTARY INFORMATION:

How can I access the docket and/or submit comments?

EPA has established a public docket for the ICR described in this notice under Docket ID No. EPA–HQ–OEI–2013–0803, which is available for on-line viewing at *www.regulations.gov.* Go to *www.regulations.gov* to obtain a copy of the proposed collection of information, to submit or view public comments, to obtain an index of the docket contents, and to obtain those documents in the public docket that are available electronically. Once in the system, select ''search,'' then enter the docket ID number identified in this document.

The docket is also available for viewing in person at the OEI Docket, 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.*

In which information is EPA particularly interested?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA solicits comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. In particular, EPA requests comments from very small businesses (those with fewer than 25 employees) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

What should I consider when I prepare my comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible and provide specific examples;
2. Describe any assumptions that you used;
3. Provide copies of any technical information and/or data you used that support your views;
4. If you provide estimates of potential burden hours or labor costs, explain how you arrived at your estimates;
5. Offer alternative ways to improve the collection activity;
6. Make sure to submit your comments by the deadline identified under Dates; and
7. To ensure proper receipt by EPA, identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

What information collection activity or ICR does this apply to?

Affected Entities: This ICR applies to facilities that submit annual reports under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA). The applicability criteria are outlined in part 372, subpart B, of Title 40 of the Code Federal Regulations, and potentially affected categories and entities may include, but are not limited to the following:

Category	Examples of Potentially Affected Entities
Industry	Facilities included in the following NAICS manufacturing codes (corresponding to SIC codes 20 through 39): 311*, 312*, 313*, 314*, 315*, 316, 321, 322, 323*, 324, 325*, 326*, 327, 331, 332, 333, 334*, 335*, 336, 337*, 339*, 111998*, 211112*, 212324*, 212325*, 212393*, 212399*, 488390*, 511110, 511120, 511130, 511140*, 511191, 511199, 512220, 512230*, 519130*, 541712*, or 811490*. *Exceptions and/or limitations exist for these NAICS codes. Facilities included in the following NAICS codes (corresponding to SIC codes other than SIC codes 20 through 39): 212111, 212112, 212113 (correspond to SIC 12, Coal Mining (except 1241)); or 212221, 212222, 212231, 212234, 212299 (correspond to SIC 10, Metal Mining (except 1011, 1081, and 1094)); or 221111, 221112, 221113, 221118, 221121, 221122, 221330 (Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce) (correspond to SIC 4911, 4931, and 4939, Electric Utilities); or 424690, 425110, 425120 (Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified); or 424710 (corresponds to SIC 5171, Petroleum Bulk Terminals and Plants); or 562112 (Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC)); or 562211, 562212, 562213, 562219, 562920 (Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 et seq.) (correspond to SIC 4953, Refuse Systems).
Federal Government	Federal facilities.

If you have questions regarding the applicability of this action to a particular entity, consult the individual listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Title: Toxic Chemical Release Reporting; Request for Comments on Proposed Renewal of Form R and Form A.

ICR Number: EPA ICR No. 1363.23, TRI Form R and TRI Form A Certification Statement, OMB Control No. 2025–0009.

ICR Status: The ICR for the TRI Form R and the TRI Form A Certification Statement is scheduled to expire on October 31, 2014.

Abstract: Pursuant to section 313 of EPCRA, certain facilities that manufacture, process, or otherwise use specified toxic chemicals in amounts above reporting threshold levels must submit annually to EPA and to designated State or Tribal officials toxic chemical release forms containing information specified by EPA. 42 U.S.C. 11023. In addition, pursuant to section 6607 of the Pollution Prevention Act (PPA), facilities reporting under section 313 of EPCRA must also report pollution prevention and waste management data, including recycling information, for such chemicals. 42 U.S.C. 13106. EPA compiles and stores these reports in a publicly accessible database known as the Toxics Release Inventory (TRI).

Regulations at 40 CFR part 372, subpart B, require facilities that meet all of the following criteria to report:

1. The facility has 10 or more full-time employee equivalents (i.e., a total of 20,000 hours worked per year or greater; see 40 CFR 372.3); and

2. The facility is included in a North American Industry Classification System (NAICS) Code listed at 40 CFR 372.23 or under Executive Order 13148, federal facilities regardless of their industry classification; and

3. The facility manufactures (defined to include importing), processes, or otherwise uses any EPCRA section 313 (TRI) chemical in quantities greater than the established thresholds for the specific chemical in the course of a calendar year.

Facilities that meet the criteria must file a Form R report or, in some cases, may submit a Form A Certification Statement, for each listed toxic chemical for which the criteria are met. As specified in EPCRA section 313(a), facilities must submit report(s) for any calendar year on or before July 1 of the following year. For example, reporting year 2012 data should have been submitted and certified on or before July 1, 2013.

EPA maintains the list of toxic chemicals subject to TRI reporting at 40 CFR 372.65 and the Agency publishes this list each year as Table II in the Toxics Release Inventory Reporting Forms and Instructions. The current TRI chemical list contains 594 chemicals and 30 chemical categories.

Environmental agencies, industry, and the public use TRI data for a wide variety of purposes. EPA program offices use TRI data, along with other data, to help establish programmatic priorities, evaluate potential hazards to human health and the natural environment, and undertake appropriate regulatory and/or enforcement activities. Environmental and public interest groups use the data to better understand toxic chemical releases at the community level and to work with industry, government agencies, and others to promote reductions in toxic chemical releases. Industrial facilities use the TRI data to evaluate the efficiency of their production processes and to help track and communicate their progress in achieving pollution prevention goals.

The TRI data are unique in providing a multi-media (air, water, and land) picture of toxic chemical releases, transfers, and other waste management activities by covered facilities on a yearly basis. While other environmental media programs provide some toxic chemical data and related permit data, TRI data are unique with regard to the types of chemicals and industry sectors covered as well as the frequency of reporting. Facilities subject to TRI reporting must submit reports for each calendar year to EPA and the State or Indian Country in which they are located by July 1 of the following year.

Respondents may claim trade secrecy for a chemical's identity as described in EPCRA Section 322 and its implementing regulations in 40 CFR part 350. EPA will disclose information covered by a claim of trade secrecy only to the extent permitted by and in accordance with the procedures in 40 CFR part 350 and 40 CFR part 2.

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's regulations in 40 CFR are listed in 40 CFR part 9 and are identified on the form and/or instrument, if applicable.

Burden Statement: EPA estimates average annual public reporting and recordkeeping burden for this collection of information to be approximately 35.71 hours for Form R and approximately 21.96 hours for a Form A. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop,

acquire, install, and utilize technology and systems for the purposes of collecting/validating/verifying information, processing and maintaining information, and disclosing and providing information; adjust existing ways to comply with any previously applicable instructions and requirements that have subsequently changed; train personnel to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR Supporting Statement provides a detailed explanation of the Agency's estimate for TRI program burden, including Form R/A burden. Below is a brief summary of the burden estimated for annual TRI reporting:

- *Estimated total number of respondents (i.e., facilities):* 21,025.
- *Frequency of response:* annual.
- *Estimated total average number of responses:* 74,869.
- *Estimated total average number of responses for each respondent:* 3.56.
- *Estimated total annual burden hours:* 3,555,998 hours.
- *Estimated total annual costs:* $183,418,377.

What Changes Does this ICR Propose?

OMB approved the ICR for Form R and for the Form A Certification Statement on October 14, 2011, with the original expiration date of October 31, 2014. The OMB approved burden numbers are 3,327,436 hours for Form R and 195,300 hours for Form A for a total of 3,522,736 hours. Change in burden estimates since OMB approved of the combined Form R/A ICR on October 14, 2011, include:

- the lifting of the Administrative Stay of the Toxics Release Inventory reporting requirements for hydrogen sulfide on October 17, 2011. EPA received the first submissions for hydrogen sulfide for reporting year 2012; the total number of form submissions used to calculate the overall program burden therefore includes these hydrogen sulfide submissions.
- the addition of o-Nitrotoluene Rule, which the **Federal Register** included in its publication on November 7, 2013. EPA estimates this rule will increase the number of newly reporting facilities by 1 and the total number of Form Rs and Form As submitted by 17 and 5 respectively, with an associated ongoing steady state burden increase of 717 hours.

Over the last few years, the number of facilities reporting to TRI increased slightly. Based on the latest data for RY 2012 with updates to reflect the estimated burden due to the addition of o-Nitrotoluene, EPA now estimates the total number of combined Form R and Form A responses to be 74,869, the associated total annual burden hours to be 3,555,998, and the annual cost to be $183,418,377. For a detailed explanation of the Agency's estimates of the respondent reporting burden and labor costs, please refer to the proposed TRI Form R and A Supporting Statement which are available in the docket.

EPA proposes making several changes to the TRI reporting forms and associated instructions, however, these changes are estimated to have a negligible effect on form unit burden. The proposed changes, which are outlined below, are designed to enhance the overall utility of the data collected under the TRI Program.

1. Add an optional extension to all phone numbers which would allow facilities to ensure that incoming calls are directed to the appropriate person.

2. Add an optional field to allow facilities to indicate the section of a water body that received the surface water discharge. Specifically, facilities could provide a reach code, which is a unique identifier for a linear, unbranched section of a water body. (Part II: Sec. 5.3). *Rationale:* Linking TRI discharges to a reach code (a unique identifier for a linear, unbranched section of a water body) provides regulatory agencies and researchers the ability to model the potential impact of TRI chemicals to downstream and intermediate receiving waterbodies and water resources, and to assess the potential cumulative environmental impacts of TRI chemical releases to surface waters. While optional, this field would populate automatically when selecting their receiving water body in the TRI–MEweb user interface for this section.

3. EPA proposes moving the header ''5.5 Disposal to land on-site'' to precede Sections 5.4 and 5.5 on Form R so that it covers both 5.4 and 5.5. Furthermore, EPA proposes rewording 5.4.1 and 5.4.2 to fit under the new header as follows: Section 5.4–5.5: Disposal to land on-site, Section 5.4.1: Class 1 Underground Injection Wells, Section 5.4.2 Class II–V Underground Injection Wells. The remaining sections of Section 5.5 are unchanged. *Rationale:* This change clarifies that releases to underground injection wells are considered releases to land.

4. Provide the heading, ''Production-related waste managed'' for Sections 8.1–8.7 and re-label Section 8.8 ''Non-production-related waste managed,'' with a footnote indicating that this Section ''includes quantities released to the environment or transferred off-site as a result of remedial actions, catastrophic events, or other one-time events not associated with production processes (Part II: Sec. 8.1–8.8). *Rationale:* Re-labeling these Sections clearly indicates what quantities facilities must report in them and makes it easier for TRI data users to refer to these Sections in a concise and consistent manner.

5. Add checkboxes to indicate whether a facility has provided a ''Production Ratio'' or an ''Activity Ratio'' (Part II: Sec. 8.9). *Rationale:* Facilities are required to submit a ratio of either production or an activity other than production for the purposes of normalizing year-to-year changes in TRI chemical quantities, but TRI data users currently cannot determine which type of ratio was used.

6. Add a new column where facilities can provide an optional percentage range indicating the estimated annual reduction in chemical waste generation associated with a given source reduction activity (Part II: Sec. 8.10). *Rationale:* This change makes it easier to report and assess the effectiveness of different types of source reduction activities and thus promote the adoption and recognition of successful pollution prevention practices.

7. Provide optional barrier codes that facilities can use in Section 8.11 to indicate why they could not implement any source reduction activities during the reporting year. (Part II: Sec. 8.11). *Rationale:* Facilities are required to pick a code if they perform a new source reduction activity. However, there is currently no way for a facility to indicate why they didn't implement a source reduction activity. While these codes would be optional, they would allow EPA to assist facilities in overcoming barriers to implementing source reduction activities.

8. Allow facilities to categorize optional free-text information entered in Sections 8.11 and 9.1 by selecting from a list of topics provided in TRI–MEweb (no changes to Form R itself). *Rationale:* Letting facilities flag their free-text entries as relevant to certain commonly-used topics would improve TRI tools that display free-text information, data quality efforts, and the overall analytical utility of the dataset.

Additionally, the EPA proposes modifying TRI–MEweb to collect, as optional, information that some facilities have historically provided, unsolicited, to EPA on matters related to TRI (collectively called miscellaneous TRI documents). Examples of these miscellaneous TRI documents include

updates to contact and location information for the facility and reasons for non-reporting. Some of this information is useful to the Agency and could be useful to the public. Currently, the EPA receives this unsolicited information on paper.

This proposed modification would allow for an online means for the EPA to receive miscellaneous documents, reducing the cost of processing their submission and aligning how EPA processes such documents with the recent requirement to submit TRI reporting forms electronically. In other words, with this change, facilities could use TRI–MEweb to provide details on specific categories of information that they have been providing on a voluntary basis to the EPA throughout the existence of the program (e.g., supplemental information on updates to the facility's name, status, location, and/or parent company; supplemental information on updates on whom to contact for technical and/or public matters; and reasons for not reporting (indicating the facility did not meet thresholds or did not report for any other appropriate reason)). Receipt and processing of this information would not affect any reporting forms certified and submitted to the agency, but rather would allow facilities to provide an electronic means to submit contextual information concerning their facilities that can enhance the context of TRI data for the EPA as well as for the public.

What is the next step in the process for these ICRs?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. At that time, EPA will issue another **Federal Register** notice for the ICR pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: February 24, 2014.

Arnold Layne,

Director,

Office of Information Analysis and Access

Office of Environmental Information.

[FR Doc. 2014–04611 Filed 2–28–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9907–34–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Rhode Island's request to revise/modify its EPA Administered Permit Programs: The National Pollutant Discharge Elimination System EPA-authorized program to allow electronic reporting.

DATES: EPA's approval is effective March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov*.

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On November 13, 2013, the Rhode Island Department of Environmental Management (RI DEM) submitted an application titled ''National Network Discharge Monitoring Report System'' for revision/modification of its EPA-authorized Part 123 program under title 40 CFR. EPA reviewed RI DEM's request to revise/modify its EPA-authorized Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program and, based on this review, EPA determined that the application met the standards for approval of authorized program revision/modification set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Rhode Island's request to revise/modify its Part 123—EPA Administered Permit Programs: The National Pollutant Discharge Elimination System program to allow electronic reporting under 40 CFR part 122.41(l)(4)(i) is being published in the **Federal Register**.

RI DEM was notified of EPA's determination to approve its application with respect to the authorized program listed above.

Dated: February 24, 2014.

Andrew Battin,

Director, Office of Information Collection.

[FR Doc. 2014–04618 Filed 2–28–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burden and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501—3520), the Federal Communications Commission invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's

burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information burden for small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB control number.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before May 2, 2014. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Benish Shah, Federal Communications Commission, via the Internet at *Benish.Shah@fcc.gov.* To submit your PRA comments by email send them to: *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Benish Shah, Office of Managing Director, (202) 418–7866.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–1087.

Title: Section 15.615, General Administrative Requirements (Broadband Over Power Line (BPL).

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions; and State, local or Tribal Government.

Number of Respondents: 100 respondents; 100 responses.

Estimated Time per Response: 26 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 2,600 hours.

Annual Cost Burden: $60,000.

Privacy Impact Assessment: N/A.

Nature and Extent of Confidentiality: The FCC does not require any confidentiality in the information provided to the database. There are no proprietary or trade/technological standards to which these BPL entities wish to restrict access.

Needs and Uses: The Commission will submit this expiring information collection after this 60 day comment period to the Office of Management and Budget (OMB) to obtain the full three year clearance. There is no change in the reporting requirements or burden. Section 15.615 requires entities operating Access BPL systems shall to an industry-recognized entity, information on all existing Access BPL systems and all proposed Access BPL systems for inclusion into a publicly available database, within 30 days prior to installation of service. Such information should include the name of the Access BPL provider; the frequencies of the Access BPL operation; the postal ZIP codes served by the specific Access BPL operation; the manufacturer and type of Access BPL equipment and its associated FCC ID number, contact information; and proposed/or actual date of operation.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–04519 Filed 2–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 2, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0288.

Title: 47 CFR 78.33, Special Temporary Authority (Cable Television Relay Stations),.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 35 respondents and 35 responses.

Estimated Time per Response: 4 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 140 hours.

Total Annual Costs: $5,250.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impacts.

Needs and Uses: 47 CFR 78.33 permits cable television relay station (CARS) operators to file informal requests for special temporary authority (STA) to install and operate equipment in a manner different than the way normally authorized in the station license. The special temporary authority

also may be used by cable operators to conduct field surveys to determine necessary data in connection with a formal application for installation of a radio system, or to conduct equipment, program, service, and path tests.

Federal Communications Commission.

Gloria J. Miles,

Federal Register *Liaison, Office of the Secretary, Office of Managing Director.*

[FR Doc. 2014–04521 Filed 2–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 2, 2014. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: *OMB Control Number:* 3060–0288.

Title: 47 CFR 78.33, Special Temporary Authority (Cable Television Relay Stations).

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities.

Number of Respondents and Responses: 35 respondents and 35 responses.

Estimated Time per Response: 4 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 140 hours.

Total Annual Costs: $5,250.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impacts.

Needs and Uses: 47 CFR 78.33 permits cable television relay station (CARS) operators to file informal requests for special temporary authority (STA) to install and operate equipment in a manner different than the way normally authorized in the station license. The special temporary authority also may be used by cable operators to conduct field surveys to determine necessary data in connection with a formal application for installation of a radio system, or to conduct equipment, program, service, and path tests.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2014–04520 Filed 2–28–14; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request

AGENCY: Federal Trade Commission (''Commission'' or ''FTC'').

ACTION: Notice.

SUMMARY: The FTC intends to conduct an evaluation of Admongo, its advertising literacy program for children ages 8—12. The evaluation will involve a randomized controlled trial of the Admongo online game, using an internet panel recruited by a market research company. This research will be conducted to further the FTC's mission of protecting consumers from unfair and deceptive marketing. We will consider comments on this proposed research before submitting a request for Office of Management and Budget (OMB) review under the Paperwork Reduction Act (PRA).

DATES: Comments must be submitted on or before May 2, 2014.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Admongo Evaluation, FTC File No. P085200'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/admongoevaluationpra,* 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 J), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: David Givens, Economist, Bureau of Economics, Federal Trade Commission, 600 Pennsylvania Avenue NW., Mail Stop NJ–4136, Washington, DC 20580. Telephone: (202) 326–3397.

SUPPLEMENTARY INFORMATION:

I. Background

As the nation's consumer protection agency, the FTC is responsible for enforcing laws that prohibit unfair and deceptive advertising and marketing practices. Part of this mission involves educating consumers, including young consumers. In April 2010, the FTC launched a youth-directed multi-media advertising literacy campaign called Admongo and distributed accompanying lesson plans to 100,000 educators in every U.S. public school with a fifth or sixth grade class. The Admongo program aims to help children from 8 to 12 become more discerning consumers of information. The program has three broad objectives: (1) Raising awareness of advertising and marketing messages; (2) teaching critical thinking skills that will help children analyze and interpret advertisements;

and (3) demonstrating the benefits of being an informed consumer. The program is designed to teach students specific skills: how to identify ads, how to identify the ways advertisers target certain groups of consumers, how to spot persuasive techniques commonly employed by ads, and how to apply an understanding of advertising techniques to make smarter purchases. The campaign includes an online game, in-school lesson plans, training videos for teachers, and sample ads that can be used at home and in the classroom.

The public can utilize individual components of Admongo as desired, or alternatively, schools can integrate all the components to build a cohesive unit on advertising literacy. All materials are free and can be viewed at *www.admongo.gov.*

The proposed evaluation is designed to assess the impact of the Admongo online game. The game is an interactive teaching tool in which players advance levels by mastering progressively more sophisticated topics in advertising. Players start by identifying ads, including logos and product placement; they advance to learning about the elements of advertising (graphics, copy, video and audio) and then how ads are targeted. The game culminates in players creating their own video ad to target a specific audience.

The proposed evaluation seeks to measure the effect of playing the Admongo game on a child's level of advertising literacy, as measured by a test specially written for this purpose by FTC staff. The online game is the one component of the Admongo program that children can most easily discover, engage with, and learn from on their own. The FTC would like to evaluate the effectiveness of the online game. Cost effectiveness data will enable FTC staff to evaluate both this program and the potential use of other similar programs in the future. The FTC is particularly interested in the effect of game play on the ability to interpret real ads (*i.e.,* to differentiate explicit and implied claims, to identify particular persuasive techniques and understand why they were chosen, etc.), as well as the ways in which this effect varies by age and other family and demographic characteristics.

II. Paperwork Reduction Act

Under the PRA, 44 U.S.C. 3501–3521, federal agencies must obtain approval (''clearance'') from OMB for each collection of information they conduct or sponsor. ''Collection of information'' includes disclosure to an agency, third parties, or the public of information by or for an agency through identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons. 44 U.S.C. 3502(3)(A). As required by section 3506(c)(2)(A) of the PRA, the FTC is providing an opportunity for public comment before seeking OMB clearance for the information collections presented here.

The FTC invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

A. Description of the collection of information and proposed use

Subject to OMB approval, the FTC will conduct a randomized trial of the Admongo online game, involving 800 students, ages 8–12. A market research contractor will select students for participation from among its existing panelists. Students must have parental permission to participate in the evaluation. A randomly selected half of the participants will be assigned to a treatment group, and the remaining students will be assigned to a control group.

Treatment students will be instructed to play the Admongo online game from their homes for one hour and then to complete an advertising literacy test (also online) within the allotted time (20 minutes). To ensure that each treatment student's true exposure to the game is accurately recorded, her time spent playing (and other measures of her performance within the game) will be monitored and logged by the game's server. Control students will be instructed to take the test without playing the Admongo game. To ensure that control group members do not play the game, no mention will be made to these students about the existence of Admongo or its connection to the test they are instructed to take. To further ensure the integrity of the evaluation, the market research company will screen out any panelist who has been exposed to Admongo prior to this study.

Admongo's effect on ad literacy will be estimated from the difference in test scores between the control and treatment groups. Additional variables measuring demographic, financial, and family characteristics of the students, to the extent this information can be captured through a screening questionnaire that is administered to participants' parents, will increase the precision of the estimate of Admongo's impact and also will reveal the influence of these factors on ad literacy.

The sample will be selected to mirror the 8–12 year-old U.S. population along a number of observable dimensions. However, because participation in the study is voluntary, the sample may suffer from selection bias and may not constitute a nationally representative sample of 8–12 year-old American children. Therefore, the estimate of Admongo's impact, derived from this sample, will not generalize to the broader audience of all 8–12 year-old Americans.

B. Estimated Burden Hours

The proposed evaluation will involve 800 students ages 8–12. The half of the sample assigned to the treatment group will play the Admongo online game for one hour and then take a 20-minute advertising literacy test immediately afterwards. The time burden for the treatment-group totals 533 hours. The half of the sample assigned to the control group will take the quiz without playing the game. The time burden for the control group will be only the time required to take the test—133 hours in total. Finally, a parent of each participating student will be asked to complete a screening questionnaire, estimated to take 5 minutes. The aggregate time burden from the questionnaire totals 67 hours. Therefore, the total time burden for all participants equals 733 hours.

C. Estimated Costs

The costs to respondents involve only the time cost of playing the Admongo online game and/or taking the online advertising literacy test. Participation in the evaluation is voluntary; respondents are drawn from existing pools of internet panelists (*i.e.,* households that have already indicated they are willing and able to take part in internet research), and participants and their parents are free to refuse the invitation to participate in any particular study. All students (or their parents) will be compensated at the standard rate by the market research company that recruits them and runs the experiment. Treatment-group students are expected to be compensated more than control-group students due to the former group's substantially larger time commitment.

D. Request For Comment

You can file a comment online or on paper. For the Commission to consider

your comment, we must receive it on or before May 2, 2014. Write ''Admongo Evaluation, FTC File No. P085200'' 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 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 *http://ftcpublic.commentworks.com/ftc/admongoevaluationpra,* 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 ''Admongo Evaluation, FTC File No. P085200'' 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 J), 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 May 2, 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.*

By direction of the Commission.

Janice Podoll Frankle,

Acting Secretary.

[FR Doc. 2014–04566 Filed 2–28–14; 8:45 am]

BILLING CODE 6750–01–P

[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).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–21223–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for renewal of the approved information collection assigned OMB control number 0955–0009, scheduled to expire on February 28, 2014. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before April 2, 2014.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the OMB control number 0955–0009 and document identifier HHS–OS–21223–30D for reference.

Information Collection Request Title: Regional Extension Center Cooperative Agreement Program (CRM Tool)

OMB No.: 0955–0009

Abstract: The Customer Relationship Management (CRM) application is a nimble business intelligence tool being used by more than 1,500 users at ONC partner organizations and grantees. The CRM collects data from a large number of users throughout the United States who are ''on the ground'' helping healthcare providers adopt and optimize their IT systems, it provides near real-time data about the adoption, utilization, and meaningful use of EHR technology. Approximately half of all Primary Care Providers in the nation are represented in the CRM tool; data points include provider location, credential, specialty, whether live on an EHR and what system, whether they've reached MU, the time between these, and narrative barriers experienced by many of these.

Need and Proposed Use of the Information: The CRM tool supplements and is regularly merged with other data sources both within and outside of HHS and tracks program performance and progress towards milestones. Combined with ONC's internal analytical capacity, this data provides feedback that goes beyond anecdotal evidence and can be turned into tangible lessons learned that are used to focus policy and program efforts and ultimately achieve concrete outcomes.

Likely Respondents: Regional Extension Centers

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing

and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Forms (If necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response (hours)	Total burden hours
CRM Tool	Regional Extension Center	62	12	1.5	1080
Total					1080

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2014–04484 Filed 2–28–14; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10054]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: The necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 29, 2014.

ADDRESSES: When commenting, please reference the document identifier or OMB control number (OCN). To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*.

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collection. More detailed information can be found in the collection's supporting statement and associated materials (see **ADDRESSES**). CMS–10054 Recognition of Payment for New Technology Services for New Technology Ambulatory Payment Classification (APC) Groups Under the Outpatient Prospective Payment System and Supporting Regulations in 42 CFR part 419.

Under the Paperwork ReductionAct (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Recognition of Payment for New Technology Services for New Technology Ambulatory Payment Classification (APC) Groups Under the Outpatient Prospective Payment System and Supporting Regulations in 42 CFR part 419; *Use:* CMS needs to keep pace with emerging new technologies and make them accessible to Medicare beneficiaries in a timely manner. It is necessary that we continue to collect appropriate information from interested parties such as hospitals, medical device manufacturers, pharmaceutical companies and others that bring to our attention specific services that they wish us to evaluate for New Technology APC payment. *Form Number:* CMS–10054 (OCN: 0938–0860); *Frequency:* Once; *Affected Public:* Private sector (business or other for-profits); *Number of Respondents:* 10; *Total Annual Responses:* 10; *Total Annual Hours:* 160. (For policy questions regarding this collection contact Barry Levi at 410–786–4529).

Dated: February 26, 2014.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–04613 Filed 2–28–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0053]

Revised Draft Guidance for Industry on Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised draft guidance for industry entitled ''Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices.'' This draft guidance revises the final guidance titled ''Good Reprint Practices for the Distribution of Medical Journal Articles and Medical or Scientific Reference Publications on Unapproved New Uses of Approved Drugs and Approved or Cleared Medical Devices'' published in January 2009. The revised draft guidance provides guidance on FDA's current thinking on recommended practices for drug or medical device manufacturers and their representatives to follow when distributing to health care professionals or health care entities scientific or medical journal articles, scientific or medical reference texts, or clinical practice guidelines ((CPGs); all three collectively referred to as ''scientific and medical publications'') that discuss unapproved new uses for approved drugs or approved or cleared medical devices marketed in the United States.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comments on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by May 2, 2014. Submit either electronic or written comments on the proposed collection of information by May 2, 2014.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002; to the Office of Communication, Outreach and Development (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448; or to the Division of Small Manufacturers, International and Consumer Assistance, Office of Communication, Education and Radiation Programs, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4613, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Regarding prescription drugs: Bryant Godfrey, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 51, Rm. 3258, Silver Spring, MD 20993–0002, 301–796–1200.

Regarding prescription biological products: Stephen Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Suite 200N, Rockville, MD 20852–1448, 301–827–6210.

Regarding medical devices: Deborah Wolf, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3414, Silver Spring, MD 20993–0002, 301–796–5732.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled ''Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices.'' This draft guidance describes recommended practices for drug or medical device manufacturers or their representatives to follow when distributing to health care professionals or health care entities scientific and medical publications that discuss unapproved new uses of approved drugs or approved or cleared medical devices.

In January 2009, FDA published a final guidance titled ''Good Reprint Practices for the Distribution of Medical Journal Articles and Medical or Scientific Reference Publications on Unapproved New Uses of Approved Drugs and Approved or Cleared Medical Devices,'' which set forth the Agency's thinking as of that time regarding the dissemination by manufacturers of medical journal articles and scientific or medical reference publications that discuss unapproved or uncleared uses of medical products.[1] FDA received comments to the docket for the 2009 guidance, including submissions requesting clarification of how the principles set forth in the 2009 guidance would apply to medical textbooks and potential changes to those principles.

In July 2011 and September 2013, FDA received citizen petitions, filed on behalf of multiple prescription drug and medical device manufacturers, that include several requests related to FDA's approach to the distribution of scientific and medical information reflecting unapproved or uncleared uses, specifically including CPGs.[2] FDA continues to consider the specific requests made in the citizen petitions, which include requests for issuance or revision of regulations, and has not yet reached a final determination on those petitions.

At the same time, FDA continues actively to review, analyze, and develop approaches to a variety of topics of interest to industry and others, including issues raised in the petition. As part of this process, FDA is soliciting public comment on the draft guidance made available here. Similarly, as part of the Agency's ongoing efforts to address industry questions, FDA continues to solicit public input and consider approaches with respect to several related issues, including the following:

(1) *Further explaining ''scientific exchange.''* On December 28, 2011, FDA issued a **Federal Register** notice (76 FR 81508) opening a docket and requesting comments and information related to ''scientific exchange.'' Comments were submitted to Docket No. FDA–2011–N–0912. FDA is reviewing those comments and considering how that information may inform future Agency action related to its policies on communications and activities related to unapproved or uncleared uses of marketed drugs and devices, as well as communications and activities related to use of products that are not yet legally marketed for any use.

[1] Please visit *http://www.regulations.gov* and enter docket number FDA–2008–D–0053.

[2] Please visit *http://www.regulations.gov* and enter docket numbers FDA–2011–P–0512 and FDA–2013–P–1079.

(2) *Developing guidance on the issue of manufacturer responses to unsolicited requests for information relating to unapproved or uncleared uses.* In December 2011, FDA issued a draft guidance entitled ''Responding to Unsolicited Requests for Off-Label Information About Prescription Drugs and Medical Devices.'' FDA is currently considering comments on that draft guidance to inform its further action on this topic.

(3) *Considering draft guidance on industry interactions with formulary committees, payors, and similar entities.* This includes clarifying the Agency's interpretation of several terms included in section 114 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) and the Agency's recommendations for evidentiary support for health care economic information included in promotional materials disseminated to formulary committees and similar entities.

Among the other issues under evaluation, FDA is considering a range of options for responding to questions about industry participation in scientific discussions and for addressing industry dissemination of new scientific information related to approved or cleared uses of marketed drugs and devices.

FDA is soliciting public comment on the revised draft guidance made available here, which presents recommended practices for drug or medical device manufacturers and their representatives to follow if they choose to distribute to health care professionals or health care entities scientific or medical journal articles, scientific or medical reference texts, or CPGs that discuss unapproved or uncleared uses of legally marketed drugs and devices. If the recommended practices are followed, FDA does not intend to use distribution of these publications as evidence of the manufacturer's intent that the product be used for an unapproved new use. FDA is issuing the revised guidance in draft form to enable the public to provide comments on the proposed recommendations.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115) and, when finalized, will represent the Agency's current thinking on the topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. The Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** for each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing this notice of the proposed collection of information set forth in this document.

With respect to the collection of information associated with this draft guidance, FDA invites comments on the following topics: (1) Whether the proposed information collected is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimated burden of the proposed information collected, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of information collected on the respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Distributing Scientific and Medical Publications on Unapproved New Uses—Recommended Practices.

Description of Respondents: Respondents to this collection of information are manufacturers and distributors (firms) of approved drug products or approved/cleared medical devices.

Burden Estimate: The draft guidance pertains to the distribution of scientific and medical publications by FDA-regulated industry that discuss unapproved new uses for approved or cleared products. The draft guidance explains that FDA's current position is that if a manufacturer follows the recommendations as described in the draft guidance, FDA does not intend to use the distribution of the scientific and medical publications as evidence of intent that the product be used for an unapproved new use. Because the draft guidance recommends that scientific and medical publications reflecting unapproved or uncleared uses that are distributed have certain characteristics, and that certain other information be distributed with them, the guidance recommends a ''third-party disclosure'' that constitutes a ''collection of information'' under the PRA.

The draft guidance provides recommendations regarding the characteristics of scientific and medical publications that companies may choose to distribute. Elaborated in more detail in the draft guidance, these characteristics in general include that these publications be from journals, scientific or medical reference texts, and CPGs that are produced by independent sources and meet criteria for professional/peer review; be based on specified types of scientific evidence; and be complete, unabridged, and without highlighting or characterization by the manufacturer. In addition, the draft guidance provides recommendations for additional information to be supplied with the publications.

Specifically, the draft guidance recommends the following:

Scientific or medical journal articles should:

- Be disseminated with the approved labeling or, in the case of a medical device reviewed under section 510(k) of the FD&C Act (21 U.S.C. 360(k)), labeling for the indications in the product's cleared indications for use statement, for each of the manufacturer's products that is included in the distributed article.
- Be disseminated with a comprehensive bibliography, when such information exists, of publications discussing adequate and well-controlled clinical studies published in scientific journals, medical journals, or scientific texts about the use of the drug or medical device covered by the information disseminated (unless the information already includes such a bibliography).
- Be disseminated with a representative publication, when such information exists, that reaches contrary or different conclusions regarding the unapproved use—especially when the conclusions of articles to be disseminated have been specifically called into question by another publication.
- Be accompanied by a prominently displayed and permanently affixed statement disclosing:
  - The drug(s) or device(s) included in the journal reprint in which the manufacturer has an interest;
  - That some or all uses of the manufacturer's drugs or devices described in the information have not

been approved or cleared by FDA, as applicable to the described drug(s) or device(s);

○ Any author known to the manufacturer as having a financial interest in the manufacturer or in a product of the manufacturer that is included in the journal article, or who is receiving compensation from the manufacturer, along with the affiliation of the author, to the extent known by the manufacturer, and the nature and amount of any such financial interest of the author or compensation received by the author from the manufacturer;

○ Any person known to the manufacturer who has provided funding for the study;

○ All significant risks or safety concerns associated with the unapproved use(s) of the manufacturer's product(s) discussed in the journal article that are known to the manufacturer but not discussed in the journal article.

Scientific or medical reference texts should:

• When distributed in their entirety by a manufacturer:

○ Contain a prominently displayed and permanently affixed statement identifying the distributing manufacturer and disclosing that some of the uses for drugs and/or devices described in the reference text might not be approved or cleared by FDA. The statement should also disclose that the author(s) of some chapters also might have a financial interest in the manufacturer or its products, unless the manufacturer has verified that none of the authors for the reference text has a financial interest in the manufacturer or a product being written about.[3] This statement should be placed by sticker, stamp, or other similar means on the front cover of the textbook;

○ In situations where a reference text is distributed in its entirety but one or more individual chapters of that reference text devote primary substantive discussion to an individual product or products of the manufacturer distributing it, be disseminated with the approved product labeling for each such product or, in the case of a medical device reviewed under section 510(k) of the FD&C Act, labeling for the indications in the product's cleared indications for use statement.

• If, in lieu of an entire scientific or medical reference text, a manufacturer distributes an individual chapter(s) that includes information on unapproved/uncleared uses of the manufacturer's product(s), the chapter(s) should:

○ When necessary to provide context, be disseminated with other unaltered/unabridged chapters extracted directly from the same scientific or medical reference text, such as chapters which provide related or supportive information;

○ Contain a prominently displayed and permanently affixed statement identifying the distributing manufacturer and disclosing: (1) The drug(s) or device(s) addressed in the individual chapter(s) in which the manufacturer has an interest; (2) that some or all uses of the manufacturer's drugs and/or devices described in the ensuing information have not been approved or cleared by FDA, as applicable to the described drug(s) or medical device(s); (3) any author known to the manufacturer as having a financial interest in the manufacturer or in a product of the manufacturer that is included in the individual chapter(s), or who is receiving compensation from the manufacturer, along with the affiliation of the author, to the extent known by the manufacturer, and the nature and amount of any such financial interest of the author or compensation received by the author from the manufacturer; and (4) all significant risks or safety concerns associated with the unapproved use(s) of the manufacturer's products discussed in the individual chapter(s) that are known to the manufacturer but not discussed in the chapter(s);

○ Be disseminated with the approved labeling, or, in the case of a medical device reviewed under section 510(k) of the FD&C Act, labeling for the indications in the cleared indications for use statement, for each of the manufacturer's products that are included in the distributed chapter(s).

CPGs should:

• When distributed by a manufacturer in their entirety:

○ Contain a prominently displayed and permanently affixed statement identifying the distributing manufacturer and disclosing that some of the uses of drugs and/or devices described in the CPG might not be approved or cleared by FDA. The statement should also disclose that the author(s) of some sections might have a financial interest in the manufacturer or its products, unless the manufacturer has verified that none of the authors for the CPG has a financial interest in the manufacturer or a product being written about. This statement should be placed by sticker, stamp, or other similar means on the front page of the CPG.

○ In situations where a CPG is distributed in its entirety but one or more individual sections of that CPG devotes primary substantive discussion to an individual product or products of the manufacturer distributing it, be disseminated with the approved product labeling for each such product or, in the case of a medical device reviewed under section 510(k) of the FD&C Act, labeling for the indications in the product's cleared indications for use statement.

• If, in lieu of an entire CPG, a manufacturer distributes an individual section(s) that includes information on unapproved/uncleared uses of the manufacturer's product(s), the section(s) should:

○ When necessary to provide context, be disseminated with other unaltered/unabridged sections extracted directly from the same CPG, such as sections which provide related or supportive information;

○ Contain a prominently displayed and permanently affixed statement identifying the distributing manufacturer and disclosing: (1) The drug(s) or device(s) addressed in the individual section(s) in which the manufacturer has an interest; (2) that some or all uses of the manufacturer's drugs and/or devices described in the attached information have not been approved or cleared by FDA, as applicable to the described drug(s) or medical device(s); (3) any author known to the manufacturer as having a financial interest in the manufacturer or in a product of the manufacturer that is included in the individual section(s), or who is receiving compensation from the manufacturer, along with the affiliation of the author, to the extent known by the manufacturer, and the nature and amount of any such financial interest of the author or compensation received by the author from the manufacturer; and (4) all significant risks or safety concerns associated with the unapproved use(s) of the manufacturer's products discussed in the individual section(s) that are known to the manufacturer but not discussed in the section(s).

○ Be disseminated with the approved labeling, or, in the case of a medical device reviewed under section 510(k) of the FD&C Act, labeling for the indications in the cleared indications for use statement, for each of the manufacturer's products that is included in the distributed section(s).

[3] If a reference text is distributed in its entirety with this statement affixed, manufacturers are not expected to have reviewed every element of the reference text to identify discussions of off-label uses of their products. However, even where an entire reference text is being distributed, manufacturers should determine whether one or more individual chapters of that reference text devote primary substantive discussion to an individual product or products of the manufacturer distributing it, in order to determine whether dissemination of product labeling is recommended.

FDA estimates that approximately 400 firms (''number of respondents'' in table 1) distribute scientific and medical publications that discuss unapproved new uses for FDA-approved or -cleared products. FDA also estimates that each firm would include some or all of the additional information described previously when distributing annually a total of approximately 40,000 scientific or medical journal articles, scientific or medical reference texts, or CPGs (''total annual disclosures'' in table 1) that discuss unapproved new uses for FDA-approved or -cleared products. FDA estimates that it will take each firm approximately 4 hours (''hours per disclosure'' in table 1) to make the disclosures recommended in this draft guidance.

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]

Draft guidance on distributing scientific and medical information on unapproved new uses	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Distribution of scientific and medical information on unapproved new uses	400	100	40,000	4	160,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

IV. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/default.htm, http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/default.htm,* or *http://www.regulations.gov*.

Dated: February 25, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–04560 Filed 2–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Ophthalmic Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public. The meeting of the Ophthalmic Devices Panel Advisory Committee scheduled for February 14, 2014, was postponed due to unanticipated weather conditions and rescheduled for March 14, 2014.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 14, 2014, from 8 a.m. to 6 p.m. This meeting is being rescheduled because of a postponed meeting announced in the **Federal Register** of December 24, 2013 (78 FR 77688), originally scheduled for February 14, 2014.

Location: Hilton Washington, DC/North, 620 Perry Pkwy., Gaithersburg, MD 20877. The hotel's phone number is 301–977–8900.

Contact Person: Natasha Facey, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, rm. 1544, Silver Spring, MD 20933, 301–796–5920, *Natasha.Facey@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On March 14, 2014, the committee will discuss, make recommendations, and vote on information regarding the premarket approval application for the Visian Toric Implantable Collamer Lens (TICL) sponsored by STAAR Surgical Company. ''Visian TICL proposed indications for use:

- For adults 21–45 years of age;
- For correction of myopic astigmatism in adults with spherical equivalent ranging from -3.0D to ≤-15.0D with cylinder of 1.0D to 4.0D;
- For the reduction of myopic astigmatism in adults with spherical equivalent ranging from greater than -15.0D to -20.0D with cylinder 1.0D to 4.0D;
- With an anterior chamber depth (ACD) of 3.0 mm or greater, when measured from the corneal endothelium to the anterior surface of the crystalline lens and a stable refractive history (within 0.5 Diopter for 1 year prior to implantation); and
- The Visian TICL is intended for placement in the posterior chamber (ciliary sulcus) of the phakic eye.''

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written

submissions may be made to the contact person on or before March 7, 2014. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. on March 14, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 27, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 3, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966, at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm for* procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 25, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–04522 Filed 2–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Risk Communications Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Risk Communications Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on May 5 and 6, 2014, from 9 a.m. to 5 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (rm. 1503), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Entrance for the public meeting participants (non-FDA employees) is through Building 1 where routine security check procedures will be performed. For parking and security information, please refer to *http://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm.*

Contact Person: Luis G. Bravo, Risk Communication Staff, Office of Planning, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, rm. 3274, Silver Spring, MD 20993–0002, 240–402–5274, email *Luis.Bravo@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

If you are unable to join us in person, we encourage you to watch the free Web cast. Visit the Risk Communication Advisory Committee Web site at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/RiskCommunicationAdvisoryCommittee/default.htm.* The link will become active shortly before the open session begins at 9 a.m.

Agenda: On May 5 and 6, 2014, the committee will meet to discuss methods for identifying the impact and increasing the reach of communications on topics of interest to consumers. The discussion will also address how FDA can evaluate whether its Consumer Updates (*http://www.fda.gov/ForConsumers/ConsumerUpdates/default.htm*) are reaching the targeted population, and whether they are increasing awareness and understanding of the key risk messages. The discussion will also assess whether the communications are having the intended impact on knowledge, behaviors and/or outcomes.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 28, 2014. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before April 18, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled

open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by April 21, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Luis G. Bravo at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 24, 2014.

Jill Hartzler Warner,

Acting Associate Commissioner for Special Medical Programs.

[FR Doc. 2014–04523 Filed 2–28–14; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received within 30 days of this notice.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Organ Procurement and Transplantation Network (OPTN) Application Form

OMB No.: 0915–0184 – Revision

Abstract: This is a request for OMB approval for revisions of the application documents used to collect information for determining if the interested party is compliant with membership and transplant program requirements contained in the Final Rule Governing the Operation of the Organ Procurement and Transplantation Network (OPTN), ''the OPTN final rule''.

Need and Proposed Use of the Information: Membership in the OPTN is determined by submission of application materials to the OPTN (not to HRSA) demonstrating that the applicant meets all required criteria for membership and transplant program requirements and will agree to comply with all applicable provisions of the National Organ Transplant Act, as amended, 42 U.S.C. 273, et seq. Section 1138 of the Social Security Act, as amended, 42 U.S.C. 1320b-8 (section 1138) *requires* that hospitals in which transplants are performed be members of, and abide by, the rules and requirements (as approved by the Secretary of the HHS) of the OPTN as a condition of participation in Medicare and Medicaid for the hospital. Section 1138 contains a similar provision for the organ procurement organizations (OPOs) and makes membership in the OPTN and compliance with its operating rules and requirements (that have been approved by the Secretary), including those relating to data collection, mandatory for *all* transplant hospitals and OPOs. These applications are developed to prompt submission of all the information required to make such membership approval decisions. In addition, hospitals wishing to obtain designation for particular (e.g., organ specific) transplant programs must submit applications to the OPTN.

Likely Respondents: Parties seeking initial OPTN membership approval and then maintenance of the existing OPTN approval. Applicants will include: every hospital seeking to perform organ transplants; every non-profit organization seeking to become an organ procurement organization; and every medical laboratory seeking to become a histocompatibility laboratory. In addition, there are other OPTN membership categories for organizations and individuals who want to participate in the organ transplant system and they too are required to fill out an appropriate application.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
A New Transplant Member/Program Application—General	8	1	8	8	64
B Kidney (KI) Designated Program Application	94	2	188	4	752
B Liver (LI) Designated Program Application	73	2	146	4	584
B Pancreas (PA) Designated Program Application	56	2	112	4	448
B Heart (HR) Designated Program Application	43	2	86	4	344
B Lung (LU) Designated Program Application	50	2	100	4	400

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
B Islet (PI) Designated Program Application	4	2	8	3	24
B Living Donor (LD) Recovery Program Application	46	2	92	3	276
C OPO New Program Application	0	1	0	4	0
D Histocompatibility Lab Application	2	2	4	4	16
E Change in Transplant Program Key Personnel	377	2	754	4	3016
F Change in Histocompatibility Lab Director	8	1	8	2	16
G Change in OPO Key Personnel	10	1	10	1	10
H Medical Scientific Org Application	16	1	16	2	72
I Public Org Application	6	1	6	2	12
J Business Member Application	3	1	3	2	6
K Individual Member Application	6	1	6	1	6
Total =17 forms	802	26	1547	56	6046

Dated: February 21, 2014.

Jackie Painter,

Deputy Director, Division of Policy and Information Coordination.

[FR Doc. 2014–04576 Filed 2–28–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Health Resources and Services Administration (HRSA) has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

DATES: Comments on this ICR should be received within 30 days of this notice.

ADDRESSES: Submit your comments, including the Information Collection Request Title, to the desk officer for HRSA, either by email to *OIRA_submission@omb.eop.gov* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: NURSE Corps Loan Repayment Program

OMB No.: 0915–0140—Revision

Abstract: The NURSE Corps Loan Repayment Program (NURSE Corps LRP), formerly known as the Nursing Education Loan Repayment Program (NELRP), assists in the recruitment and retention of professional Registered Nurses (RNs), including advanced practice RNs (i.e., nurse practitioners, certified registered nurse anesthetists, certified nurse-midwives, clinical nurse specialists), dedicated to working at eligible health care facilities with a critical shortage of nurses (i.e., a Critical Shortage Facility) or working as nurse faculty in eligible, accredited schools of nursing, by decreasing the financial barriers associated with pursuing a nursing profession. The NURSE Corps LRP provides loan repayment assistance to these nurses to repay a portion of their qualifying educational loans in exchange for full-time service at a public or private nonprofit Critical Shortage Facility or in an eligible, accredited school of nursing.

Need and Proposed Use of the Information: The need and purpose of this information collection is to obtain information for NURSE Corps LRP applicants and participants. The information is used to consider an applicant for a NURSE Corps LRP contract award and to monitor a participant's compliance with the service requirements. Individuals must submit an application in order to participate in the program. The application asks for personal, professional, educational, and financial information required to determine the applicant's eligibility to participate in the NURSE Corps LRP. The semi-annual employment verification form asks for personal and employment information to determine if a participant is in compliance with the service requirements.

Likely Respondents: Professional RNs or advanced practice RNs (i.e., nurse practitioners, certified registered nurse anesthetists, certified nurse-midwives, clinical nurse specialists) who are interested in participating in the NURSE Corps LRP, and official representatives at their service sites.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized burden hours:

The estimates of reporting burden for Applicants are as follows:

Instrument	Number of respondents	Responses/ respondents	Total responses	Hours per response	Total burden hours
NURSE Corps LRP Application*	5,500	1	5,500	2.00	11,000
Authorization to Release Information Form	5,500	1	5,500	.10	550
Authorization to Release Employment Information	5,500	1	5,500	.10	550
Total			16,500		12,100

** Please note that the burden hours associated with this instrument account for both new and continuation applications. Additional (uploaded) supporting documentation is included as part of this instrument and reflected in the burden hours.*

The estimates of reporting burden for Participants are as follows:

Participant Semi-Annual Employment Verification Form	2,300	2	4,600	.5	2,300
Total	2,300	2	4,600	.5	2,300
Total for Applicants and Participants			21,100		14,400

Dated: February 21, 2014.

Jackie Painter,

Deputy Director, Division of Policy and Information Coordination.

[FR Doc. 2014–04575 Filed 2–28–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Organization, Function, and Delegations of Authority; Part G; Proposed Functional Statement: Correction

AGENCY: HHS, Indian Health Service, HHS.

ACTION: Notice; correction.

SUMMARY: The Indian Health Service published a document in the **Federal Register** on January 10, 2014 listing the Oklahoma City Area Office as the Oklahoma Area Office.

FOR FURTHER INFORMATION CONTACT: Ms. Mona Galpin, 301–443–2650.

Correction

In the **Federal Register** of January 10, 2014, in FR Doc. 2014–00264, on page 1182, in the third column, under ''Indian Health Service Area Offices of the Indian Health Service in alphabetical order'' correct ''Oklahoma Area Office (GFK) to read: ''Oklahoma City Area Office (GFK).''

Dated: February 14, 2014.

Yvette Roubideaux,

Acting Director, Indian Health Service.

[FR Doc. 2014–04266 Filed 2–28–14; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; The Atherosclerosis Risk in Communities Study (ARIC)

February 19, 2014.

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 20, 2013 page 77138 and allowed 60-days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: NIH Desk Officer.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments or request more information on the proposed project contact either: Dr. Jacqueline Wright, 6701 Rockledge, Epidemiology Branch, Program in Prevention and Population Sciences, Division of Cardiovascular Sciences, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Dr, MSC 7936, Bethesda, MD 20892–7936, or call non-toll-free number 301–435–0384, or Email your request, including your address to *jacqueline.wright@nih.gov* . Formal requests for additional plans and instruments must be requested in writing.

Proposed Collection: The Atherosclerosis Risk in Communities Study (ARIC), Revised, National Heart, Lung and Blood Institute (NHLBI), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose and use of the information collection for this project is examine the major factors contributing to the occurrence of and the trends for cardiovascular diseases among men, women, African Americans and white persons in four U.S. communities: Forsyth County, North Carolina; Jackson, Mississippi; suburbs of Minneapolis, Minnesota; and Washington County, Maryland. The cohort in Jackson is selected to represent only African American residents of the city. The primary objectives of the study are to: (1) Investigate factors associated with both atherosclerosis and clinical cardiovascular diseases and (2) measure occurrence of and trend in coronary heart disease (CHD) and heart failure, and relate them to community levels of

risk factors, medical care, and atherosclerosis.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 15,714.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of response	Number of respondents	Frequency of responses	Time per response	Burden (hours)
Participant:				
Annual Follow-up Form (Attachment 1) Semiannual Follow-up Form (Attachment 2)	10,049	6	15/60	15,074
Subtotal (participant)				15,074
Non-Participant:				
a. Coroner/Medical Examiner Form (Attachment 3)	690	1	10/60	115
b. Informant Interview Form (Attachment 4)	570	1	10/60	95
c. Heart Failure Survey (Attachment 5)	1200	1	10/60	200
d. Physician Questionnaire Form (Attachment 6)	2760	1	5/60	230
Subtotal (non-participant)	5,220			640

Dated: February 19, 2014.

Michael Lauer,

Director, DCVS, NHLBI, NIH.

Dated: February 19, 2014.

Lynn Susulske,

NHLBI Project Clearance Liaison,National Institutes of Health.

[FR Doc. 2014–04583 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Peer Review of P50 Grant Applications.

Date: March 20, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Washington DC/Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Saraswathy Seetharam, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.12C, Bethesda, MD 20892–4874, 301–594–2763, *seetharams@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; R–13/U13 Conference Grant Review.

Date: March 20, 2014.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room 3An.22, Bethesda, MD 20892–4874, (Telephone Conference Call).

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892–4874, 301–594–3663, *sidorova@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04538 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute On Alcohol Abuse And Alcoholism; 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 Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: April 24, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, T508, Rockville, MD 20852.

Contact Person: Richard A Rippe, Ph.D., Scientific Review Officer, National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Room 2109, Rockville, MD 20852, 301–443–8599, *rippera@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.273, Alcohol Research Programs; National Institutes of Health, HHS)

Dated: February 25, 2014.

Carolyn A. Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04541 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; H3A Biorepository Review.

Date: March 24, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 3rd Floor Conference Room, 5635 Fishers Lane, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301–402–0838, *nakamurk@mail.nih.gov.*

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Sequencing Technology.

Date: March 26, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Capital View Hotel, Studio B, 2800 S. Potomac Ave., Arlington, VA.

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301–402–0838, *nakamurk@mail.nih.gov.*

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; Genomics of Gene Regulation.

Date: April 1–2, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Renaissance Arlington Capital View Hotel, 2800 S. Potomac Ave., Arlington, VA 22202.

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 25, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04540 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing 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 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 Nursing Research Special Emphasis Panel; NINR Loan Repayment Program.

Date: March 26, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Suite 703, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary A Kelly DEA/OR NINR/NIH, 6701 Democracy Boulevard, Suite 703, Bethesda, MD 20892, 301–594–9695, *mary.kelly@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National, Institutes of Health, HHS)

Dated: February 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04533 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 meetings.

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 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: Biomedical Library and Informatics Review Committee.

Date: June 5–6, 2014.

Time: June 5, 2014, 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20892.

Time: June 6, 2014, 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Contact Person: Arthur A. Petrosian, Ph.D., Chief Scientific Review Officer, Division of Extramural Programs, National Library of Medicine, 6705 Rockledge Drive, Suite 301, Bethesda, MD 20892–7968, 301–496–4253, *petrosia@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04532 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases Notice of Closed 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: Arthritis and Musculoskeletal and Skin Diseases Initial Review Group; Arthritis and Musculoskeletal and Skin Diseases Clinical Trials Review Committee.

Date: March 26, 2014.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Charles H Washabaugh, Ph.D., Scientific Review Officer, Scientific Review Branch, NIAMS/NIH, 6701 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–594–4952, *washabac@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: February 25, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04542 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed 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 General Medical Sciences Special Emphasis Panel; MIDAS Research Centers Review.

Date: March 21, 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: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.18, Bethesda, MD 20892, 301–594–3907, *pikebr@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04537 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Board of Scientific Counselors, NIDDK.

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 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 National Institute of Diabetes and Digestive and Kidney Diseases, 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, NIDDK.

Date: April 3–4, 2014.

*Open:*April 3, 2014, 8:00 a.m. to 8:30 a.m.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Closed: April 3, 2014, 8:30 a.m. to 4:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Closed: April 4, 2014, 8:30 a.m. to 3:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, 5 Memorial Drive, Bethesda, MD 20892.

Contact Person: Michael W. Krause, Ph.D., Scientific Director, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute Of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 25, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04539 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; 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 Literature Selection Technical Review Committee.

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 portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to

be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: June 19–20, 2014.

Open: June 19, 2014, 8:30 a.m. to 10:45 a.m.

Agenda: Administrative.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: June 19, 2014, 10:45 a.m. to 5:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: June 20, 2014, 8:30 a.m. to 2:00 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, 2nd Floor, Board Room, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Joyce Backus, M.S.L.S., Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Building 38, Room 2W04, Bethesda, MD 20892, 301–496–6921, *backusj@mail.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.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS).

Dated: February 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04531 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the NIH Scientific Management Review Board (SMRB). Presentations and discussions will address programs and activities to engage pre-college students in biomedical science.

The NIH Reform Act of 2006 (Pub. L. 109–482) provides organizational authorities to HHS and NIH officials to: (1) Establish or abolish national research institutes; (2) reorganize the offices within the Office of the Director, NIH including adding, removing, or transferring the functions of such offices or establishing or terminating such offices; and (3) reorganize, divisions, centers, or other administrative units within an NIH national research institute or national center including adding, removing, or transferring the functions of such units, or establishing or terminating such units. The purpose of the SMRB is to advise appropriate HHS and NIH officials on the use of these organizational authorities and identify the reasons underlying the recommendations.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Scientific Management Review Board (SMRB).

Date: March 25, 2014.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: As noted in the NIH mission statement, one of the goals of NIH is to ''develop, maintain, and renew scientific human. . .resources that will ensure the Nation's capability to prevent disease,'' as well as ''to expand the knowledge base in medical and associated sciences in order to enhance the Nation's economic well-being and ensure a continued high return on the public investment in research.'' Toward this end, the SMRB was recently charged with recommending ways NIH could cultivate sustained interest in biomedical science among students from pre-kindergarten through high school in order to contribute to a healthy biomedical workforce pipeline. Presentations and discussions at the March 25 SMRB meeting will focus on this charge. Time will be allotted on the agenda for public comment. Sign up for public comments will begin approximately at 8:00 a.m. on March 25, 2014, and will be restricted to one sign-in per person. In the event that time does not allow for all those interested to present oral comments, any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Place: National Institutes of Health, Building 31, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Juanita Marner, Office of Science Policy, Office of the Director, NIH, National Institutes of Health, 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892, *smrb@mail.nih.gov,* (301) 435–1770.

The meeting will be webcast. The draft meeting agenda and other information about the SMRB, including information about access to the webcast, will be available at *http://smrb.od.nih.gov*.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxis, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: February 25, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04536 Filed 2–28–14; 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: Center for Scientific Review Special Emphasis Panel; Fellowships: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.

Date: March 19, 2014.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: 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: Center for Scientific Review Special Emphasis Panel; RFA Panel: Animal/Biological Resource Facilities.

Date: March 25–26, 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 (Virtual Meeting).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–13–009: Secondary Dataset Analyses in Heart, Lung, and Blood Diseases and Sleep Disorders: Conflicts.

Date: March 25, 2014.

Time: 9:00 a.m. to 6:00 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: 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: Center for Scientific Review Special Emphasis Panel; Program Projects: Prenatal Stress and Child Outcomes.

Date: March 25–26, 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: Andrea B Kelly, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7770, Bethesda, MD 20892, (301) 455–1761, *kellya2@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: February 25, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–04535 Filed 2–28–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

[DHS Docket No. ICEB–2014–0001]

RIN 1653–ZA06

Extension of Employment Authorization for Haitian F–1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the January 12, 2010 Earthquake in Haiti

AGENCY: U.S. Immigration and Customs Enforcement (ICE), DHS.

ACTION: Notice.

SUMMARY: This notice informs the public of the extension of an earlier notice, which suspended certain requirements for F–1 nonimmigrant students whose country of citizenship is Haiti and who are experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti. This notice extends the effective date of that notice.

DATES: This notice is effective March 3, 2014 and will remain in effect until January 22, 2016.

FOR FURTHER INFORMATION CONTACT: Louis Farrell, Director, Student and Exchange Visitor Program; MS 5600, U.S. Immigration and Customs Enforcement; 500 12th Street SW., Washington, DC 20536–5600; (703) 603–3400. This is not a toll-free number. Program information can be found at *http://www.ice.gov/sevis/.*

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary of Homeland Security is exercising authority under 8 CFR 214.2(f)(9) to extend the suspension of the applicability of certain requirements governing on-campus and off-campus employment for F–1 nonimmigrant students whose country of citizenship is Haiti and who are experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti. *See* 75 FR 56120 (Sept. 15, 2010). The original notice was effective from September 15, 2010 until July 22, 2011. Subsequent notices provided for an 18-month extension from July 22, 2011 until January 22, 2013, and again from January 22, 2013 until July 22, 2014. *See* 76 FR 28997 (May 19, 2011); 77 FR 59942 (Oct. 1, 2012). Effective with this publication, suspension of the requirements is extended from July 22, 2014 until January 22, 2016.

F–1 nonimmigrant students granted employment authorization through the notice will continue to be deemed to be engaged in a ''full course of study'' for the duration of their employment authorization, provided they satisfy the minimum course load requirement described in 75 FR 56120. *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered under this action?

This notice applies exclusively to F–1 nonimmigrant students whose country of citizenship is Haiti and who were lawfully present in the United States in F–1 nonimmigrant status on January 12, 2010 under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i), and (1) are enrolled in an institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment of F–1 students, (2) are currently maintaining F–1 status, and (3) are experiencing severe economic hardship as a direct result of the January 12, 2010 earthquake in Haiti.

This notice applies both to undergraduate and graduate students, as well as elementary school, middle school, and high school students. The notice, however, applies differently to elementary school, middle school, and high school students (see the discussion published in 75 FR 56120, available at *http://www.gpo.gov/fdsys/pkg/FR-2010-09-15/pdf/2010-22929.pdf,* in the question, ''Does this notice apply to elementary school, middle school, and high school students in F–1 status?'').

F–1 students covered by this notice who transfer to other academic institutions that are SEVP-certified for enrollment of F–1 students remain eligible for the relief provided by means of this notice.

Why is DHS taking this action?

The Department of Homeland Security (DHS) took action to provide temporary relief to F–1 nonimmigrant students whose country of citizenship is Haiti and experienced severe economic hardship as a result of the January 12, 2010 earthquake. *See* 75 FR 56120. It enabled these F–1 students to obtain employment authorization, work an increased number of hours while school was in session, and reduce their course

load, while continuing to maintain their F–1 student status.

The January 12, 2010 earthquake caused extensive damage to Haiti's infrastructure, public health, agriculture, transportation, and educational facilities. Haiti continues to struggle with many people still displaced as a result of the earthquake. According to the International Organization for Migration, as of September 2013, approximately 172,000 individuals still remained in temporary camps. For these reasons, among others, Haiti continues to experience significant difficulties as the country strives to recover. F–1 nonimmigrant students whose country of citizenship is Haiti may depend on money from relatives in Haiti who are themselves continuing to recover from the earthquake.

The United States is committed to continuing to assist the people of Haiti. DHS is therefore extending this employment authorization for F–1 nonimmigrant students whose country of citizenship is Haiti and who continue to experience severe economic hardship as a result of the earthquake.

How do I apply for an employment authorization under the circumstances of this notice?

F–1 nonimmigrant students whose country of citizenship is Haiti who were lawfully present in the United States on January 12, 2010 and are experiencing severe economic hardship as a result of the earthquake may apply for employment authorization under the guidelines described in 75 FR 56120. This notice extends the time period during which such F–1 students may seek employment authorization due to the earthquake. It does not impose any new or additional policies or procedures beyond those listed in the original notice. All interested F–1 students should follow the instructions listed in the original notice.

Jeh Charles Johnson,

Secretary.

[FR Doc. 2014–04592 Filed 2–28–14; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2014–0009]

Homeland Security Academic Advisory Council

AGENCY: Department of Homeland Security.

ACTION: Committee Management; Notice of Federal Advisory Committee Meeting.

SUMMARY: The Homeland Security Academic Advisory Council (HSAAC) will meet on March 19, 2014 in Washington, DC. The meeting will be open to the public.

DATES: The HSAAC will meet Wednesday, March 19, 2014, from 10:00 a.m. to 3:30 p.m. Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The meeting will be held at Ronald Reagan International Trade Center, 1300 Pennsylvania Avenue NW., Floor B, Room B1.5–10, Washington, DC 20004. All visitors to the Ronald Reagan International Trade Center must bring a Government-issued photo ID. Please use the main entrance on 14th Street, NW.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, send an email to *AcademicEngagement@hq.dhs.gov* or contact Lindsay Burton at 202–447–4686 as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee prior to the adoption of the recommendations as listed in the ''Supplementary Information'' section below. Comments must be submitted in writing no later than Tuesday, March 11, 2014, must include DHS–2014–0009 as the identification number, and may be submitted using *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: AcademicEngagement@hq.dhs.gov.* Include the docket number in the subject line of the message.
- *Fax:* 202–447–3713.
- *Mail:* Academic Engagement; MGMT/Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW; Washington, DC 20528–0440.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, to read background documents or comments received by the Homeland Security Academic Advisory Council, go to *http://www.regulations.gov* and search for ''HSAAC'' then select the notice dated March 3, 2014.

One thirty-minute public comment period will be held during the meeting on March 19, 2014 after the conclusion of the presentation of draft recommendations, but before the HSAAC deliberates. Speakers will be requested to limit their comments to three minutes. Contact the Office of Academic Engagement as indicated below to register as a speaker.

FOR FURTHER INFORMATION CONTACT: Lindsay Burton, Office of Academic Engagement/Mailstop 0440; Department of Homeland Security; 245 Murray Lane SW; Washington, DC 20528–0440, email: *AcademicEngagement@hq.dhs.gov,* tel: 202–447–4686 and fax: 202–447–3713.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. (Pub. L. 92–463). The HSAAC provides advice and recommendations to the Secretary and senior leadership on matters relating to student and recent graduate recruitment; international students; academic research; campus and community resiliency, security and preparedness; faculty exchanges; and cybersecurity.

Agenda: The six HSAAC subcommittees (Student and Recent Graduate Recruitment, Homeland Security Academic Programs, Academic Research and Faculty Exchange, International Students, Campus Resilience, and Cybersecurity) will give progress reports and may present draft recommendations for action in response to the taskings issued by the Department. The full Council will review its progress to-date and DHS senior leadership will provide an update on the Department's efforts in implementing the HSAAC's approved recommendations.

The meeting materials will be posted to the HSAAC Web site at: *http://www.dhs.gov/homeland-security-academic-advisory-council-hsaac* no later than March 17, 2014.

Responsible DHS Official: Lauren Kielsmeier, *AcademicEngagement@hq.dhs.gov*, 202–447–4686.

Dated: February 24, 2014.

Lauren Kielsmeier,

Executive Director for Academic Engagement.

[FR Doc. 2014–04384 Filed 2–28–14; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2013–1065]

Towing Safety Advisory Committee; March 2014 meeting

AGENCY: Coast Guard, DHS.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The Towing Safety Advisory Committee (TSAC) will meet in New Orleans, Louisiana on March 20, 2014, to review and discuss recommendations from its subcommittees and to receive briefs listed in the agenda under **SUPPLEMENTARY INFORMATION.** The subcommittees will meet on March 19, 2014, and work on nine assigned tasks listed in the referenced agenda. All meetings will be open to the public.

DATES: TSAC subcommittees will meet on Wednesday, March 19, 2014, from 7:30 a.m. to 5 p.m. The full TSAC Committee will meet on Thursday, March 20, 2014, from 7:30 a.m. to 5:30 p.m. These meetings may close early if the Committee has completed its business. All submitted written materials, comments, and requests to make oral presentations at the meetings should reach Lieutenant Commander William A. Nabach, Alternate Designated Federal officer (ADFO) for TSAC no later than March 10, 2014. For contact information, please see the **FOR FURTHER INFORMATION CONTACT** section below. Any written material submitted by the public will be distributed to the Committee and become part of the public record.

ADDRESSES: All meetings will be held at the Wyndham Riverfront New Orleans Bacchus Conference Room, 701 Convention Center Blvd., New Orleans, LA 70130.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section, as soon as possible.

To facilitate public participation, we are inviting public comment on the issues to be considered by the committee as listed in the ''Agenda'' section below. Written comments must be submitted no later than March 10, 2014 and must be identified by Docket No. USCG–2013–1065 and may be submitted by *one* of the following methods:

- Federal Rulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. (Preferred method to avoid delays in processing).
- 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. We encourage use of electronic submissions because security screening may delay the delivery of mail.
- Fax: 202–493–2251.
- Hand delivery: Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.
- To avoid duplication, please use only one of these methods.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number of this notice. All comments submitted will be posted without alteration at *http://www.regulations.gov* including any personal information provided. You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Docket: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* insert USCG–2013–1065 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Commander Robert L. Smith Jr., Designated Federal Officer (DFO) for TSAC, Commandant (CG–OES–2), U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE. Stop 7509, Washington, DC 20593–7509; telephone 202–372–1410, fax 202–372–8382, or email *Robert.L.Smith@uscg.mil* or Lieutenant Commander William A. Nabach, Alternate Designated Federal Officer (ADFO), TSAC; telephone (202) 372–1386, fax (202) 372–8382 or email *william.a.nabach@uscg.mil.* If you have any questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the *Federal Advisory Committee Act* (FACA), 5 U.S.C. Appendix (Pub. L. 92–463). TSAC is established in accordance with and operates under the provisions of the FACA. As stated in 33 U.S.C. 1231a, the Towing Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to shallow-draft inland and coastal waterway navigation and towing safety.

Agenda of Meetings

The subcommittees will meet on March 19, 2014, from 7:30 a.m. to 5 p.m., to work on their specific task assignments:

(1) Recommendations Regarding Manning of Inspected Towing Vessels.

(2) Recommendations to Create Standardized Terminology for the Towing Industry.

(3) Recommendations for Evaluating Placement of Structures Adjacent to or Within the Navigable Channel.

(4) Recommendations for Designation of Narrow Channels.

(5) Recommendations for the Maintenance, Repair and Utilization of Towing Equipment, Lines and Couplings.

(6) Recommendations Regarding Steel Repair of Inspected Towing Vessels on Inland Service.

(7) Recommendations For Mid-Stream Liquefied Natural Gas and Compressed Natural Gas Refueling of Towing Vessels.

(8) Recommendations for Improvement of Coast Guard Marine Casualty Reporting.

(9) Recommendation to Establish Criteria for Identification of Air Draft for Towing Vessels and Tows.

On March 20, 2014, from 7:30 a.m. to 5:30 p.m., TSAC will meet to receive oral and written reports from its subcommittees on the following issues:

(1) Recommendations Regarding Manning of Inspected Towing Vessels. A progress update will be given.

(2) Recommendations to Create Standardized Terminology for the Towing Industry. A final report will be given.

(3) Recommendations for Evaluating Placement of Structures Adjacent to or Within the Navigable Channel. A final report will be given.

(4) Recommendations for Designation of Narrow Channels. A progress update will be given.

(5) Recommendations for the Maintenance, Repair and Utilization of Towing Equipment, Lines and Couplings. A progress update will be given.

(6) Recommendations Regarding Steel Repair of Inspected Towing Vessels on Inland Service. A final report will be given.

(7) Recommendations For Mid-Stream Liquefied Natural Gas and Compressed Natural Gas Refueling of Towing Vessels. A progress update will be given.

(8) Recommendations for Improvement of Coast Guard Marine Casualty Reporting. A progress update will be given.

(9) Recommendation to Establish Criteria for Identification of Air Draft for Towing Vessels and Tows. A progress update will be given.

There will be a comment period for TSAC and a comment period for the public after each final report presentation, but before each is voted on by the Committee. The Committee will review the information presented on each issue, deliberate on any

recommendations presented in the subcommittees' reports, and formulate recommendations for the Department's consideration.

The Committee is scheduled to receive the following briefs:

(1) National Plan for Safety and Security of Especially Hazardous Cargo.

(2) U.S. Army Corps of Engineers Galveston District Set-back Standard Operating Procedures.

(3) Carriage of Shale Gas Extraction Wastewater in Bulk.

A copy of each draft report, presentation and the final agenda will be available at *https://homeport.uscg.mil/tsac.*

An opportunity for oral comments by the public will be provided during the meeting on March 20, 2014. Speakers are requested to limit their comments to 3 minutes. Please note that the public oral comment period may end before the end of the stated meeting times if the Committee has finished its business. Please contact Lieutenant Commander William A. Nabach, listed in the **FOR FURTHER INFFORMATION CONTACT** section to register as a speaker.

Minutes

Minutes from the meeting will be available for public review and copying within 90 days following the close of the meeting and can be accessed from the Coast Guard Homeport Web site *http://homeport.uscg.mil/tsac.*

Notice of Future 2014 TSAC Meetings

To receive automatic email notices of future TSAC meetings in 2014, go to the online docket, USCG–2013–1065 (*http://www.regulations.gov/#!docketDetail;D=USCG-2013-1065*), and select the sign-up-for-email-alerts option. We plan to use the same docket number for all TSAC meeting notices in 2014, so when the next meeting notice is published you will receive an email alert from www.regulations.gov when the notice appears in this docket.

Dated: February 25, 2014.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2014–04561 Filed 2–28–14; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2539–13; DHS Docket No. USCIS–2014–0001]

RIN 1615–ZB25

Extension of the Designation of Haiti for Temporary Protected Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Through this Notice, the Department of Homeland Security (DHS) announces that the Secretary of Homeland Security (Secretary) is extending the designation of Haiti for Temporary Protected Status (TPS) for 18 months from July 23, 2014 through January 22, 2016.

The extension allows currently eligible TPS beneficiaries to retain TPS through January 22, 2016, so long as they otherwise continue to meet the eligibility requirements for TPS. The Secretary has determined that an extension is warranted because the conditions in Haiti that prompted the TPS designation continue to be met. There continues to be a substantial, but temporary, disruption of living conditions in Haiti based upon extraordinary and temporary conditions in that country that prevent Haitians who have TPS from safely returning.

Through this Notice, DHS also sets forth procedures necessary for nationals of Haiti (or aliens having no nationality who last habitually resided in Haiti) to re-register for TPS and to apply for renewal of their Employment Authorization Documents (EADs) with U.S. Citizenship and Immigration Services (USCIS). Re-registration is limited to persons who have previously registered for TPS under the designation of Haiti and whose applications have been granted. Certain nationals of Haiti (or aliens having no nationality who last habitually resided in Haiti) who have not previously applied for TPS may be eligible to apply under the late initial registration provisions, if they meet: (1) At least one of the late initial filing criteria; and, (2) all TPS eligibility criteria (including continuous residence in the United States since January 12, 2011, and continuous physical presence in the United States since July 23, 2011).

For individuals who have already been granted TPS under the Haiti designation, the 60-day re-registration period runs from March 3, 2014 through May 2, 2014. USCIS will issue new EADs with a January 22, 2016 expiration date to eligible Haiti TPS beneficiaries who timely re-register and apply for EADs under this extension. Given the timeframes involved with processing TPS re-registration applications, DHS recognizes that not all re-registrants will receive new EADs before their current EADs expire on July 22, 2014. Accordingly, through this Notice, DHS automatically extends the validity of EADs issued under the TPS designation of Haiti for 6 months, from July 22, 2014 through January 22, 2015, and explains how TPS beneficiaries and their employers may determine which EADs are automatically extended and their impact on Employment Eligibility Verification (Form I–9) and the E-Verify processes.

DATES: The 18-month extension of the TPS designation of Haiti is effective July 23, 2014, and will remain in effect through January 22, 2016. The 60-day re-registration period runs from March 3, 2014 through May 2, 2014.

FOR FURTHER INFORMATION CONTACT:

- For further information on TPS, including guidance on the application process and additional information on eligibility, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.*

You can find specific information about this extension of Haiti for TPS by selecting ''TPS Designated Country: Haiti'' from the menu on the left of the TPS Web page.

- You can also contact the TPS Operations Program Manager at the Family and Status Branch, Service Center Operations Directorate, U.S. Citizenship and Immigration Services, Department of Homeland Security, 20 Massachusetts Avenue, NW., Washington, DC 20529–2060; or by phone at (202) 272–1533 (this is not a toll-free number). **Note:** The phone number provided here is solely for questions regarding this TPS Notice. It is not for individual case status inquires.
- Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at 800–375–5283 (TTY 800–767–1833). Service is available in English and Spanish.
- Further information will also be available at local USCIS offices upon publication of this Notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals

DHS—Department of Homeland Security
DOS—Department of State
EAD—Employment Authorization Document
FNC—Final Nonconfirmation
Government—U.S. Government
IJ—Immigration Judge
INA—Immigration and Nationality Act
OSC—U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
UN—United Nations
USCIS—U.S. Citizenship and Immigration Services

What is Temporary Protected Status (TPS)?

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA), or to persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and may obtain work authorization, so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may also be granted travel authorization as a matter of discretion.
- The granting of TPS does not result in or lead to permanent resident status.
- When the Secretary terminates a country's TPS designation, beneficiaries return to the same immigration status they maintained before TPS, if any (unless that status has since expired or been terminated), or to any other lawfully obtained immigration status they received while registered for TPS.

When was Haiti designated for TPS?

On January 21, 2010, the Secretary designated Haiti for TPS based on extraordinary and temporary conditions within the country, specifically the effects of the 7.0-magnitude earthquake that occurred on January 12, 2010. *See Designation of Haiti for Temporary Protected Status,* 75 FR 3476 (Jan. 21, 2010). In 2011, the Secretary both extended Haiti's designation and redesignated Haiti for TPS for 18 months through January 22, 2013. *See Extension and Redesignation of Haiti for Temporary Protected Status,* 76 FR 29000 (May 19, 2011). The Secretary last extended Haiti's TPS designation in 2012. Through a notice published in the **Federal Register** on October 1, 2012, the Secretary extended Haiti's designation for TPS for 18 months, through July 22, 2014, because the conditions warranting the 2011 redesignation continued to be met. *See Extension of the Designation of Haiti for Temporary Protected Status,* 77 FR 59943 (Oct. 1, 2012). This announcement is the third extension of TPS for Haiti since the original designation in January 2010 and the second extension of TPS for Haiti since the 2011 redesignation.

What authority does the Secretary of Homeland Security have to extend the designation of Haiti for TPS?

Section 244(b)(1) of the INA, 8 U.S.C. 1254a(b)(1), authorizes the Secretary, after consultation with appropriate Government agencies, to designate a foreign state (or part thereof) for TPS.[1] The Secretary may then grant TPS to eligible nationals of that foreign state (or aliens having no nationality who last habitually resided in that state). *See* INA section 244(a)(1)(A), 8 U.S.C. 1254a(a)(1)(A).

At least 60 days before the expiration of a country's TPS designation or extension, the Secretary, after consultation with appropriate Government agencies, must review the conditions in a foreign state designated for TPS to determine whether the conditions for the TPS designation continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). If the Secretary determines that a foreign state continues to meet the conditions for TPS designation, the designation is extended for an additional 6 months (or in the Secretary's discretion for 12 or 18 months). *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C). If the Secretary determines that the foreign state no longer meets the conditions for TPS designation, the Secretary must terminate the designation. *See* INA section 244(b)(3)(B), 8 U.S.C. 1254a(b)(3)(B).

Why is the Secretary extending the TPS designation for Haiti through January 22, 2016?

Over the past year, DHS and the Department of State (DOS) have continued to review conditions in Haiti. Based on this review and after consulting with DOS, the Secretary has determined that an 18-month extension is warranted because the extraordinary and temporary conditions that prompted the July 2011 extension and redesignation continue to exist.

While the Government of Haiti has made considerable progress in improving security and quality of life of its citizens following the January 2010 earthquake, Haiti continues to lack the adequate infrastructure, employment and educational opportunities, and basic services to absorb the approximately 58,000 Haitian nationals living in the United States under TPS. The January 12, 2010 earthquake that struck Haiti caused extensive damage to infrastructure, public health, agriculture, transportation, and educational facilities. A coordinated international effort and strong partnership with the Haitian people resulted in emergency response activities that saved lives and laid a foundation for Haiti to rebuild. However, many of the conditions prompting the 2011 extension and redesignation, continue to persist.

Haitian government estimates of the death toll caused by the earthquake have ranged from 230,000 to 316,000 people, though the accuracy of differing estimates is in dispute. The U.S. Agency for International Development reported that approximately 1.5 million people were initially displaced to temporary camps. Destruction from the earthquake rose to catastrophic levels due to Haiti's already weak infrastructure, as the government struggled to provide minimum basic services prior to the earthquake. Rubble severely impeded recovery efforts, yet most of the 11 million cubic meters of debris has been removed, making Port-au-Prince's roads passable.

The January 2010 earthquake had an immediate impact on governance and the rule of law, killing more than 16,000 of Haiti's civil service members and destroying key infrastructure, including the National Palace, the Parliament, 28 of 29 government ministry buildings, the headquarters of the Haitian National Police, many courts, and several correctional facilities. The most serious impediments to human rights in Haiti are weak governance; inadequate respect for the rule of law, a deficient judicial system; and a high prevalence of corruption in various branches of government. Establishing a timetable for long-delayed partial senatorial, municipal, and local elections has generated considerable ongoing political friction since 2011. While finally resolved, Haiti faces another round of elections in 2014.

Since the January 2010 earthquake, Haiti's population has faced increased risks to its security and fundamental human rights. Those displaced to camps, as well as those living in marginalized communities, have been

[1] As of March 1, 2003, in accordance with section 1517 of title XV of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, any reference to the Attorney General in a provision of the INA describing functions transferred from the Department of Justice to DHS ''shall be deemed to refer to the Secretary'' of Homeland Security. *See* 6 U.S.C. 557 (codifying the Homeland Security Act of 2002, tit. XV, section 1517).

subjected to a high risk of crime, gender-based violence, and exploitation. The earthquake also exacerbated pre-existing vulnerabilities, including gender-based violence, trafficking, sexual exploitation, child labor, domestic violence, and recruitment into crime or violence. The Pan American Health Organization indicated that kidnappings, death threats, murders, armed robberies, home break-ins, and carjacking continue to occur in large urban centers of Haiti, though it notes that statistics are not readily available. The humanitarian community estimates that over 16,000 households have been affected by forced evictions, including violent evictions by police officers. On October 10, 2013, the UN Security Council voted unanimously to extend the UN peacekeeping mission in Haiti until mid-October 2014 so that it can further contribute to the country's stability and development.

The earthquake devastated much of Haiti's health infrastructure and exacerbated the already poor state of health care in the country where 40 percent of the Haitian population had no access to basic health services. Steady rains in October 2010 led to flooding, which contributed to poor camp conditions and a deadly cholera outbreak. According to the Haitian Ministry of Health and Population, there have been 693,875 cumulative cholera cases and 8,482 deaths as of November 30, 2013. Since the onset of the 2013 rainy season in April, Haiti experienced a rise in new cholera infections. Available resources for the cholera response, including funding and staff, have been in steady decline since 2012.

The January 2010 earthquake was a major setback to the economy and aggravated an already precarious social situation. The earthquake inflicted $7.8 billion in damage and caused the country's GDP to contract 5.4 percent in 2010. In 2011, the Haitian economy began to slowly recover from the effects of the earthquake, however, Tropical Storm Isaac and Hurricane Sandy adversely affected the economic recovery in 2012. Haiti's ability to attract investment is impeded, partly because of weak infrastructure such as access to electricity. Estimates indicate that unemployment in Haiti was as high as 80 percent before the earthquake, and though it has decreased, it remained at approximately 40 percent as of July 2013. More than 78 percent live on less than $2 per day and over 50 percent live on less than $1 per day. In rural areas, 88 percent of individuals live below the poverty line and basic services are practically nonexistent.

Following the January 2010 earthquake, approximately 1.5 million Haitians were left homeless and living in temporary camps. According to the International Organization for Migration as of September 2013, approximately 172,000 individuals still remained in temporary camps. It is estimated that there will be approximately 100,000 persons in these camps by the end of 2013/early 2014.

According to the World Bank, 964 schools were greatly damaged by the earthquake, affecting more than 200,000 children. Since then, many schools have been reconstructed, with the government and donors agreeing to pay school fees for a total of 1,130,000 children for the 2012/2013 school year.

Based upon this review and after consultation with appropriate Government agencies, the Secretary finds that:

- The conditions that prompted the 2011 redesignation of Haiti for TPS continue to be met. *See* INA section 244(b)(3)(A) and (C), 8 U.S.C. 1254a(b)(3)(A) and (C).
- There continue to be extraordinary and temporary conditions in Haiti that prevent Haitian nationals from returning to Haiti in safety. *See* INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- It is not contrary to the national interest of the United States to permit Haitians (and persons who have no nationality who last habitually resided in Haiti) who meet the eligibility requirements of TPS to remain in the United States temporarily. See INA section 244(b)(1)(C), 8 U.S.C. 1254a(b)(1)(C).
- The designation of Haiti for TPS should be extended for an additional 18-month period from July 23, 2014 through January 22, 2016. *See* INA section 244(b)(3)(C), 8 U.S.C. 1254a(b)(3)(C).
- There are approximately 51,000 current Haiti TPS beneficiaries who are expected to file for re-registration and may be eligible to retain their TPS under the extension.

Notice of Extension of the TPS Designation of Haiti

By the authority vested in me as Secretary under INA section 244, 8 U.S.C. 1254a, I have determined, after consultation with the appropriate Government agencies, that the conditions that prompted the redesignation of Haiti for TPS in 2011 continue to be met. *See* INA section 244(b)(3)(A), 8 U.S.C. 1254a(b)(3)(A). On the basis of this determination, I am extending the existing TPS designation of Haiti for 18 months from July 23, 2014 through January 22, 2016. *See* INA section 244(b)(1)(C) and (b)(2), 8 U.S.C. 1254a(b)(1)(C) and (b)(2).

Jeh Charles Johnson,

Secretary.

Required Application Forms and Application Fees to Register or Re-register for TPS

To register or re-register for TPS for Haiti, an applicant must submit each of the following two applications:

1. Application for Temporary Protected Status (Form I–821).
   - If you are filing an application for late initial registration, you must pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.2(f)(2) and 244.6 and information on late initial filing on the USCIS TPS Web page at *http://www.uscis.gov/tps.*
   - If you are filing an application for re-registration, you do not need to pay the fee for the Application for Temporary Protected Status (Form I–821). *See* 8 CFR 244.17. and
2. Application for Employment Authorization (Form I–765).
   - If you are applying for late initial registration and want an EAD, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you are age 14 through 65. No fee for the Application for Employment Authorization (Form I–765) is required if you are under the age of 14 or are 66 and older and applying for late initial registration.
   - If you are applying for re-registration, you must pay the fee for the Application for Employment Authorization (Form I–765) only if you want an EAD, regardless of age.
   - You do not pay the fee for the Application for Employment Authorization (Form I–765) if you are not requesting an EAD, regardless of whether you are applying for late initial registration or re-registration.

You must submit both completed application forms together. If you are unable to pay for the Application for Employment Authorization (Form I–765) and/or biometrics fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or submitting a personal letter requesting a fee waiver, and by providing satisfactory supporting documentation. For more information on the application forms and fees for TPS, please visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Fees for the Application for Temporary Protected Status (Form I–821), the Application for Employment

Authorization (Form I–765), and biometric services are also described in 8 CFR 103.7(b)(1)(i).

Biometric Services Fee

Biometrics (such as fingerprints) are required for all applicants 14 years of age or older. Those applicants must submit a biometric services fee. As previously stated, if you are unable to pay for the biometric services fee, you may apply for a fee waiver by completing a Request for Fee Waiver (Form I–912) or by submitting a personal letter requesting a fee waiver, and providing satisfactory supporting documentation. For more information on the biometric services fee, please visit the USCIS Web site at *http://www.uscis.gov.* If necessary, you may be required to visit an Application Support Center to have your biometrics captured.

Re-filing a Re-registration TPS Application After Receiving a Denial of a Fee Waiver Request

USCIS urges all re-registering applicants to file as soon as possible within the 60-day re-registration period so that USCIS can process the applications and issue EADs promptly. Filing early will also allow those applicants who may receive denials of their fee waiver requests to have time to re-file their applications *before* the re-registration deadline. If, however, an applicant receives a denial of his or her fee waiver request and is unable to re-file by the re-registration deadline, the applicant may still re-file his or her application. This situation will be reviewed to determine whether the applicant has established good cause for late re-registration. However, applicants are urged to re-file within 45 days of the date on their USCIS fee waiver denial notice, if at all possible. *See* INA section 244(c)(3)(C); 8 U.S.C. 1254a(c)(3)(C); 8 CFR 244.17(c). For more information on good cause for late re-registration, visit the USCIS TPS Web page at *http://www.uscis.gov/tps.* Note: As previously stated, although a re-registering TPS beneficiary age 14 and older must pay the biometric services fee (but not the initial TPS application fee) when filing a TPS re-registration application, the applicant may decide to wait to request an EAD, and therefore not pay the Application for Employment Authorization (Form I–765) fee, until after USCIS has approved the individual's TPS re-registration, if he or she is eligible.

Mailing Information

Mail your application for TPS to the proper address in Table 1.

TABLE 1—MAILING ADDRESSES

If . . .	Mail to . . .
You live in the State of Florida	*U.S. Postal Service:* U.S. Citizenship and Immigration Services Attn: Haiti TPS P.O. Box 4464 Chicago, IL 60680–4464 *Non-US Postal Delivery Service:* U.S. Citizenship and Immigration Services Attn: Haiti TPS 131 S. Dearborn—3rd Floor Chicago, IL 60603–5517
You live in the State of New York	*U.S. Postal Service:* U.S. Citizenship and Immigration Services Attn: Haiti TPS P.O. Box 660167 Dallas, TX 75266–0167 *Non-U.S. Postal Delivery Service:* U.S. Citizenship and Immigration Services Attn: Haiti TPS 2501 S. State Highway, 121 Business Suite 400 Lewisville, TX 75067
You live in any other state	*U.S. Postal Service:* U.S. Citizenship and Immigration Services Attn: Haiti TPS P.O. Box 24047 Phoenix, AZ 85074–4047 *Non-U.S. Postal Delivery Service:* U.S. Citizenship and Immigration Services Attn: Haiti TPS 1820 E. Skyharbor Circle S, Suite 100 Phoenix, AZ 85034

If you were granted TPS by an Immigration Judge (IJ) or the Board of Immigration Appeals (BIA), and you wish to request an EAD, or are re-registering for the first time following a grant of TPS by an IJ or the BIA, please mail your application to the appropriate address in Table 1. Upon receiving a Notice of Action (Form I–797) from USCIS, please send an email to the appropriate USCIS Service Center handling your application providing the receipt number and stating that you submitted a re-registration and/or request for an EAD based on an IJ/BIA grant of TPS. If your USCIS receipt number begins with the letters ''LIN,'' please email the Nebraska Service Center at TPSijgrant.nsc@uscis.dhs.gov. If your USCIS receipt number begins with the letters ''WAC,'' please email the California Service Center at TPSijgrant.csc@uscis.dhs.gov. You can find detailed information on what further information you need to email and the email addresses on the USCIS TPS Web page at *http://www.uscis.gov/tps.*

E-Filing

You cannot electronically file your application when re-registering or submitting a late initial registration for Haiti TPS. Please mail your application to the mailing address listed in Table 1.

Employment Authorization Document (EAD)

May I request an interim EAD at my local USCIS office?

No. USCIS will not issue interim EADs to TPS applicants and re-registrants at local offices.

Am I eligible to receive an automatic 6-month extension of my current EAD from July 22, 2014 through January 22, 2015?

Provided that you currently have TPS under the Haiti designation, this notice automatically extends your EAD by 6 months if you:

- Are a national of Haiti (or an alien having no nationality who last habitually resided in Haiti);
- Received an EAD under the last extension or redesignation of TPS for Haiti; and
- Have an EAD with a marked expiration date of July 22, 2014, bearing the notation ''A–12'' or ''C–19'' on the face of the card under ''Category.''

Although this Notice automatically extends your EAD through January 22, 2015, you must re-register timely for TPS in accordance with the procedures described in this Notice if you would like to maintain your TPS.

When hired, what documentation may I show to my employer as proof of employment authorization and identity when completing Employment Eligibility Verification (Form I–9)?

You can find a list of acceptable document choices on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9). You can find additional detailed information on the USCIS I–9 Central Web page at *http://www.uscis.gov/I–9Central.* Employers are required to verify the identity and employment authorization of all new employees by using Employment Eligibility Verification (Form I–9). Within 3 days of hire, an employee must present proof of identity and employment authorization to his or her employer.

You may present any document from List A (reflecting both your identity and employment authorization), or one document from List B (reflecting identity) together with one document from List C (reflecting employment authorization). You may present an acceptable receipt for List A, List B, or List C documents as described in the Form I–9 Instructions. An EAD is an acceptable document under ''List A.'' Employers may not reject a document based on a future expiration date.

If your EAD has an expiration date of July 22, 2014, and states ''A–12'' or ''C–19'' under ''Category'', it has been extended automatically for 6 months by virtue of this **Federal Register** Notice, and you may choose to present your EAD to your employer as proof of identity and employment authorization for Employment Eligibility Verification (Form I–9) through January 22, 2015 (see the subsection titled ''*How do I and my employer complete the Employment Eligibility Verification (Form I–9) (i.e., verification) using an automatically extended EAD for a new job?''* for further information). To minimize confusion over this extension at the time of hire, you may also show your employer a copy of this **Federal Register** Notice confirming the automatic extension of employment authorization through January 22, 2015. As an alternative to presenting your automatically extended EAD, you may choose to present any other acceptable document from List A, or a combination of one selection from List B and one selection from List C.

What documentation may I show my employer if I am already employed but my current TPS-related EAD is set to expire?

Even though EADs with an expiration date of July 22, 2014, that state ''A–12'' or ''C–19'' under ''Category'' have been automatically extended for 6 months by this **Federal Register** Notice, your employer will need to ask you about your continued employment authorization once July 22, 2014 is reached to meet its responsibilities for Employment Eligibility Verification (Form I–9). However, your employer does not need a new document to reverify your employment authorization until January 22, 2015, the expiration date of the automatic extension. Instead, you and your employer must make corrections to the employment authorization expiration dates in Section 1 and Section 2 of Employment Eligibility Verification (Form I–9) (see the subsection titled ''*What corrections should I and my current employer make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?''* for further information). In addition, you may also show this **Federal Register** Notice to your employer to explain what to do for *Employment Eligibility Verification* (Form I–9).

By January 22, 2015, the expiration date of the automatic extension, your employer must reverify your employment authorization. At that time, you must present any document from List A or any document from List C on Employment Eligibility Verification (Form I–9) to reverify employment authorization, or an acceptable List A or List C receipt described in the Form I–9 Instructions. Your employer should complete either Section 3 of the Employment Eligibility Verification (Form I–9) originally completed for the employee or, if this Section has already been completed or if the version of Employment Eligibility Verification (Form I–9) is no longer valid, complete Section 3 of a new Employment Eligibility Verification (Form I–9) using the most current version. Your employer should use either Section 3 of the Employment Eligibility Verification (Form I–9) originally completed for the employee or, if this Section has already been completed or if the version of Employment Eligibility Verification (Form I–9) is no longer valid, complete Section 3 of a new Employment Eligibility Verification (Form I–9) using the most current version. Note that your employer may not specify which List A or List C document employees must present, and cannot reject an acceptable receipt.

Can my employer require that I produce any other documentation to prove my status, such as proof of my Haitian citizenship?

No. When completing Employment Eligibility Verification (Form I–9), including re-verifying employment authorization, employers must accept any documentation that appears on the ''Lists of Acceptable Documents'' for Employment Eligibility Verification (Form I–9) and that reasonably appears to be genuine and that relates to you or an acceptable List A, List B, or List C receipt. Employers may not request documentation that does not appear on the ''Lists of Acceptable Documents.'' Therefore, employers may not request proof of Haitian citizenship when completing Employment Eligibility Verification (Form I–9) for new hires or reverifying the employment authorization of current employees. If presented with EADs that have been automatically extended, employers should accept such EADs as valid List A documents so long as the EADs reasonably appear to be genuine and to relate to the employee. Refer to the Note to Employees section of this Notice for important information about your rights

if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

What happens after January 22, 2015 for purposes of employment authorization?

After January 22, 2015, employers may no longer accept the EADs that this **Federal Register** Notice automatically extended. Before that time, however, USCIS will issue new EADs to eligible TPS re-registrants who request them. These new EADs will have an expiration date of January 22, 2016 and can be presented to your employer for completion of Employment Eligibility Verification (Form I–9). Alternatively, you may choose to present any other legally acceptable document or combination of documents listed on the Employment Eligibility Verification (Form I–9).

How do my employer and I complete Employment Eligibility Verification (Form I–9) (i.e., verification) using an automatically extended EAD for a new job?

When using an automatically extended EAD to complete Employment Eligibility Verification (Form I–9) for a new job prior to January 22, 2015, you and your employer should do the following:

1. For Section 1, you should:
   a. Check ''An alien authorized to work'';
   b. Write your alien number (USCIS number or A-number) in the first space (your EAD or other document from DHS will have your USCIS number or A-number printed on it; the USCIS number is the same as your A-number without the A prefix); and
   c. Write the automatically extended EAD expiration date (January 22, 2015) in the second space.
2. For Section 2, employers should record the:
   a. Document title;
   b. Document number; and
   c. Automatically extended EAD expiration date (January 22, 2015).

No later than January 22, 2015, employers must reverify the employee's employment authorization in Section 3 of the Employment Eligibility Verification (Form I–9).

What corrections should my current employer and I make to Employment Eligibility Verification (Form I–9) if my EAD has been automatically extended?

If you are an existing employee who presented a TPS-related EAD that was valid when you first started your job, but that EAD has now been automatically extended, you and your employer should correct your previously completed Employment Eligibility Verification (Form I–9) as follows:

1. For Section 1, you should:
   a. Draw a line through the expiration date in the second space;
   b. Write ''January 22, 2015'' above the previous date;
   c. Write ''TPS Ext.'' in the margin of Section 1; and
   d. Initial and date the correction in the margin of Section 1.
2. For Section 2, employers should:
   a. Draw a line through the expiration date written in Section 2;
   b. Write ''January 22, 2015'' above the previous date;
   c. Write ''TPS Ext.'' in the margin of Section 2; and
   d. Initial and date the correction in the margin of Section 2.

By January 22, 2015, when the automatic extension of EADs expires, employers must reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

If you are an employer who participates in E-Verify, you will receive a ''Work Authorization Documents Expiring'' case alert when a TPS beneficiary's EAD is about to expire. Usually, this message is an alert to complete Section 3 of the Employment Eligibility Verification (Form I–9) to reverify an employee's employment authorization. For existing employees with TPS-related EADs that have been automatically extended, employers should dismiss this alert by clicking the red ''X'' in the ''dismiss alert'' column and follow the instructions above explaining how to correct the Employment Eligibility Verification (Form I–9). By January 22, 2015, employment authorization must be reverified in Section 3. Employers should never use E-Verify for reverification.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This Notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth re-verification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at I–9Central@dhs.gov. Calls and emails are accepted in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process, employers may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Employer Hotline at 800–255–8155 (TTY for the hearing impaired is at 800–237–2515), which offers language interpretation in numerous languages, or email OSC at osccrt@usdoj.gov.

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email at *I–9Central@dhs.gov.* Calls are accepted in English, Spanish and many other languages. Employees or applicants may also call the U.S. Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) Worker Information Hotline at 800–255–7688 (TTY for the hearing impaired is at 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, or for information regarding discrimination related to Employment Eligibility Verification (Form I–9) and E-Verify. The OSC Worker Information Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the List of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee, or an acceptable List A, List B, or List C receipt described in the *Employment Eligibility Verification* (Form I–9) Instructions. Employers may not require extra or additional documentation beyond what is required for Employment Eligibility Verification (Form I–9) completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from Employment Eligibility Verification (Form I–9) differs from the Social Security Administration, DHS, or DOS records.

Employers may not terminate, suspend, delay training, withhold pay, lower pay or take any adverse action against an employee based on the employee's decision to contest a TNC or because the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). An employer that discriminates against an employee in the E-Verify process based on citizenship or immigration status, or based on national origin, may contact OSC's Worker Information Hotline at 800–255–7688 (TTY for the hearing impaired is at 800–237–2515). Additional information about proper nondiscriminatory Employment Eligibility Verification (Form I–9) and E-Verify procedures is available on the OSC Web site at *http://www.justice.gov/crt/about/osc/* and the USCIS Web site at *http://www.dhs.gov/E-verify*.

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

While Federal government agencies must follow the guidelines laid out by the Federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a Federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary and/or show you are authorized to work based on TPS. Examples are:

(1) Your unexpired EAD that has been automatically extended, or your EAD that has not expired;

(2) A copy of this **Federal Register** Notice if your EAD is automatically extended under this Notice;

(3) A copy of your Application for Temporary Protected Status Notice of Action (Form I–797) for this re-registration;

(4) A copy of your past or current Application for Temporary Protected Status Notice of Action (Form I–797), if you received one from USCIS; and/or

(5) If there is an automatic extension of work authorization, a copy of the fact sheet from the USCIS TPS Web site that provides information on the automatic extension.

Check with the government agency regarding which document(s) the agency will accept. You may also provide the agency with a copy of this **Federal Register** Notice.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) to verify the current immigration status of applicants for public benefits. If such an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification and you do not believe the response is correct, you may make an InfoPass appointment for an in-person interview at a local USCIS office. Detailed information on how to make corrections, make an appointment, or submit a written request can be found at the SAVE Web site at *http://www.uscis.gov/save,* then by choosing ''How to Correct Your Records'' from the menu on the right.

[FR Doc. 2014–04593 Filed 2–28–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Haitian Hemispheric Opportunity Through Partnership Encouragement Act of 2006

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Extension of an existing collection of information: 1651–0129.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (''Haiti HOPE Act''). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (78 FR 76851) on December 19, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 2, 2014 be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (''Haiti Hope Act'').

OMB Number: 1651–0129.

Abstract: Title V of the Tax Relief and Health Care Act of 2006 amended the Caribbean Basin Economic Recovery Act (CBERA 19 U.S.C. 2701–2707) and authorized the President to extend additional trade benefits to Haiti. This trade program, the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (''Haiti HOPE Act''), provides for duty-free treatment for certain apparel articles and certain wire harness automotive components from Haiti.

Those wishing to claim duty-free treatment under this program must prepare a declaration of compliance which identifies and details the costs of the beneficiary components of production and non-beneficiary components of production to show that the 50% value content requirement was satisfied. The information collected under the Haiti Hope Act is provided for in 19 CFR 10.848.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours. There is no change to the information being collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 12.

Estimated Number of Annual Responses per Respondent: 17.

Estimated Number of Total Annual Responses: 204.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 67.

Dated: February 26, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–04648 Filed 2–28–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Declaration of Owner and Declaration of Consignee when Entry is made by an Agent

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security

ACTION: 60-Day Notice and request for comments; Extension of an existing collection of information: 1651–0093.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration of Owner and Declaration of Consignee When Entry is made by an Agent (Forms 3347 and 3347A). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507).

DATES: Written comments should be received on or before May 2, 2014, to be assured of consideration.

ADDRESSES: Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Declaration of Owner and Declaration of Consignee When Entry is made by an Agent.

OMB Number: 1651–0093

Form Number: CBP Forms 3347 and 3347A

Abstract: CBP Form 3347, *Declaration of Owner,* is a declaration from the owner of imported merchandise stating that he/she agrees to pay additional or increased duties, therefore releasing the importer of record from paying such duties. This form must be filed within 90 days from the date of entry. CBP Form 3347 is provided for by 19 CFR 24.11 and 141.20.

When entry is made in a consignee's name by an agent who has knowledge of the facts and who is authorized under a proper power of attorney by that consignee, a declaration from the consignee on CBP Form 3347A, *Declaration of Consignee When Entry is Made by an Agent,* shall be filed with the entry summary. If this declaration is filed, then no bond to produce a declaration of the consignee is required. CBP Form 3347 is provided for by 19 CFR 141.19(b)(2).

CBP Forms 3347 and 3347A are authorized by 19 U.S.C. 1485(d) and are accessible at *http://www.cbp.gov/xp/cgov/toolbox/forms/.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to CBP Forms 3347 and 3347A.

Type of Review: Extension (without change)

Affected Public: Businesses

CBP Form 3347:

Estimated Number of Respondents: 900

Estimated Number of Responses per Respondent: 6

Estimated Total Annual Responses: 5,400

Estimated Time per Response: 15 minutes

Estimated Total Annual Burden Hours: 540

CBP Form 3347A:

Estimated Number of Respondents: 50

Estimated Number of Responses per Respondent: 6

Estimated Total Annual Responses: 300

Estimated Time per Response: 6 minutes

Estimated Total Annual Burden Hours: 30

Dated: February 26, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–04649 Filed 2–28–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: Importation Bond Structure

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: 30-Day Notice and request for comments; Extension of an existing collection of information: 1651–0050.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security 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: Importation Bond Structure. This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours. This document is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (78 FR 75576) on December 12, 2013, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10.

DATES: Written comments should be received on or before April 2, 2014 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importation Bond Structure.

OMB Number: 1651–0050.

Form Number: CBP Forms 301 and 5297.

Abstract: Bonds are used to assure that duties, taxes, charges, penalties, and reimbursable expenses owed to the Government are paid; to facilitate the movement of cargo and conveyances through CBP processing; and to provide legal recourse for the Government for noncompliance with laws and regulations. Each person who is required by law or regulation to post a bond in order to secure a Customs transaction must submit the bond on CBP Form 301 which is available at: *http://forms.cbp.gov/pdf/CBP_Form_301.pdf.*

Surety bonds are usually executed by an agent of the surety. The surety company grants authority to the agent via a Corporate Surety Power of Attorney, CBP Form 5297. This power is vested with CBP so that when a bond is filed, the validity of the authority of the agent executing the bond and the name of the surety can be verified to the surety's grant. CBP Form 5297 is available at: *http://forms.cbp.gov/pdf/CBP_Form_5297.pdf.* Bonds are required pursuant to 19 U.S.C.1608 and 1623; 22 U.S.C. 463; 19 CFR Part 113.

Current Actions: This submission is being made to extend the expiration date with no change to the burden hours or to CBP Forms 301 or 5297.

Type of Review: Extension (without change).

Affected Public: Businesses.

Form 301, Customs Bond

Estimated Number of Annual Respondents: 800,000.

Total Number of Estimated Annual Responses: 800,000.

Estimated time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 200,000.

Form 5297, Corporate Surety Power of Attorney

Estimated Number of Respondents: 500.

Total Number of Estimated Annual Responses: 500.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 125.

Dated: February 24, 2014.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2014–04651 Filed 2–28–14; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2014–N009; FXES1113080000–145–FF08E00000]

Endangered and Threatened Wildlife and Plants; Draft Recovery Plan for *Arctostaphylos Pallida* (Pallid Manzanita)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the Draft Recovery Plan for *Arctostaphylos pallida* (pallid manzanita) for public review and comment. The recovery plan includes recovery objectives and criteria, and specific actions necessary to achieve removal of the species from the Federal Lists of Endangered and Threatened Wildlife and Plants.

DATES: We must receive any comments on the draft recovery plan on or before June 2, 2014.

ADDRESSES: You may obtain a copy of the recovery plan from our Web site at *http://www.fws.gov/endangered/species/recovery-plans.html.* Alternatively, you may contact the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825 (telephone 916–414–6700).

FOR FURTHER INFORMATION CONTACT: Jennifer Norris, Field Supervisor, at the above street address or telephone number (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Recovery of endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of our endangered species program and the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). Recovery means improvement of the status of listed species to the point at which listing is no longer appropriate under the criteria specified in section 4(a)(1) of the Act. The Act requires the development of recovery plans for listed species, unless such a plan would not promote the conservation of a particular species.

We listed *Arctostaphylos pallida* throughout its entire range on April 22, 1998 (63 FR 19842). The species is endemic to the San Francisco East Bay, and currently consists of two naturally occurring populations and an out-planted population, totaling 1,353 mature plants. *Arctostaphylos pallida* requires frequent summertime fog, and, as a component of the maritime chaparral vegetation type, it occurs on relatively cool, moist, and stable sites in close proximity to the San Francisco Bay. It is highly shade intolerant and adapted to a particular fire regime. The species requires fire for natural seed germination; however, too frequent a fire regime, one that depletes the soil seed bank before enough seeds have become deeply buried enough in the soil to withstand fire, represents a significant threat to the species. Approximately one-third of all plants occur within the backyards of homeowners, and almost all individuals occur in close proximity to human-built structures. These plants represent an extreme wildfire hazard to human-built structures, and have been targeted for removal to reduce the threat of wildfire. Finally, an incurable and virulent nonnative pathogen, *Phytophthora cinnamomi,* has been identified as killing *A. pallida* plants at two locations.

Recovery Plan Goals

The purpose of a recovery plan is to provide a framework for the recovery of species so that protection under the Act is no longer necessary. A recovery plan includes scientific information about the species and provides criteria that enable us to gauge whether downlisting or delisting the species is warranted. Furthermore, recovery plans help guide our recovery efforts by describing actions we consider necessary for each species' conservation and by estimating time and costs for implementing needed recovery measures.

The ultimate goal of this recovery plan is to recover *Arctostaphylos pallida* so that it can be delisted. To meet the recovery goal, the following objectives have been identified:

1. Minimize the spread of *Phytophthora cinnamomi.*

2. Treat stands infected with *Phytophthora cinnamomi.*

3. Manage native and nonnative vegetation that shades *Arctostaphylos pallida.*

4. Expand existing stands.

5. Establish additional stands.

6. Ensure stands are protected from incompatible uses and incompatible wildfire fuels-reduction activities.

As *Arctostaphylos pallida* meets reclassification and recovery criteria, we will review its status and consider it for removal from the Federal Lists of Endangered and Threatened Wildlife and Plants.

Public Comments Solicited

We solicit written comments on the draft revised recovery plan described in this notice. All comments received by the date specified above will be considered in development of a final recovery plan for *Arctostaphylos pallida.* You may submit written comments and information by mail or in person to the Sacramento Fish and Wildlife Office at the above address (see **ADDRESSES**).

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We developed our recovery plan under the authority of section 4(f) of the Act, 16 U.S.C. 1533(f). We publish this notice under section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 25, 2014.

Alexandra Pitts,

Acting Regional Director, Pacific Southwest Region.

[FR Doc. 2014–04586 Filed 2–28–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L10200000 PH0000 LXSS006F0000, LLNV912; MO#4500062375]

Notice of Public Meetings: Mojave-Southern Great Basin Resource Advisory Council, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Mojave-Southern Great Basin Resource Advisory Council (RAC), will hold three meetings in Nevada in Fiscal Year 2014. The meetings are open to the public.

DATES AND TIMES: March 13, BLM Southern Nevada District Office, 4701 N. Torrey Pines Dr., Las Vegas, Nevada; July 17, BLM Southern Nevada District Office, 4701 N. Torrey Pines Dr., Las Vegas, Nevada; and Sept. 18, BLM Ely District Office, 702 North Industrial Way, Ely, Nevada. Meeting times will be published in local and regional media sources at least 14 days before each meeting. All meetings will include a public comment period.

FOR FURTHER INFORMATION CONTACT: Hillerie Patton, Public Affairs Specialist, Southern Nevada District Office, 4701 N. Torrey Pines Dr., Las Vegas, NV 89130, telephone: (702) 515–5046, email: hpatton@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Nevada. Topics for discussion at each meeting will include, but are not limited to:

- March 13 (Las Vegas)—Southern Nevada District Resource Management Plan and permitted recreation.
- July 17 (Las Vegas)—Battle Mountain District and Southern Nevada District resource management plans.
- September 18 (Ely)—Southern Nevada Public Land Management Act,

Drought and Wild Horses, and Nevada land transfer.

Managers' reports of field office activities will be given at each meeting. The Council may raise other topics at the meetings.

Final agendas will be posted on-line at the BLM Mojave-Southern Great Basin RAC Web site at http://www.blm.gov/nv/st/en/res/resource_advisory.html.

Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish to receive a copy of each agenda, may contact Hillerie Patton no later than 10 days prior to each meeting.

Erica Haspiel-Szlosek,

Chief, Office of Communications.

[FR Doc. 2014–04574 Filed 2–28–14; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC069000 L17110000.AL0000 14XL1109AF]

Notice of Public Meeting of the Carrizo Plain National Monument Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Carrizo Plain National Monument Advisory Council (MAC) will meet as indicated below.

DATES: The meeting will be held on Saturday, March 15, 2014, at the Carrisa Plains Elementary School, located approximately 2 miles northwest of Soda Lake Road on Highway 58. The meeting will begin at 10:00 a.m. and finish at 2:00 p.m. The meeting will focus on scoping for the Travel Management Plan. There will be a public comment period from 1:00 p.m. to 2:00 p.m. Lunch will be available for under $10.

FOR FURTHER INFORMATION CONTACT: The BLM, Johna Hurl, Monument Manager, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, CA 93308, (661) 391–6093, *jhurl@blm.gov* or John Kelley, Carrizo Program Support Technician, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, CA 93308, (661) 391–6088, *jtkelley@blm.gov.*

SUPPLEMENTARY INFORMATION: The ten-member MAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues associated with public land management in the Carrizo Plain National Monument in Central California. At this meeting, Monument staff will present the proposed Travel Management Plan for the Monument. This meeting is open to the public. Depending on the number of persons wishing to comment and the time available, the time allotted for individual oral comments may be limited. Individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations should contact the BLM as indicated above.

Dated: February 12, 2014.

Gabriel Garcia,

Field Manager, Bakersfield Field Office.

[FR Doc. 2014–04550 Filed 2–28–14; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14200000.BJ0000]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Survey; Colorado

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the intent to officially file the survey plats listed below and afford a proper period of time to protest this action prior to the plat filing. During this time, the plats will be available for review in the BLM Colorado State Office.

DATES: Unless there are protests of this action, the filing of the plats described in this notice will happen on April 2, 2014.

ADDRESSES: BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plat incorporating the field notes of the dependent resurvey in Township 3 South, Range 98 West, Sixth Principal Meridian, Colorado, was accepted December 23, 2013.

The plat, in 2 sheets, and field notes of the dependent resurvey and subdivision of sections 4 and 33 in Township 49 North, Range 1 West, New Mexico Principal Meridian, Colorado, were accepted on December 31, 2013.

The supplemental plat in Township 45 North, Range 11 West, New Mexico Principal Meridian, Colorado, was accepted on January 16, 2014.

The supplemental plat, in 2 sheets, of sections 9, 17, and 20, in Township 46 North, Range 10 West, New Mexico Principal Meridian, Colorado, was accepted on January 16, 2014.

The plat and field notes of the dependent resurvey and survey in Township 41 North, Range 10 East, New Mexico Principal Meridian, Colorado, were accepted on January 16, 2014.

The plat and field notes of the dependent resurvey and survey in Township 42 North, Range 10 East, New Mexico Principal Meridian, Colorado, were accepted on January 16, 2014.

The plat, in 9 sheets, of Amended Protraction Diagram No. 15 in unsurveyed: Township 11 South, Range 83 West, a portion of Township 11 South, Range 84 West, Township 11 South, Range 85 West, Township 12 South, Range 83 West, Township 12 South, Range 84 West, Township 12 South, Range 85 West, Township 12 South, Range 86 West, and a portion of Township 15 South, Range 83 West, Sixth Principal Meridian, Colorado, was accepted on January 28, 2014.

The plat, in 6 sheets, of Protraction Diagram No. 55 in unsurveyed portions of: Township 11 South, Range 82 West, Township 12 South, Range 82 West, Township 14 South, Range 82 West, Township 14 South, Range 83 West, and Township 15 South, Range 82 West, Sixth Principal Meridian, Colorado, was accepted on January 28, 2014.

Randy Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2014–04567 Filed 2–28–14; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[14XL1109AF; L12200000.PM0000.241E; LLWO250000]

Notice of Use Authorizations; Special Recreation Permits, Other than on Developed Recreation Sites; Adjustment in Fees

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) is adjusting certain special recreation permit fees for various recreation activities on BLM-administered public lands and related waters. The BLM is adjusting the minimum fee for commercial, competitive, and organized group activities or events.

FOR FURTHER INFORMATION CONTACT: David Ballenger, Division of Recreation and Visitor Services, 202–912–7642.

SUPPLEMENTARY INFORMATION: This notice establishes that effective on March 1, 2014, the special recreation permit minimum fee for commercial special recreation permits is $105 per year. The minimum fee for both competitive and organized group activities or events is $5 per person per day, and the minimum fee for an assigned site is $210 per permit. The BLM Director is authorized to periodically adjust fees by the regulations found at 43 CFR 2832.31(b). The previous fee schedule went into effect on March 1, 2011. Commercial and reserved site fees are rounded to the nearest $5. Competitive and group use fees are rounded to the nearest $1. Individual states also have the option of imposing application fees and/or establishing higher minimum fees for special recreation permits.

The next fee adjustment is scheduled for March 1, 2017.

The intended effect of the fee calculation process is to ensure that fees cover administrative costs of permit issuance, provide a fair return to the U.S. Government for use of the public lands, and approach free market value in certain cases. The BLM, in coordination with the U.S. Forest Service, automatically adjusts the minimum commercial, competitive, organized group and activity special recreation permit fees and minimum assigned site fee every 3 years. These fees are calculated and adjusted based on the change in the Implicit Price Deflator-Gross Domestic Product Index (IPD–GDP). The IPD–GDP is also available from the U.S. Department of Commerce, Bureau of Economic Analysis at the following Web site: *http://www.bea.gov/iTable/index_nipa.cfm.*

Authority: 43 U.S.C. 1740, 16 U.S.C. 6802, and 43 CFR 2932.32

Gregory Shoop,

Acting Assistant Director, Resources and Planning.

[FR Doc. 2014–04573 Filed 2–28–14; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1021 (Second Review)]

Malleable Iron Pipe Fittings From China; Institution of a five-year review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on malleable iron pipe fittings from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 2, 2014. Comments on the adequacy of responses may be filed with the Commission by May 14, 2014. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 12, 2003, the Department of Commerce issued an antidumping duty order on imports of malleable iron pipe fittings from China (68 FR 69376). Following the first five-year reviews by Commerce and the Commission, effective April 22, 2009, Commerce issued a continuation of the antidumping duty order on imports of malleable iron pipe fittings from China (74 FR 18349). The Commission is now conducting a second review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination and its expedited first five-year review determination, the Commission defined the *Domestic Like Product* as malleable iron pipe fittings, cast, other than grooved, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 15–5–310, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

and its expedited first five-year review determination, the Commission defined the *Domestic Like Product* as all producers of malleable cast iron pipe fittings, other than grooved.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 2, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov*. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information to Be Provided In Response to this Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2007.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2007, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: February 26, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–04606 Filed 2–28–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1014, 1016, and 1017 (Second Review)]

Polyvinyl Alcohol From China, Japan, and Korea; Institution of Five-Year Reviews Concerning the Antidumping Duty Orders on Polyvinyl Alcohol From China, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews

pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on polyvinyl alcohol from China, Japan, and Korea would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 2, 2014. Comments on the adequacy of responses may be filed with the Commission by May 14, 2014. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. On July 2, 2003, the Department of Commerce issued an antidumping duty order on imports of polyvinyl alcohol from Japan (68 FR 39518). On October 1, 2003, Commerce issued antidumping duty orders on imports of polyvinyl alcohol from China and Korea (68 FR 56620, 56621). Following first five-year reviews by Commerce and the Commission, effective April 13, 2009, Commerce issued a continuation of the antidumping duty orders on imports of polyvinyl alcohol from China, Japan, and Korea (74 FR 16834). The Commission is now conducting second reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China, Japan, and Korea.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations and its full first five-year review determinations, the Commission defined one *Domestic Like Product* encompassing all domestically produced polyvinyl alcohol meeting the specifications stated in Commerce's scope definition.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations and its full first five-year review determinations, the Commission defined the *Domestic Industry* as all domestic producers of polyvinyl alcohol.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–311, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 2, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov*. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided In Response To This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country*. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry*.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product*. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2007.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the

information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country*.

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* after 2007, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: February 26, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–04599 Filed 2–28–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1146–1147 (Review)]

1-Hydroxyethylidene-1, 1-Diphosphonic Acid (HEDP) From China and India; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on HEDP from China and India would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 2, 2014. Comments on the adequacy of responses may be filed with the Commission by May 14, 2014. For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On April 28, 2009, the Department of Commerce issued antidumping duty orders on imports of HEDP from China and India (74 FR 19197). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–309, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and India.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* consisting of all HEDP, coextensive with the Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product*, or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as producers of HEDP.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is April 28, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the reviews and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 2, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is May 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information to be Provided In Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of

the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country(ies),* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above

definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.
Issued: February 26, 2014.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–04600 Filed 2–28–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1145 (Review)]

Certain Steel Threaded Rod From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on certain steel threaded rod from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 2, 2014. Comments on the adequacy of responses may be filed with the Commission by May 14, 2014. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On April 14, 2009, the Department of Commerce issued an antidumping duty order on imports of certain steel threaded rod from China (74 FR 17154). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined a single *Domestic Like Product* coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined a single *Domestic Industry* consisting of all producers of the *Domestic Like Product.*

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 14, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–312, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 2, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s')

operations on that product during calendar year 2013 (report quantity data in pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: February 26, 2014.

By order of the Commission.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2014–04605 Filed 2–28–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1148 (Review)]

Frontseating Service Valves From China; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on frontseating service valves from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is April 2, 2014. Comments on the adequacy of responses may be filed with the Commission by May 14, 2014. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

DATES: *Effective Date:* March 3, 2014.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this review may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background. On April 28, 2009, the Department of Commerce issued an antidumping duty order on imports of frontseating service valves from China (74 FR 19196, as corrected on June 1, 2009 (74 FR 26204)). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions. The following definitions apply to this review:

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 14–5–308, expiration date June 30, 2014. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determination, the Commission defined a single *Domestic Like Product* coextensive with Commerce's scope and consisting of frontseating service valves, regardless of size, but not including backseating valves or ball valves.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined a single *Domestic Industry* consisting of all domestic producers of frontseating service valves, regardless of size, but not including producers of backseating valves or ball valves.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the *Order Date* is April 28, 2009.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list. Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Carol McCue Verratti, Deputy Agency Ethics Official, at 202–205–3088.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification. Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions. Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is April 2, 2014. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is May 14, 2014. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. Please be aware that the Commission's rules with respect to electronic filing have been amended. The amendments took effect on November 7, 2011. See 76 FR 61937 (Oct. 6, 2011) and the newly revised Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov.* Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information. Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided In Response To This Notice Of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,*

a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2013, except as noted (report quantity data in number of frontseating service valves and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in number of frontseating service valves and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2013 (report quantity data in number of frontseating service valves and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (i.e., the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (Optional) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions,

please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: February 26, 2014.

By order of the Commission.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2014–04714 Filed 2–28–14; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure

ACTION: Notice of Open Meeting

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 7–8, 2014

Time: 8:30 a.m. to 5:00 p.m.

ADDRESSES: U.S. Court of Appeals for the Fifth Circuit, 600 Camp Street, New Orleans, LA 70112.

FOR FURTHER INFORMATION CONTACT: Jonathan C. Rose, Secretary and Chief Rules Officer, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: February 25, 2014.

Jonathan C. Rose,

Secretary and Chief Rules Officer.

[FR Doc. 2014–04551 Filed 2–28–14; 8:45 am]

BILLING CODE 2210–55–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 14–023]

NASA Advisory Council; Science Committee; Astrophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Astrophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: March 26 and 27, 2014, 8:30 a.m. to 5:00 p.m., (both days) Local Time.

ADDRESSES: NASA Headquarters, Room 3W42, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Ann Delo, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0750, Fax (202) 358–2779, or *ann.b.delo@nasa.gov*.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will be available telephonically and by WebEx. Any interested person may call the USA toll free conference call number 888–469–2076, passcode 6717544, to participate in this meeting by telephone. Please note, the conference call number and password should be used March 26 and March 27, 2014. The WebEx link is *https://nasa.webex.com/*; the meeting number for March 26 is 994 808 873, password APS$March2014, and the meeting number for March 27 is 998 181 135, password is APSMarch27$. The agenda for the meeting includes the following topics:

—Astrophysics Program Update
—Astrophysics Missions Update
—Astrophysics Research and Analysis Program Update
—Update on Wide Field Infrared Survey Telescope and other Studies

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 working days prior to the meeting: Full name; gender; date/place of birth; citizenship; visa information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee; and home address to Ann Delo via email at *ann.b.delo@nasa.gov* or by fax at (202) 358–2779. U.S. citizens and Permanent Residents (green card holders) are requested to submit their name and affiliation 3 working days prior to the meeting to Ann Delo.

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2014–04587 Filed 2–28–14; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[Docket No. NRC–2013–0229]

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on November 8, 2013 (78 FR 67204).

1. *Type of submission, new, revision, or extension:* New.

2. *The title of the information collection:* NRC Form 749, ''Manual License Verification Report.''

3. *Current OMB approval number:* 3150–XXXX.

4. *The form number if applicable:* NRC 749.

5. *How often the collection is required:* On occasion. Licensees subject to Part 37 of Title 10 of the *Code of Federal Regulations* (10 CFR), ''Physical Protection of Byproduct Material'' license verification requirements must verify the legitimacy of the license with the issuing agency prior to transferring radioactive materials in quantities of concern.

6. *Who will be required or asked to report:* Licensees are required to complete license verification under the

circumstances noted in 3 above. A License Verification System (LVS) has been developed, providing an electronic method for fulfilling this requirement. In cases where a licensee is unable to use the LVS to perform verification, they will provide NRC Form 749 for manual license verification.

7. *An estimate of the number of annual responses:* 91.

8. *The estimated number of annual respondents:* 91.

9. *An estimate of the total number of hours needed annually to complete the requirement or request:* 9.1 hours.

10. *Abstract:* When a licensee is unable to use the License Verification System to perform their license verification prior to transfer, a manual process has been developed; in which licensees submit the NRC Form 749, ''Manual License Verification Report.'' The form provides the information necessary for the issuing agencies to perform the verification on behalf of the transferring licensee.

The public may examine and have copied for a fee publicly-available documents, including the final supporting statement, at the NRC's Public Document Room, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The OMB clearance requests are available at the NRC's Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/.*

The document will be available on the NRC's home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by April 2, 2014. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Danielle Y. Jones, Desk Officer, Office of Information and Regulatory Affairs (3150–XXXX), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be emailed to *Danielle_Y_Jones@omb.eop.gov* or submitted by telephone at 202–395–1741.

The Acting NRC Clearance Officer is Kristen Benney, telephone: 301–415–6355.

Dated at Rockville, Maryland, this 25th day of February, 2014.

For the Nuclear Regulatory Commission.

Kristen Benney,

Acting NRC Clearance Officer, Office of Information Services.

[FR Doc. 2014–04478 Filed 2–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–26; NRC–2012–0312]

Pacific Gas and Electric Company; Diablo Canyon Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending Materials License No. SNM–2511 for the Diablo Canyon (DC) independent spent fuel storage installation (ISFSI). Amendment No. 3 provides the following: (1) Changes the maximum allowable decay heat per storage location; (2) adds a new helium backfill pressure range for multipurpose canisters (MPCs) with heat loads less than or equal to 28.74kW, (3) clarifies that supplemental cooling was only applicable for unloading of high burnup fuel loaded in 2012 under the provisions of License Amendment No. 2, and (4) provides a maximum average yearly temperature of 65 °F as the basis for a loaded overpack in the cask transfer facility, or storage on the ISFSI pad, and a maximum temperature of 100 °F, averaged over a 3-day period, as the basis for transfer activities in the transfer cask to support revised thermal analyses.

ADDRESSES: Please refer to Docket ID: NRC–2012–0312 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID: NRC–2012–0312. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John Goshen, Office of Nuclear Material Safety and Safeguards, telephone: 301–287–9250, email: *John.Goshen@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated July 31, 2012, as supplemented March 14, May 23, and September 5, 2013, PG&E submitted license amendment request (LAR) 12–003 (ADAMS Accession No. ML122270603) to the NRC to amend Materials License No. SNM–2511 for the DC ISFSI in accordance with 10 CFR Part 72. PG&E's application requested that the ISFSI Technical Specifications (TS) be revised as follows:

1. Tables 2.1–7, 2.1–8, and 2.1–9 in TS 2.0, ''Approved Contents,'' are revised allowing up to a 28.74kW heat load for uniform loading and 25.572kW heat load for regionalized loading. This changes the maximum allowable decay heat per storage location, in watts, determined from Table 2.1–7 or 2.1–9 to be consistent with this proposed license amendment request. Table 2.1–8 is revised to delete the note that limits Zirlo clad fuel to a burnup of 45,000 MWD/MTU and replace the existing Note 3 with a note that refers to TS 2.3, ''Alternate MPC–32 Fuel Selection Criteria.''

2. TS 2.3, ''Alternate MPC–32 Fuel Selection Criteria,'' is revised to add reference to Table 2.1–9 as regionalized loading of high burn-up fuel (HBF).

3. TS 3.1.1, ''Multi-Purpose Canister (MPC),'' Surveillance Requirement (SR) 3.1.1.2 is revised to add a new helium backfill pressure range for MPCs with heat loads less than or equal to 28.74kW.

4. TS 3.1.4, ''Supplemental Cooling System,'' Applicability is changed to only be applicable for unloading of high burnup fuel loaded in 2012 under the provisions of License Amendment No. 2.

5. Addition of TS 4.1.3 Design Features Important to Thermal Analysis-

a. A maximum average yearly temperature of 65 °F is the basis for a loaded overpack in the cask transfer facility, or storage on the ISFSI pad.

b. A maximum temperature of 100 °F, averaged over a 3-day period, is the

basis for transfer activities in the transfer cask.

In accordance with 10 CFR 72.16, a Notice of Docketing and Opportunity to Request a hearing was published in the **Federal Register** on January 2, 2013 (78 FR 123). On February 11, 2014, the NRC approved and issued Amendment No.3 to Materials License No. SNM–2511 (ADAMS Accession No. ML14043A517), held by PG&E for the receipt, possession, transfer, and storage of spent fuel at the DC ISFSI. Amendment No. 3 was effective as of the date of issuance. Pursuant to 10 CFR 72.46(d), the NRC is providing notice of the action taken.

Amendment No. 3 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. As required by the Act and the NRC's rules and regulations in 10 CFR Chapter I, the NRC has made appropriate findings, which are set forth in the Amendment No. 3 safety evaluation report (SER) (ADAMS Accession No. ML14049A476). Also as described in the SER, the NRC determined that issuance of Amendment No. 3 meets the criteria specified in 10 CFR 51.22(c)(11) for a categorical exclusion. Thus, the preparation of an environmental assessment or an environmental impact statement is not required. On February 11, 2014, the California Energy Commission was informed of the NRC's action. The state had no comments.

II. Further information

The NRC has prepared an SER that documents the staff's review and evaluation of the amendment. In accordance with 10 CFR 2.390 of NRC's ''Rules of Practice,'' final NRC records and documents related to this action, including the application for amendment and supporting documentation, and the SER, are available electronically at the NRC's Electronic Reading Room, at: *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access NRC's ADAMS, which provides text and image files of NRC's public documents. The ADAMS Accession Numbers for the applicable documents are:

Document	Date	ADAMS Accession No.
License Amendment Request	July 31, 2012	ML122270603
Response to First Request for Additional Information	March 14, 2013	ML130860130
Response to Second Request for Additional Information	May 23, 2013	ML13175A184
Supplement to License Amendment Request	September 5, 2013	ML13259A274
License Amendment No. 3 Issuance Package	February 11, 2014	ML14043A517
SER	February 11, 2014	ML14049A476

Dated at Rockville, Maryland, this 19th day of February, 2014.

For the Nuclear Regulatory Commission.

Michele M. Sampson,

Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–04597 Filed 2–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2012–0001]

License Renewal Application for Callaway Plant, Unit 1

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplemental generic environmental impact statement; issuance, public meeting, and request for comment; correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on February 24, 2014 (79 FR 10200; FR Doc. 2014–03845). This action is necessary to correct an erroneous date for submission of comments.

FOR FURTHER INFORMATION CONTACT: Carmen Fells, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6337 or by email at *Carmen.Fells@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Correction

In Fr. Doc. 2014–03845, on page 10200, in the first column, in the **DATES**: section, the date is changed from ''April 10, 2014,'' to read ''April 7, 2014.'' This change is necessary in order to coincide with the comment expiration date noted in the U.S. Environmental Protection Agency's notice appearing in the **Federal Register** on February 21, 2014 (79 FR 9898; FR Doc. 2014–03726).

Dated at Rockville, Maryland, this 26th day of February, 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2014–04582 Filed 2–28–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting Notice

DATE: Weeks of March 3, 10, 17, 24, 31, April 7, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of March 3, 2014

Monday, March 3, 2014

1:30 p.m. Briefing on Human Reliability Program Activities and Analyses (Public Meeting); (Contact: Sean Peters, 301–251–7582).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Tuesday, March 4, 2014

9:00 a.m. Briefing on Security Issues (Closed—Ex. 1).

1:30 p.m. Briefing on Security Issues (Closed—Ex. 1).

Friday, March 7, 2014

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting); (Contact: Ed Hackett, 301–415–7360).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 10, 2014—Tentative

There are no meetings scheduled for the week of March 10, 2014.

Week of March 17, 2014—Tentative

Friday, March 21, 2014

1:00 p.m. Briefing on Waste Confidence Rulemaking (Public Meeting); (Contact: Andrew Imboden, 301–287–9220).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of March 24, 2014—Tentative

There are no meetings scheduled for the week of March 24, 2014.

Week of March 31, 2014—Tentative

There are no meetings scheduled for the week of March 31, 2014.

Week of April 7, 2014—Tentative

Thursday April 10, 2014

9:00 a.m. Meeting with Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) (Public Meeting) (Contact: Cindy Flannery, 301–415–0223).

This meeting will be webcast live at the Web address—*http://www.nrc.gov/*.

* * * * *

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call (recording)—301–415–1292. Contact person for more information: Rochelle Bavol, 301–415–1651.

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The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html*.

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The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov*.

Dated: February 27, 2014.

Rochelle Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–04764 Filed 2–27–14; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213;

Extension:

Rule 22d–1; OMB Control No. 3235–0310, SEC File No. 270–275.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''Paperwork Reduction Act'') (44 U.S.C. 3501–3520), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 22d–1 under the Investment Company Act of 1940 (the ''1940 Act'') (17 CFR 270.22d–1) provides registered investment companies that issue redeemable securities (''funds'') an exemption from section 22(d) of the 1940 Act (15 U.S.C. 80a–22(d)) to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met. The rule imposes an annual burden per series of a fund of approximately 15 minutes, so that the total annual burden for the approximately 4714 series of funds that might rely on the rule is estimated to be 1178.5 hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is based on communications with industry representatives, and is not derived from a comprehensive or even a representative survey or study. Responses will not be kept confidential. 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.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden(s) of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: February 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04557 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549;

Extension:

Rule 32a–4; OMB Control No. 3235–0530, SEC File No. 270–473.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 32(a)(2) of the Investment Company Act (15 U.S.C. 80a–31(a)(2)) requires that shareholders of a registered investment management or face-amount certificate company (collectively, ''funds'') ratify or reject the selection of the fund's independent public accountant. Rule 32a–4 (17 CFR 270.32a–4) exempts funds from this requirement if (i) the fund's board of directors establishes an audit committee composed solely of independent directors with responsibility for overseeing the fund's accounting and auditing processes,[1] (ii) the fund's board of directors adopts an audit committee charter setting forth the committee's structure, duties, powers and methods of operation, or sets forth such provisions in the fund's charter or

[1] Rule 32a–4(a).

bylaws,[2] and (iii) the fund maintains and preserves permanently in an easily accessible place a copy of the audit committee charter, and any modifications to the charter.[3]

Each fund that chooses to rely on rule 32a–4 incurs two collection of information burdens. The first, related to the board of directors' adoption of the audit committee charter, occurs once, when the committee is established. The second, related to the fund's maintenance and preservation of a copy of the charter in an easily accessible place, is an ongoing annual burden. The information collection requirement in rule 32a–4 enables the Commission to monitor the duties and responsibilities of an independent audit committee formed by a fund relying on the rule. Commission staff estimates that, on average, the board of directors takes 15 minutes to adopt the audit committee charter. Commission staff has estimated that with an average of 8 directors on the board,[4] total director time to adopt the charter is 2 hours. Combined with an estimated 1 hour of paralegal time to prepare the charter for board review, the staff estimates a total one-time collection of information burden of 3 hours for each fund. Once a board adopts an audit committee charter, the charter is preserved as part of the fund's records. Commission staff estimates that there is no annual hourly burden associated with preserving the charter in accordance with the rule.[5]

Because virtually all existing funds have now adopted audit committee charters, the annual one-time collection of information burden associated with adopting audit committee charters is limited to the burden incurred by newly established funds. Commission staff estimates that fund sponsors establish approximately 139 new funds each year,[6] and that all of these funds will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the annual one-time hour burden associated with adopting an audit committee charter under rule 32a–4 going forward will be approximately 417 hours.[7]

As noted above, all funds that rely on rule 32a–4 are subject to the ongoing collection of information requirement to preserve a copy of the charter in an easily accessible place. This ongoing requirement, which Commission staff estimated has no hourly burden, applies to new funds that adopt an audit committee charter each year and to all of the funds that have previously adopted the charter and continue to maintain it.

Funds incur internal costs associated with the one-time collection of information burden related to adopting an audit committee charter. As noted above, Commission staff estimates that it takes approximately 2 hours of aggregate directors' time at $4000 per hour, and 1 hour of paralegal time at $175 per hour,[8] to adopt an audit committee charter. Thus, Commission staff estimates a total internal cost of $8175 per fund to adopt the charter[9] and a total annual cost of $1,136,325.[10]

When funds adopt an audit committee charter in order to rely on rule 32a–4, they also may incur one-time costs related to hiring outside counsel to prepare the charter. Commission staff estimates that those costs average approximately $1500 per fund.[11] Commission staff understands that virtually all funds now rely on rule 32a–4 and have adopted audit committee charters, and thus estimates that the annual cost burden related to hiring outside legal counsel is limited to newly established funds.

As noted above, Commission staff estimates that approximately 139 new funds each year will adopt an audit committee charter in order to rely on rule 32a–4. Thus, Commission staff estimates that the ongoing annual cost burden associated with rule 32a–4 in the future will be approximately $208,500.[12]

These estimates of average costs are made solely for the purposes of the Paperwork Reduction Act. The estimates are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules.

The collections of information required by rule 32a–4 are necessary to obtain the benefits of the rule. The Commission is seeking OMB approval, because 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.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimates of the burdens of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burdens of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: February 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04558 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

[2] Rule 32a–4(b).

[3] Rule 32a–4(c).

[4] This estimate is based on staff discussions with a representative of an entity that surveys funds and calculates fund board statistics based on responses to its surveys.

[5] No hour burden related to such maintenance of the charter was identified by the funds the Commission staff surveyed.

[6] This estimate is based on the average number of notifications of registration on Form N–8A filed from January 2011 through December 2013.

[7] This estimate is based on the following calculation: (3.0 burden hours for establishing charter × 139 new funds = 417 burden hours).

[8] The $175/hour figure for a paralegal is from SIFMA's *Management & Professional Earnings in the Securities Industry 2012,* modified by Commission staff to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[9] This estimate is based on the following calculations: ($4000 per hour for directors' time × 2 hours = $8000); ($8000 + $175 = $8175).

[10] This estimate is based on the following calculations: ($8175 cost of hour burden per fund × 139 new funds = $1,136,325).

[11] Costs may vary based on the individual needs of each fund. However, based on the staff's conversations with outside counsel that prepare these charters, legal fees related to the preparation and adoption of an audit committee charter usually average $1500 or less. The Commission also understands that the ICI has prepared a model audit committee charter, which most legal professionals use when establishing audit committees, thereby reducing the costs associated with drafting a charter.

[12] This estimate is based on the following calculations: ($1500 cost of adopting charter × 139 newly established funds = $208,500).

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 8c–1. SEC File No. 270–455, OMB Control No. 3235–0514

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 8c–1 (17 CFR 240.8c–1), under the Securities Exchange Act of 1934 (''Exchange Act'') (15 U.S.C. 78a *et seq.*).

Rule 8c–1 generally prohibits a broker-dealer from using its customers' securities as collateral to finance its own trading, speculating, or underwriting transactions. More specifically, Rule 8c–1 states three main principles: (1) a broker-dealer is prohibited from commingling the securities of different customers as collateral for a loan without the consent of each customer; (2) a broker-dealer cannot commingle customers' securities with its own securities under the same pledge; and (3) a broker-dealer can only pledge its customers' securities to the extent that customers are in debt to the broker-dealer.[1]

The information required by Rule 8c–1 is necessary for the execution of the Commission's mandate under the Exchange Act to prevent broker-dealers from hypothecating or arranging for the hypothecation of any securities carried for the account of any customer under certain circumstances. In addition, the information required by Rule 8c–1 provides important investor protections.

There are approximately 82 respondents as of year-end 2012 (*i.e.,* broker-dealers that conducted business with the public, filed Part II of the FOCUS Report, did not claim an exemption from the Reserve Formula computation, and reported that they had a bank loan during at least one quarter of the current year). Each respondent makes an estimated 45 annual responses, for an aggregate total of 3,690 responses per year.[2] Each response takes approximately 0.5 hours to complete. Therefore, the total third-party reporting burden per year is 1,845 burden hours.[3]

The retention period for the recordkeeping requirement under Rule 8c–1 is three years. The recordkeeping requirement under Rule 8c–1 is mandatory to ensure that broker-dealers do not commingle their securities or use them to finance the broker-dealers' proprietary business. This rule does not involve the collection of confidential or personal identifiable information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site: www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 25, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04556 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

[1] *See* Exchange Act Release No. 2690 (November 15, 1940); Exchange Act Release No. 9428 (December 29, 1971).

[2] 82 respondents x 45 annual responses = 3,690 aggregate total of annual responses.

[3] 3,690 responses x 0.5 hours = 1,845 hours.

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30923; File No. 812–14127]

Legg Mason Partners Equity Trust, et al.; Notice of Application

February 24, 2014.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY: *Summary of Application:* Applicants request an order that would permit them to enter into, and amend, subadvisory agreements with Wholly-Owned Sub-Advisors (as defined below) and Non-Affiliated Sub-Advisors (as defined below) without shareholder approval. The order would also grant relief from certain disclosure requirements.

Applicants: Legg Mason Partners Equity Trust (''Equity Trust''), Legg Mason Partners Variable Equity Trust (''Variable Equity Trust,'' and, together with Equity Trust, the ''Trusts''), and Permal Asset Management LLC (''Permal'').

DATES: Filing Dates: The application was filed on March 1, 2013, and amended on September 24, 2013, and February 6, 2014.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 21, 2014, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Trusts, 620 Eighth Avenue, New York, NY 10018; Permal, 900 3rd Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Senior Counsel, at (202) 551–6812, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. Each Trust is organized as a Maryland statutory trust and is registered with the Commission as an open-end management investment company under the Act. The Equity Trust currently consists of 39 series of shares (each a ''Series'' and collectively, ''Series''), each with its own distinct investment objectives, policies and restrictions. The Variable Equity Trust consists of 14 Series, each with its own distinct investment objectives, policies and restrictions. The Trusts may offer additional Series that in the future may operate under the multi-manager structure described in the application and comply with the terms and conditions set forth therein.

2. Permal is a limited liability company organized under the laws of the State of Delaware and is registered

with the Commission as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'').

3. Applicants request an order to permit the Advisor,[1] subject to the approval of the applicable board of trustees (''Board''), including a majority of the members of the Board who are not ''interested persons'', as defined in section 2(a)(19) of the Act, of the Series or the Advisor (''Independent Board Members''), to, without obtaining shareholder approval: (i) select Sub-Advisors [2] to manage all or a portion of the assets of a Series and enter into Sub-Advisory Agreements (as defined below) with the Sub-Advisors, and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisors.[3] Applicants request that the relief apply to the applicants, as well as to any future Series and any other existing or future registered open-end management investment company or series thereof that is advised by an Advisor, uses the multi-manager structure described in the application, and complies with the terms and conditions of the application (each a ''Subadvised Series'').[4] The requested relief will not extend to any sub-advisor, other than a Wholly-Owned Sub-Advisor, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Series or of the Advisor, other than by reason of serving as sub-advisor to one or more of the Subadvised Series (''Affiliated Sub-Advisor'').

4. The Advisor serves or will serve as the investment adviser to each Subadvised Series pursuant to an investment advisory agreement with each Trust (''Investment Management Agreement''). The Investment Management Agreement for each Subadvised Series has been or will be approved by the applicable Board, including a majority of the Independent Board Members and by the shareholders of the applicable Series as required by sections 15(a) and 15(c) of the Act and rule 18f-2 thereunder. The terms of the Investment Management Agreements will comply with section 15(a) of the Act.

5. Under the terms of each Investment Management Agreement, the Advisor, subject to the supervision of the Board, will provide continuous investment management of the assets of the Subadvised Series. The Advisor will periodically review the Subadvised Series' investment policies and strategies and may recommend changes to the investment policies and strategies of the Subadvised Series for consideration by the Board. For its services to the Subadvised Series under the Investment Management Agreement, the Advisor will receive an investment management fee from the Subadvised Series based on the average net assets of the Subadvised Series. The terms of the Investment Management Agreement will permit the Advisor, subject to the approval of the applicable Board, including a majority of the Independent Board Members, and the shareholders of the Subadvised Series, to delegate portfolio management responsibilities of all or a portion of the assets of the Subadvised Series to one or more Sub-Advisors.

6. Pursuant to each Investment Management Agreement, the Advisor will have overall responsibility for the management and investment of the assets of each Subadvised Series. These responsibilities include recommending the removal or replacement of Sub-Advisors, determining the portion of that Subadvised Series' assets to be managed by any given Sub-Advisor and reallocating those assets as necessary from time to time.[5] In accordance with each Investment Management Agreement, the Advisor will supervise each Sub-Advisor in its performance of its duties.

7. The Advisor will enter into sub-advisory agreements with Sub-Advisors (''Sub-Advisory Agreements'') to provide investment management services to the Subadvised Series. The terms of each Sub-Advisory Agreement will comply fully with the requirements of section 15(a) of the Act and will be approved by the applicable Board, including a majority of the Independent Board Members, in accordance with sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. The Sub-Advisors, subject to the supervision of the Advisor and oversight of the applicable Board, will determine the securities and other instruments or investments to be purchased, sold, or entered into by a Subadvised Series' portfolio or a portion thereof, and will place orders with brokers or dealers that they select. The Advisor will compensate each Sub-Advisor out of the fee paid to the Advisor under the relevant Investment Management Agreement.

8. Each Subadvised Series will inform its shareholders of the hiring of a new Sub-Advisor pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) within 90 days after a new Sub-Advisor is hired for any Subadvised Series, that Subadvised Series will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement; [6] and (b) the

[1] The term ''Advisor'' includes (i) Permal and (ii) any entity controlling, controlled by or under common control with, the Permal or its successors. For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. Each Advisor will be registered with the Commission under the Advisers Act.

[2] As used herein, a ''Sub-Advisor'' is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the Advisor for that Series, or (2) a sister company of the Advisor for that Series that is an indirect or direct wholly-owned subsidiary of the same company that, indirectly or directly, wholly owns the Advisor (each of (1) and (2) a ''Wholly-Owned Sub-Advisor''), or (3) not an ''affiliated person'' (as defined in section 2(a)(3) of the Act) of the Series, the applicable Trust, or the Advisor, except to the extent that an affiliation arises solely because the Sub-Advisor serves as a Sub-Advisor to a Subadvised Series (each a ''Non-Affiliated Sub-Advisor). Each Sub-Advisor will be registered under Advisers Act or exempt from registration.

[3] Shareholder approval will continue to be required for any other Sub-Advisor change not otherwise permitted by rule or other action of the Commission or staff and material amendments to an existing Sub-Advisory Agreement with any sub-advisor other than a Non-Affiliated Sub-Advisor or a Wholly-Owned Sub-Advisor (all such changes referred to as ''Ineligible Sub-Advisor Changes'').

[4] All registered open-end investment companies that currently intend to rely on the requested order are named as applicants. All Series that currently are, or that currently intend to be, Subadvised Series are identified in the application. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained the application. The Series that currently intend to rely on the requested order, and to be Subadvised Series are Permal Alternative Select Fund (''Alternative Select Fund''), a Series of the Equity Trust, and Permal Alternative Select VIT Portfolio (''Alternative Select Portfolio''), a Series of Variable Equity Trust. The Alternative Select Portfolio is newly organized and the Board meeting at which the Advisor will be appointed as investment adviser has not yet occurred. If the name of any Subadvised Series contains the name of a Sub-Advisor, the name of the Advisor or a trademark or trade name that is owned by or publicly used to identify the Advisor, will precede the name of the Sub-Advisor.

[5] Although the Advisor will not normally make day-to-day investment decisions, it may manage all or a portion of a Subadvised Series.

[6] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a-16 under the Securities Exchange Act of 1934 (''Exchange Act''), and specifically will, among other things: (a) summarize the relevant information regarding the new Sub-Advisor; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Subadvised Series.

A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the Exchange Act for an information statement, except as modified by the order to permit Aggregate Fee Disclosure, as defined below. Multi-manager Information Statements will be filed with the Commission via the EDGAR system.

Subadvised Series will make the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. In the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisors provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Applicants state that the Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Sub-Advisory Agreements.

9. Applicants also request an order exempting the Subadvised Series from certain disclosure obligations that may require the applicants to disclose fees paid by the Advisor to each Sub-Advisor. Applicants seek relief to permit each Subadvised Series to disclose (as a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Advisor and any Wholly-Owned Sub-Advisors; (b) the aggregate fees paid to Non-Affiliated Sub-Advisors; and (c) the fee paid to each Affiliated Sub-Advisor (collectively, the ''Aggregate Fee Disclosure'').[7] An exemption is requested to permit the Series to include only the Aggregate Fee Disclosure. All other items required by Sections 6–07(2)(a), (b) and (c) of Regulation S–X will be disclosed.

Applicants' Legal Analysis

1. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company ''except pursuant to a written contract, which contract, whether with such registered company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company.'' Rule 18f–2 under the Act states that any ''matter required to be submitted . . . to the holders of the outstanding voting securities of a series company shall not be deemed to have been effectively acted upon unless approved by the holders of a majority of the outstanding voting securities of each class or series of stock affected by such matter.'' Further, rule 18(f)–2(c)(1) under the Act provides that a vote to approve an investment advisory contract required by section 15(a) of the Act ''shall be deemed to be effectively acted upon with respect to any class or series of securities of such [registered investment] company if a majority of the outstanding voting securities of such class or series vote for the approval of such matter.''

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires a registered investment company to disclose in its statement of additional information the method of computing the ''advisory fee payable'' by the investment company, including the total dollar amounts that the investment company ''paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years.''

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Exchange Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fee,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b), and (c) of Regulation S–X require a registered investment company to include in its financial statement information about the investment advisory fees.

5. Section 6(c) of the Act provides that the Commission by order upon application may conditionally or unconditionally exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Advisor, subject to review and approval of the applicable Board, to select the Sub-Advisors who are in the best position to achieve the Subadvised Series' investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisors is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants believe that permitting the Advisor to perform the duties for which the shareholders of the Subadvised Series are paying the Advisor—the selection, supervision and evaluation of the Sub-Advisors—without incurring unnecessary delays or expenses is appropriate in the interest of the Subadvised Series' shareholders and will allow such Subadvised Series to operate more efficiently. Applicants state that each Investment Management Agreement will continue to be fully subject to section 15(a) of the Act and rule 18f–2 under the Act and approved by the applicable Board, including a majority of the Independent Board Members, in the manner required by sections 15(a) and 15(c) of the Act. Applicants are not seeking an exemption with respect to the Investment Management Agreements.

7. Applicants assert that disclosure of the individual fees that the Advisor would pay to the Sub-Advisors of Subadvised Series that operate under the multi-manager structure described in the application would not serve any meaningful purpose. Applicants contend that the primary reasons for requiring disclosure of individual fees paid to Sub-Advisors are to inform shareholders of expenses to be charged by a particular Subadvised Series and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the advisory fee paid to the Advisor will be fully disclosed and, therefore, shareholders will know what the Subadvised Series' fees and expenses are and will be able to compare the advisory fees a Subadvised Series is charged to those of other investment companies. Applicants assert that the requested disclosure relief would benefit shareholders of the Subadvised Series because it would improve the Advisor's ability to negotiate the fees paid to Sub-Advisors. Applicants state that the Advisor may be able to negotiate rates that are below a Sub-Advisor's ''posted'' amounts if the Advisor is not required to disclose the

[7] Applicants will only comply with conditions 8, 9, and 12 if they rely on the relief that would allow them to provide Aggregate Fee Disclosure.

Sub-Advisors' fees to the public. Applicants submit that the relief requested to use Aggregate Fee Disclosure will encourage Sub-Advisors to negotiate lower subadvisory fees with the Advisor if the lower fees are not required to be made public.

8. For the reasons discussed above, Applicants submit that the requested relief meets the standards for relief under section 6(c) of the Act. Applicants state that the operation of the Subadvised Series in the manner described in the application must be approved by shareholders of a Subadvised Series before that Subadvised Series may rely on the requested relief. In addition, Applicants state that the proposed conditions to the requested relief are designed to address any potential conflicts of interest, including any posed by the use of Wholly-owned Sub-Advisors, and provide that shareholders are informed when new Sub-Advisors are hired. Applicants assert that conditions 6, 7, 10 and 11 are designed to provide the applicable Board with sufficient independence and the resources and information it needs to monitor and address any conflicts of interest with affiliated person of the Advisor, including Wholly-Owned Sub-Advisors. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Subadvised Series may rely on the order requested in the application, the operation of the Subadvised Series in the manner described in the application, including the hiring of Wholly-Owned Sub-Advisors, will be approved by a majority of the Subadvised Series' outstanding voting securities as defined in the Act, or, in the case of a new Subadvised Series whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder before offering the Subadvised Series' shares to the public.

2. The prospectus for each Subadvised Series will disclose the existence, substance, and effect of any order granted pursuant to the application. Each Subadvised Series will hold itself out to the public as employing the multi-manager structure described in the application. Each prospectus will prominently disclose that the Advisor has the ultimate responsibility, subject to oversight by the applicable Board, to oversee the Sub-Advisors and recommend their hiring, termination and replacement.

3. The Advisor will provide general management services to a Subadvised Series, including overall supervisory responsibility for the general management and investment of the Subadvised Series' assets. Subject to review and approval of the applicable Board, the Advisor will (a) set a Subadvised Series' overall investment strategies, (b) evaluate, select, and recommend Sub-Advisors to manage all or a portion of a Subadvised Series' assets, and (c) implement procedures reasonably designed to ensure that Sub-Advisors comply with a Subadvised Series' investment objective, policies and restrictions. Subject to review by the applicable Board, the Advisor will (a) when appropriate, allocate and reallocate a Subadvised Series' assets among multiple Sub-Advisors; and (b) monitor and evaluate the performance of Sub-Advisors.

4. A Subadvised Series will not make any Ineligible Sub-Advisor Changes without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Subadvised Series.

5. A Subadvised Series will inform shareholders of the hiring of a new Sub-Advisor within 90 days after the hiring of a new Sub-Advisor pursuant to the Modified Notice and Access Procedures.

6. At all times, at least a majority of the applicable Board will be Independent Board Members, and the selection and nomination of new or additional Independent Board Members will be placed within the discretion of the then-existing Independent Board Members.

7. Independent Legal Counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Board Members. The selection of such counsel will be within the discretion of the then-existing Independent Board Members.

8. The Advisor will provide the applicable Board, no less frequently than quarterly, with information about the profitability of the Advisor on a per Subadvised Series basis. The information will reflect the impact on profitability of the hiring or termination of any sub-advisor during the applicable quarter.

9. Whenever a sub-advisor is hired or terminated, the Advisor will provide the applicable Board with information showing the expected impact on the profitability of the Advisor.

10. Whenever a sub-advisor change is proposed for a Subadvised Series with an Affiliated Sub-Advisor or a Wholly-Owned Sub-Advisor, the applicable Board, including a majority of the Independent Board Members, will make a separate finding, reflected in the applicable Board minutes, that such change is in the best interests of the Subadvised Series and its shareholders and does not involve a conflict of interest from which the Advisor or the Affiliated Sub-Advisor or Wholly-Owned Sub-Advisor derives an inappropriate advantage.

11. No Board member or officer of a Subadvised Series, or partner, director, manager, or officer of the Advisor, will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Sub-Advisor, except for (a) ownership of interests in the Advisor or any entity, except a Wholly-Owned Sub-Advisor, that controls, is controlled by, or is under common control with the Advisor, or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Sub-Advisor or an entity that controls, is controlled by, or is under common control with a Sub-Advisor.

12. Each Subadvised Series will disclose the Aggregate Fee Disclosure in its registration statement.

13. In the event the Commission adopts a rule under the Act providing substantially similar relief to that requested in the application, the requested order will expire on the effective date of that rule.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04555 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71614; File No. SR–ISEGemini-2014–10]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Schedule of Fees

February 25, 2014.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

(''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on February 10, 2014, ISE Gemini, LLC (the ''Exchange'' or ''ISE Gemini'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE Gemini is proposing to amend its Schedule of Fees to adopt subscription fees for its market data offerings. The text of the proposed rule change is available on the Exchange's Internet Web site at http://www.ise.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 aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule filing is to amend the Schedule of Fees to adopt subscription fees for three ISE Gemini market data offerings: the ISE Gemini order feed (''Order Feed''), the ISE Gemini top quote feed (''Top Quote Feed''), and the ISE Gemini real-time depth of market data feed (''Depth Feed''), which were established by an immediately effective rule change filed on December 5, 2013.[3] Each of these market data offerings is presently available without charge, and going forward will be made available to both members and non-members, and to both professional and non-professional subscribers, on a subscription basis as described in more detail below.[4]

Order Feed

The Order Feed provides real-time updates to subscribers every time a new limit order that is not immediately executable at the BBO is placed on the ISE Gemini order book. The Order Feed also announces the commencement of auctions including Flash, Facilitation, Solicitation, Block Order and Price Improvement Mechanisms, as well as Directed Orders, but does not include Immediate or Cancel (''IOC'') or Fill or Kill (''FOK'') orders, quotes, or any non-displayed interest. The information included on the Order Feed includes auction type, order side (*i.e.,* buy/sell), order price, order size, and a market participant (*e.g.,* priority customer) indicator, as well as details for each instrument series, including the symbols (series and underlying security), put or call indicator, the expiration date, and the strike price of the series. While the Options Price Reporting Authority (''OPRA'') feed, as well as the Top Quote and Depth Feeds each provide aggregated order and quote information, the Order Feed provides each individual limit order, not including quote traffic, resulting in lower bandwidth usage and less data for subscribers to process.

The Exchange proposes to charge distributors $500 per month for subscriptions to the Order Feed and will not charge distributors a monthly fee per controlled device as long the feed is for internal use only.[5] For subscribers that redistribute the Order Feed externally, or redistribute the Order Feed internally and externally, the Exchange proposes to charge each distributor an additional fee of $5 per month per controlled device with a combined maximum fee capped at $625 per month. For example, a firm that subscribes to the Order Feed and then redistributes it via controlled device to 10 clients will pay $550 per month ($500 for the feed and $50 for the controlled devices ($5 × 10)). If that same firm redistributes the data via controlled device to 50 clients, the fee for that firm will be capped at $625 per month, resulting in a savings of $125.[6]

Top Quote & Depth Feeds

The Top Quote and Depth Feeds are each real-time market data feeds that aggregate non-marketable, displayed quotes and orders on the Exchange on both the bid and offer side of the market. The Top Quote Feed provides aggregate quotes and orders at the top price level on the Exchange, and provides subscribers with a consolidated view of tradable prices at the BBO or ''top of book.'' The Depth Feed, on the other hand, provides aggregate quotes and orders at the top five price levels on the Exchange, and provides subscribers with a consolidated view of tradable prices beyond the BBO, showing additional liquidity and enhancing transparency for ISE Gemini traded options. The data provided for each instrument includes the symbols (series and underlying security), put or call indicator, expiration date, the strike price of the series, and trading status. In addition, subscribers are provided with total quantity, customer quantity (if present), price, and side (i.e., bid/ask). This information is provided for the top price level on the Top Quote Feed, and for each of the five indicated price levels on the Depth Feed.

The Exchange proposes to charge distributors $1,000 per month for subscriptions to the Top Quote Feed, which will allow both internal use and external distribution to professional or non-professional subscribers.[7] In addition, the Exchange proposes to charge each distributor a fee of $5 per month per controlled device for professional subscribers,[8] with a combined maximum fee capped at $1,250 per month for internal use or $1,500 per month for external redistribution or for internal and external redistribution. There will be no monthly controlled device fees applicable to non-professional subscribers. Customers who also subscribe to the Depth Feed will not pay a separate fee for the Top Quote Feed, as the Top Quote Feed is embedded in the Depth Feed.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* Securities Exchange Act Release No. 71087 (December 5, 2013) 78 FR 77545 (December 23, 2013) (SR-Topaz-2013–17).

[4] *See id.*

[5] A distributor is any firm that receives one of the market data feeds directly from ISE Gemini or indirectly through a redistributor and then distributes it either internally or externally. A redistributor includes market data vendors and connectivity providers such as extranets and private network providers.

[6] Fee caps described below for the Top Quote and Depth Feeds operate in the same manner as described here with respect to the Order Feed.

[7] Firms that redistribute the Top Quote Feed via controlled device to both professional and non-professional subscriber clients will only pay a single $1,000 per month fee plus the applicable controlled device fees for professional subscribers as described below.

[8] A controlled device is any device that a distributor permits to access the information in an ISE Gemini market data feed.

The Exchange proposes to charge distributors $1,500 per month for subscriptions to the Depth Feed, which will allow both internal use and external distribution to professional or non-professional subscribers.[9] Each distributor will also be charged $10 per month per controlled device for professional subscribers, with a combined maximum fee capped at $2,000 per month for internal use or $2,500 per month for external redistribution, and $1 per month per controlled device for non-professional subscribers, with a combined maximum fee capped at $2,500 per month.

Multi-Product Subscription Discount

In order to encourage subscriptions to multiple market data feeds, the Exchange proposes to adopt a multi-product subscription discount. Subscription fees will be discounted by 10% for customers who subscribe to two of these data feeds. As customers who subscribe to the Depth Feed and Top Quote Feed will only pay fees for the Depth Feed, such subscription counts as one feed for the purpose of the discount.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(4) of the Act,[11] in particular, in that it provides for an equitable allocation of reasonable fees and other charges among Exchange Members and other persons using its facilities.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act,[12] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed fees are the same for all similarly-situated market participants, and therefore do not unreasonably discriminate among market participants.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[13]

By removing ''unnecessary regulatory restrictions'' on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold to broker-dealers at all, it follows that the price at which such data is sold should be set by the market as well.

On July 21, 2010, President Barak Obama signed into law H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act''), which amended Section 19 of the Act. Among other things, Section 916 of the Dodd-Frank Act amended paragraph (A) of Section 19(b)(3) of the Act by inserting the phrase ''on any person, whether or not the person is a member of the self-regulatory organization'' after ''due, fee or other charge imposed by the self-regulatory organization.'' As a result, all SRO rule proposals establishing or changing dues, fees, or other charges are immediately effective upon filing regardless of whether such dues, fees, or other charges are imposed on members of the SRO, non-members, or both. Section 916 further amended paragraph (C) of Section 19(b)(3) of the Act to read, in pertinent part, ''At any time within the 60-day period beginning on the date of filing of such a proposed rule change in accordance with the provisions of paragraph (1) [of Section 19(b)], the Commission summarily may temporarily suspend the change in the rules of the self-regulatory organization made thereby, 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 this title. If the Commission takes such action, the Commission shall institute proceedings under paragraph (2)(B) [of Section 19(b)] to determine whether the proposed rule should be approved or disapproved.''

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010), although reviewing a Commission decision made prior to the effective date of the Dodd-Frank Act, upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.'''[14]

The court's conclusions about Congressional intent are therefore reinforced by the Dodd-Frank Act amendments, which create a presumption that exchange fees, including market data fees, may take effect immediately, without prior Commission approval, and that the Commission should take action to suspend a fee change and institute a proceeding to determine whether the fee change should be approved or disapproved only where the Commission has concerns that the change may not be consistent with the Act.

The Exchange believes that the proposed fees for the ISE Gemini market data offerings are consistent with the requirements of the Act because competition provides an effective constraint on the market data fees that the Exchange has the ability and the incentive to charge. ISE Gemini has a compelling need to attract order flow from market participants in order to maintain its share of trading volume. This compelling need to attract order flow imposes significant pressure on the Exchange to act reasonably in setting the fees for its market data offerings, particularly given that the market participants that will pay such fees often will be the same market participants from whom the Exchange must attract order flow. These market participants include broker-dealers that control the handling of a large volume of customer and proprietary order flow. Given the portability of order flow from one exchange to another, any exchange that sought to charge unreasonably high market data fees would risk alienating many of the same customers on whose

[9] Firms that redistribute the Depth Feed via controlled device to both professional and non-professional subscriber clients will only pay a single $1,500 per month fee plus the applicable controlled device fees for each as described below.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f(b)(8).

[13] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[14] *NetCoalition,* at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323).

orders it depends for competitive survival. ISE Gemini currently competes with 11 other options exchanges for order flow.

The Exchange is constrained in pricing its market data offerings by the availability to market participants of alternatives to purchasing these products. The Exchange must consider the extent to which market participants would choose one or more alternatives instead of purchasing the Exchange's data.

For the reasons cited above, the Exchange believes that the proposed fees for the ISE Gemini data feeds are equitable, fair, reasonable and not unreasonably discriminatory. The Exchange further believes that the continued availability of each of the ISE Gemini data feeds enhances transparency, fosters competition among orders and markets, and enables buyers and sellers to obtain better prices. In addition, the Exchange believes that no substantial countervailing basis exists to support a finding that the proposed terms and fees for these products fail to meet the requirements of the Act. Moreover, the Exchange notes that the proposed fees are lower than fees currently charged by ISE Gemini's sister exchange, the International Securities Exchange, LLC (''ISE''), which offers its own market data feeds that provide comparable information to that provided by the ISE Gemini order feeds.[15]

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[16] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Notwithstanding its determination that the Commission may rely upon competition to establish fair and equitably allocated fees for market data, the NetCoalition court found that the Commission had not, in that case, compiled a record that adequately supported its conclusion that the market for the data at issue in the case was competitive. The Exchange believes that a record may readily be established to demonstrate the competitive nature of the market in question.

For the reasons discussed above, the Exchange believes that the Dodd-Frank Act amendments to Section 19 materially alter the scope of the Commission's review of future market data filings, by creating a presumption that all fees may take effect immediately, without prior analysis by the Commission of the competitive environment. Even in the absence of this important statutory change, however, the Exchange believes that a record may readily be established to demonstrate the competitive nature of the market in question.

There is intense competition between trading platforms that provide transaction execution and routing services and proprietary data products. Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs. The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price and distribution of its data products. Without the prospect of a taking order seeing and reacting to a posted order on a particular platform, the posting of the order would accomplish little. Without trade executions, exchange data products cannot exist. Data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, an exchange's customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A broker-dealer will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the broker-dealer chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it.

Moreover, as a broker-dealer chooses to direct fewer orders to a particular exchange, the value of the product to that broker-dealer decrease, for two reasons. First, the product will contain less information, because executions of the broker-dealer's orders will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that broker-dealer because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the broker-dealer is directing orders will become correspondingly more valuable. Thus, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' [17] However, the existence of fierce competition for order flow implies a high degree of price sensitivity on the part of broker-dealers with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A broker-dealer that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. Similarly, if a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected broker-dealers will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but

[15] *See* ISE Schedule of Fees, Section X, Market Data.

[16] 15 U.S.C. 78f(b)(8).

[17] *NetCoalition,* at 24.

different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platform may choose to pay rebates to attract orders, charge relatively low prices for market information (or provide information free of charge) and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market information, and setting relatively low prices for accessing posted liquidity. In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering.

The market for market data products is competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market.

Broker-dealers currently have numerous alternative venues for their order flow, including numerous self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (''TRFs'') compete to attract internalized transaction reports. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products. The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple broker-dealers' production of proprietary data products. The potential sources of proprietary products are virtually limitless.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing proprietary book data on the Internet. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace. Market data vendors provide another form of price discipline for proprietary data products because they control the primary means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail broker-dealers, such as Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: They can simply refuse to purchase any proprietary data product that fails to provide sufficient value. The Exchange and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[18] and subparagraph (f)(2) of Rule 19b-4 thereunder,[19] because it establishes a due, fee, or other charge imposed by ISE Gemini.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISEGemini-2014–10 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–ISEGemini-2014–10. 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

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 17 CFR 240.19b-4(f)(2).

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-ISEGemini-2014–10 and should be submitted on or before March 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04554 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71613; File No. SR–NYSEMKT–2014–06]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Section 17, Which Are Rules Applicable to Securities Known as Fixed Return Options, To Reflect a Name Change to Binary Return Derivatives, a Change to the Calculation of the Settlement Price, Updating Rule References, Adding New Text for ByRDs Series Available for Trading, Amending the Quoting and Trading Increment Applicable to ByRDs, and Adding a New Paragraph 8 to Rule 975NY(a) and Amending Rule 975NY(b)(1) To Address Obvious Errors in ByRDs

February 25, 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 February 14, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 17, which are rules applicable to securities known as Fixed Return Options, to reflect a name change to Binary Return Derivatives (''ByRDs''), a change to the calculation of the Settlement Price, updating rule references, adding new text for ByRDs series available for trading, amending the quoting and trading increment applicable to ByRDs, and adding a new paragraph 8 to Rule 975NY(a) and amending Rule 975NY(b)(1) to address Obvious Errors in ByRDs. 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 is proposing to amend Section 17, which are rules applicable to securities currently known as Fixed Return Options, to reflect a name change to ByRDs, a change to the calculation of the Settlement Price, updating rule references, adding new text for ByRDs series available for trading, amending the quoting and trading increment applicable to ByRDs, and adding a new paragraph 8 to Rule 975NY(a) and amending Rule 975NY(b)(1) to address Obvious Errors in ByRDs.

Overview

In 2007, the Exchange received approval to trade a type of binary option referred to as Fixed Return Options.[4] In March 2009, when the Exchange migrated to a new trading system as part of its integration with NYSE Euronext, because the new trading system was not optimized to accommodate the trading of Fixed Return Options, the Exchange restricted the opening of new series of Fixed Return Options and limited transactions to closing only.[5] Subsequently, all open interest in Fixed Return Options was either closed or expired and the contracts became dormant.[6] Since first migrating over in 2009, the Exchange has regularly enhanced its systems in efforts to support new products and meet business demands. The Exchange's systems now have the necessary functionality and capacity to support the trading of ByRDs contracts.

The Exchange is now in a position to re-launch these securities and is proposing to update its rules to reflect the re-branding of Fixed Return Options (''FRO'') as Binary Return Derivatives, also referred to as ByRDs. The Exchange also proposes to update various rule cites to reflect the adoption of Section 900NY, which are the rules that govern trading of options contracts at the Exchange, and which replaced the rules in place prior to March 2009 that previously governed the trading of Fixed Return Options, and delete the reference to the Constitution, which no longer exists.[7] Additionally, based on its experience from having trading Fixed Return Options and based on participant feedback, the Exchange is proposing to make changes to the manner in which the Settlement Price is calculated to ensure either the Finish High or Finish Low ByRDs contract pays off at expiration; adding text to clarify permissible strike price intervals and expiration series for ByRDs; adding text to specify the minimum price variation (''MPV'') applicable to quoting and trading in ByRDs; and adding new text to Rule 975NY to address Obvious Error transactions in ByRDs. The Exchange is also proposing non-substantive technical changes to certain rules associated with the trading of ByRDs.

[20] 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] *See* Securities Exchange Act Release No. 56251 (August 14, 2007), 72 FR 46523 (August 20, 2007) (Approval Order for SR-Amex-2004–27, as amended).

[5] *See* Information Circular #08–0210 *http://www.amex.com/amextrader/dailylist/data/options/infoCir/2008/ic080210.pdf.*

[6] *See* Information Circular #09–0024 *http://www.nyse.com/pdfs/ic090024.pdf.*

[7] *See* Securities Exchange Act Release No. 59472 (February 27, 2009) 74 FR 9843 (March 6, 2009), (Approval Order for SR–NYSEALTR–2008–14 as amended); *See also* Securities Exchange Act Release No. 59454 (March 31, 2009) 74 FR 15802 (April 7, 2009) (Notice of Filing and Immediate Effectiveness of SR–NYSEALTR–2009–17).

Renaming and Renumbering of Existing Rules

The Exchange proposes to re-title existing Section 17, Fixed Return Options, (and the rules therein), as Section 17, Binary Return Derivatives (ByRDs) so as to be consistent with the proposed new name of the product and make it easier for Exchange participants to identify the rules applicable to the trading of ByRDs. Similarly, the Exchange proposes to replace the terms ''Fixed Return Option'' or ''FRO'' in the existing rule text with the terms Binary Return Derivatives, or ByRDs. Other proposed changes to the rules within Section 17 are described in more detail below.

The Exchange is proposing to add clarifying text to existing Rule 900FRO, which is being amended as Rule 900ByRDs, to make clear that unless otherwise specified in Section 17, the Section 900NY series of rules is applicable to the trading of ByRDs. ByRDs options contracts will be available for both electronic and floor based trading.

The Exchange is proposing minor changes to clarify existing Rule 901FRO, which is being amended as Rule 901ByRDs, to specify that ByRDs contracts shall be designated by the expiration date (day, month and year) strike price, exercise settlement and the underlying security when ByRDs series are listed for trading. Existing rule text only requires specifying expiration month and year. However, because the Exchange now lists and trades Short Term Option Series and Quarterly Option Series, which may have an expiration date that is not a month or year, the Exchange believes that the rule text for ByRDs should specify expiration date as well.

The Exchange is proposing to amend Rule 462(d).10 by updating references to Fixed Return Options and/or FRO and rebranding them as Binary Return Derivative and/or ByRDs. These prosed [sic] revisions are technical in nature and do not in any way make substantive changes to Rule 462.

Series of ByRDs Open for Trading

The Exchange is proposing to amend Rule 903FRO-Series of FROs Open for Trading in its entirety and rename it as Rule 903ByRDs—Series of ByRDs Open for Trading. Presently, the rule simply cites to Rule 903, in order to describe which series may be opened for trading for Fixed Return Options. The Exchange is proposing to delete that reference and adopt new paragraphs (a) (b) and (c) to propose Rule 903ByRDs to specify which series of ByRDs option contract may be opened for trading by the Exchange and the permitted strike price intervals for ByRDs.

Proposed paragraph (a) specifies that the Exchange shall open for trading a minimum of one expiration month for each class of ByRDs options listed, except for Consecutive Week Expiration Series, which are described in proposed paragraph (b). Consecution [sic] Week Expiration Series are expiration series that will expire at the end of the week, normally a Friday, with consecutive week expirations covering the next five (5) calendar weeks. New expiration week series will be added for trading on Thursday each week, unless Friday is an Exchange holiday in which case new expiration series would be added for trading on Wednesday. Based on feedback from participants who have expressed a desire to see ByRDs listed with generally shorter expirations, as opposed to utilizing the cycle month series, the Exchange believes it is appropriate to permit the listing of ByRDs with five consecutive weeks of expirations so as to maximize hedging opportunities surrounding near-term events like corporate actions, news releases, corporate earnings and the like.

The Exchange is proposing new paragraph (c) to specify that the strike interval for ByRDs shall be $1 for strike prices between $3 and $200 and $5 for strike prices above $200. The proposed rule further specifies that at the time of listing, strike prices may not be listed more than 30% away from the price of the underlying security. The Exchange notes that this is more conservative than the 50% permitted under the Options Listing Procedures Plan (''OLPP'')[8] for strike prices on securities trading over $20 in price generally, and considerably more conservative than what the OLPP permits for securities trading below $20 where strike prices within 100% of the underlying security price may be added. As further proposed, the Exchange may list additional series if the furthest out of the money strike is less than 10% out of the money. At such time, the Exchange would be able to list additional series that are not more than 30% away from the price of the underlying security.

The Exchange believes that the proposed rule on when the Exchange may list ByRDs options strikes the right balance between offering investors the maximum hedging opportunities with ByRDs options while being mindful of creating series that are not likely to offer meaningful trading opportunities. The Exchange believes that offering ByRDs options with $1 strike price intervals is necessary given the economics of a product that only pays $100 per contract if it is in the money at expiration. The $1 strike price interval means that investors will have strike prices reasonably close to the current price of the underlying security such that they have an opportunity to buy or sell a ByRDs contract best able to hedge near-term movements in the underlying security price.

The Exchange is proposing to amend rule text in Rule 904FRO, which is being amended as Rule 904ByRDs, to use the term underlying ''security'' instead of underlying ''stock or Exchange-Traded Fund Share.'' The Exchange is making this change to ensure consistency with changes proposed for Rule 903ByRDS, and other rule text found elsewhere in Exchange rules, which generally refer to underlying securities when discussing options.

Settlement Price

The Exchange is proposing to add new commentary .02 to existing Rule 910FRO, which is being amended as Rule 910ByRDs, based on feedback from participants who traded Fixed Return Options. Proposed commentary .02 specifies that the Settlement Price[9] at expiration shall be calculated so as to always round up $0.01 in those instances where the Settlement Price exactly equals an expiring ByRDs option strike price. For example, if the calculated Settlement Price is $20.00, and there are expiring ByRDs Finish High and Finish Low contracts with a strike price of $20.00, the Settlement Price will be rounded up to $20.01. The effect of rounding will be to have long $20 strike Finish High holders receiving $100 and long $20 strike Finish Low holders receiving $0.

Absent this rounding, a participant may potentially have a position that appears to guarantee a pay-off of $100 at expiration, but would instead receive $0. For example, assume an investor holds both a $20 strike Finish High contract and $20 strike Finish Low contract. Previously, it was more than likely that either the Finish High or Finish Low contract would expire in the money and consequently the holder would receive $100 at expiration. However, in the unlikely event that the

[8] The OLPP is a national market system plan sponsored by all US options exchanges and the OCC which describes procedures to be followed by the parties in connection with selecting specified underlying interests for listing purposes and requesting a review of such selections.

[9] *See* proposed Rule 900ByRDS(b)(4) & (5), which collectively define both the Settlement Price and how it is calculated based upon volume weighted average price (''VWAP'') for the entire day of trading on expiration.

Settlement Price was calculated to exactly equal the $20 strike price, such holder of the two contracts would receive $0. Although the risk of the Settlement Price equaling the strike price was small, the Exchange believes that this could cause problems both for hedging and explaining to investors what would happen in the unusual circumstance where the Settlement Price matched the strike price of an expiring ByRDs contract exactly. Therefore, the Exchange is proposing this change to ensure that either the Finish High or the Finish Low ByRDs option contracts will always pay off at expiration. The Exchange believes this will result in less opportunity for investor confusion and less uncertainty for participants as a whole.

Underlying Securities

The Exchange is proposing to revise Commentary .02 to Rule 915FRO, which is being amended as Rule 915ByRDs, to include Section 107 Securities [10] as eligible underlying securities upon which ByRDs contracts may be listed, provided all other listing criteria for ByRDs have been met. The Exchange notes that approval to list options on Section 107 Securities came subsequent to the time when Fixed Return Options were first offered and traded.[11] Given the success and popularity of options on Section 107 Securities, such as those on the iPath S&P 500 VIX Short Term Futures ™ ETN (symbol:VXX), the Exchange believes it is appropriate to offer investors the opportunity to hedge those instruments with ByRDs option contracts as well.

Similarly, the Exchange is proposing to amend Commentary .03 to existing Rule 916FRO, which is being amended as Rule 916ByRDs, to include Section 107 Securities. Rule 916ByRDs discusses the criteria necessary for the continued approval to introduce new series of ByRDs for trading. Failing to meet the criteria shall mean that no new series of ByRDs on that underlying security will be introduced for trading.

The Exchange is proposing to delete Rule 918FRO, Trading Rotations, Halts and Suspensions as it referenced deleted Rule 918 which has since been replaced by the rules in Section 900NY,[12] which as noted above, have specifically been incorporated by reference in Rule 900ByRDs.

Minimum Price Variation for ByRDs

The Exchange is proposing to delete an obsolete rule reference in existing Rule 951FRO, which is being amended as Rule 951ByRDs, and adding new text to state that the Minimum Price Variation (''MPV'') for quoting and trading of ByRDs option contracts is $0.01 for all series. The Exchange believes that given the maximum pay off at expiration for a ByRDs contract is $100, adopting an MPV with a $0.01 value is appropriate. If the Exchange were to quote and trade ByRDs in $0.05 MPV's [sic], the resulting $5 incremental price of a ByRDs option contact would represent 5% of the potential payout at expiration, which would unnecessarily erode profits or add to losses. Therefore, the Exchange believes that the optimal MPV for these securities in [sic] $0.01. The Exchange notes that other securities, such as foreign currency options, traded on other exchanges also have $0.01 MPV's [sic].[13]

Bid-Ask Differentials

The Exchange is also proposing to delete an obsolete rule reference in existing Rule 958FRO, which is being amended as Rule 958ByRDs, which describes bid-ask differentials for ByRDs. The Exchange is not proposing any change with respect to Market Maker quoting obligations for ByRDs—other than to simply propose a change to update an obsolete rule cite. Market Makers will continue to be obligated to quote ByRDs no more than $0.25 wide, except during the last trading day before expiration when they may quote ByRDs $0.50 wide.

The Exchange is also proposing to eliminate a provision in Rule 958FRO, (Rule 958ByRDs), which provides that the permissible price differential for any in-the-money series may be identical to that of the underlying security market. Because the bid-ask differential of an underlying security is not necessarily a determining factor in the theoretical value of an in-the-money ByRDs options contract the Exchange does not believe that wider bid-ask differentials are needed simply because the underlying security may be greater than maximum bid-ask differentials provided for above. As provided for in existing Commentary .01, the Exchange may continue to establish permissible price differences other than those noted above for one or more series or classes of ByRDs, as warranted by market conditions.

Obvious Errors and Catastrophic Errors in ByRDs

Finally, the Exchange proposes to revise Rule 975NY (a)(1), adopt new subsection (a)(8) to address the handling of transactions in ByRDs option contracts that qualify for treatment under the Obvious Error provisions of Rule 975NY and add new text to paragraph (d) to address the handling of Catastrophic Errors in ByRDs. Unless otherwise specified, the provisions of Rule 975NY will continue to apply.

Proposed paragraph (a)(8) states, ''Binary Return Derivatives: Not withstanding subsection (a)(1) of this rule, any transaction in a Binary Return Derivatives contract that is higher or lower than the Theoretical Price by $.25 or more shall be deemed an Obvious Error, subject to the adjustment procedures of paragraph (a)(3), unless such adjustment would result in a price higher than $1.02, in which case the adjustment price shall be $1.02.'' As ByRDs will either pay $0 or $100 at expiration, a single ByRDs contract should not have a value greater than $1.00, therefore the Exchange believes that any adjustment under the provisions of the Obvious Error rule should be capped at a price no higher than $1.02. Further, the Exchange is making changes to paragraph (d)(1) to explicitly state that transactions in ByRDs contracts over $1.02 shall qualify as Catastrophic Errors if participants request a review under the existing provisions of paragraph (d)(3)(A). Transactions in ByRDs contracts that qualify as Catastrophic Errors will be adjusted in accordance with the procedures of new subsection (i) of paragraph (d)(3)(C) such that any Catastrophic Error in ByRDs contracts will result in an adjustment to $1.02, unless both parties mutually agree to a different adjustment price.

The Exchange believes that using $1.02 as the maximum price by which an Obvious Error involving a ByRDs contract shall be adjusted is appropriate as it is not unreasonable for someone looking to close a position (for example, for tax loss purposes) to have to pay a slight premium to do so—similar to how an investor might choose to sell an option under parity or buy back an option position for more than its theoretical maximum value. For the same reason, the Exchange believes that using $1.02 as the threshold for determining whether a Catastrophic

[10] *See* NYSE MKT Rule 915 Commentary .11.

[11] *See* Securities Exchange Act Release No. 57150 (January 15, 2008) 73 FR 3765 (January 22, 2008) (Approval Order for SR-Amex-2007–130, as amended).

[12] *See* Rule 952NY which addresses Trading Auctions (a/k/a ''rotations'') and Rule 953NY which addresses Trading Halts and Suspensions.

[13] *See* ISE Rule 710, Supplementary Material .02, which states, ''Notwithstanding any other provision of this Rule 710, the Exchange will permit foreign currency options and options on a Foreign Currency Index to be quoted and traded in one-cent increments.''

Error has occurred in a ByRDs contract is also appropriate.

By adjusting all ByRDs Catastrophic Error transactions over $1.02 to a price of $1.02, the certainty of having a trade is retained, while the party that caused the error experiences some small penalty for having created the error; this is similar to the manner in which non-Customer to non-Customer transactions involved in Obvious Errors are handled presently.[14]

The Exchange is also proposing minor technical changes to Rule 980FRO, which is being amended as Rule 980ByRDs, to capitalize the defined term Settlement Price.

With regard to any systems impact, NYSE Amex Options represents that Exchange systems have the functionality to support the trading of Binary Return Derivatives. The Exchange has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle the potential additional traffic associated with the re-listing and trading of ByRDs contracts. The Exchange has further discussed the proposed listing and trading of ByRDs contracts with the OCC, which has represented that it is able to accommodate the clearing and settlement of ByRDs contracts. The Exchange will monitor any increased trading volume associated with the listing of new series of ByRDs and will analyze the effect, if any, that the additional volume has on the capacity of the Exchange's, OPRA's, and the OCC's automated systems. In addition, the Exchange does not believe the listing of Binary Return Derivatives will cause fragmentation to liquidity in the options markets.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Section 6(b)(5),[16] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

Specifically, the Exchange believes that amending the existing rules governing Fixed Return Options and replacing them with rules specific for Binary Return Derivative Options removes impediments to and perfects the mechanism of a free and open market by conforming Exchange rules to the new branding for this form of options contract, which the Exchange plans to reintroduce. Similarly, the Exchange believes that updating Exchange rules governing ByRDs to include cross-references to rules that have been updated since March 2009, *e.g.,* the amendments to cross-reference the Rule 900NY Series, will remove impediments to and perfect the mechanism of a free and open market by reducing any confusion in Exchange rules regarding which rules govern the trading of ByRDs options contracts.

More specifically, the Exchange believes that augmenting the rules governing ByRDs to adopt new paragraphs (a) (b) and (c) to proposed Rule 903ByRDs to specify which series of ByRDs option contract may be opened for trading by the Exchange and the permitted strike price intervals for ByRDs will also remove impediments to and perfect the mechanism of a free and open market because it will consolidate in a single location the rules governing the trading of ByRDs and therefore provide clarity into [sic] the process for listing ByRDs options. In addition, the Exchange believes that adding the listing of ByRDs on Section 107 Securities will offer investors the opportunity to hedge those instruments with ByRDs option contracts, thus further removing impediments to the mechanism of a free and open market.

The Exchange believes that the proposed change to calculating the Settlement Price so that it will always round up $0.01 when the Settlement Price matches an existing strike price is designed to avert a situation where neither the Finish High nor the Finish Low Binary Return Derivative option contract pays off at expiration. The Exchange believes that providing the certainty of a payout on at least one side of a ByRDs option protects investors and the public interest in general.

The Exchange notes that that adopting a $0.01 MPV is consistent with pricing of other products at competing exchanges[17] and believes that the proposed rule will help investors maximize profits and/or minimize loses and therefore is designed to promote just and equitable principles of trade.

Finally the Exchange believes that amending rules governing Obvious Error and Catastrophic Error in order to adjust ByRDs transitions that occur at prices greater than $1.02, is designed to promote just and equitable principles of trade and the protection of investors by averting situations where a market participant might potentially pay significantly more than the maximum value for of [sic] ByRDs option.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed revisions to existing Exchange rules and the adoption of new ones are intended to make trading ByRDs options more attractive to investors, which should help the Exchange to compete with other market centers. In addition, the Exchange has found that offering ATP Holders a wide variety of investment products attracts new market participants to the Exchange, which may lead to greater competition and increased liquidity which benefits any investor choosing to trade on NYSE Amex Options.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be 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–2014–06 on the subject line.

[14] *See* Rule 975NY(a)(3)(A).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Supra* Footnote No. 13.

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–2014–06. 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–NYSEMKT–2014–06, and should be submitted on or before March 24, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04553 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71609; File Nos. SR–NYSE–2013–72; SR–NYSEMKT–2013–91]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE MKT LLC; Order Instituting Proceedings to Determine Whether To Disapprove Proposed Rule Changes To Establish an Institutional Liquidity Program on a One-Year Pilot Basis

February 25, 2014.

I. *Introduction*

On November 7, 2013, New York Stock Exchange LLC (''NYSE'') and NYSE MKT LLC (''NYSE MKT'' and together with NYSE, the ''Exchanges'') each filed with the Securities and Exchange Commission (''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish an Institutional Liquidity Program (''ILP'' or ''Program'') on one-year pilot basis. The proposed rule changes were published for comment in the **Federal Register** on November 27, 2013.[3] The Commission received three comments on the NYSE Proposal.[4] On January 9, 2014, the Commission designated a longer period for Commission action on the proposed rule changes, until February 25, 2014.[5] The Exchanges submitted a consolidated response letter on January 14, 2014.[6] This order institutes proceedings under Section 19(b)(2)(B) of the Act to determine whether to disapprove the proposed rule changes.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 70909 (November 21, 2013), 78 FR 71002 (SR–NYSE–2013–72) (''NYSE Proposal''); and 70910 (November 21, 2013), 78 FR 70992 (SR–NYSEMKT–2013–91) (''NYSE MKT Proposal'') (collectively, the ''Proposals'').

[4] *See* Letters to the Commission from James Allen, Head, and Rhodri Pierce, Director, Capital Markets Policy, CFA Institute (Dec. 18, 2013) (''CFA Letter''); Clive Williams, Vice President and Global Head of Trading, Andrew M. Brooks, Vice President and Head of U.S. Equity Trading, and Christopher P. Hayes, Vice President and Legal Counsel, T. Rowe Price Associates, Inc. (Dec. 18, 2013) (''T. Rowe Price Letter''); and Theodore R. Lazo, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (Dec. 20, 2013) (''SIFMA Letter''). The Commission notes that these comment letters address the NYSE Proposal only. However, since the Proposals are nearly identical, the Commission will consider the letters to address the NYSE MKT Proposal as well.

[5] *See* Securities Exchange Act Release No. 71267, 79 FR 2738 (January 15, 2014).

[6] *See* Letter to the Commission from Janet McGinnis, EVP & Corporate Secretary, NYSE Euronext (Jan. 14, 2014) (''Response Letter'').

II. Description of the Proposals

A. Overview

Each Exchange is proposing to establish, for a pilot term of one year, an Institutional Liquidity Program intended to attract buying and selling interest in greater size to the NYSE for NYSE-listed securities and to NYSE MKT for NYSE MKT-listed securities and securities listed on the Nasdaq Stock Market and traded pursuant to unlisted trading privileges. To do so, the Program would introduce two new order types to facilitate interactions between market participants with block-size trading interest and liquidity providers that submit orders that meet certain size thresholds. The Exchanges have characterized the Program as a ''targeted size discovery mechanism'' that would enable market participants to execute trades that are larger than the average size of trades executed on the Exchanges or in most dark pools.[7]

B. Proposed New Order Types—ILOs and OLOs

The two proposed order types are the ''Institutional Liquidity Order'' (''ILO'') and the ''Oversize Liquidity Order'' (''OLO''). Generally, ILOs would represent non-displayed block-size interest: a limit order of at least 5,000 shares with a market value of at least $50,000 or a ''child'' order of an original ''parent order'' meeting these size requirements.[8] OLOs would represent non-displayed orders of at least 500 shares (or at least 300 shares for less liquid securities) submitted to provide liquidity to ILOs. ILOs could be submitted with a Minimum Triggering Volume (''MTV'') instruction and would interact first with displayed interest at the Exchanges before interacting with other interest in the Program (i.e., OLOs and other resting ILOs) or routing to other markets. OLOs would interact only with ILOs. Orders within the Program would be executed according to price-size-time priority, rather than the Exchanges' parity allocation.

To qualify as an ILO, an order would need to be submitted to establish, increase, liquidate, or decrease a position in the subject security and could not be part of an expression of two-sided (i.e., market making) interest

[7] *See, e.g.,* NYSE Proposal, 78 FR at 71002.

[8] Where an ILO represented the child order of recorded parent instructions, the parent instruction would not need to be submitted in whole to the Program; instead, parts of the recorded parent order instruction could be executed in the Program, on the Exchanges outside of the Program, or at other venues.

on the part of the account that originated the order. An ILO, or the recorded parent instruction of a child order, would need to satisfy applicable size requirements independently, meaning that interest could not be aggregated across multiple member organizations [9] to become eligible for participation in the Program. An ILO, or recorded parent order instruction, that initially met the minimum size requirements would not become ineligible to stay in the Program if it received a partial execution that reduced its size below the minimum size requirements. If an ILO or its recorded parent instruction were partially cancelled so that it became smaller than the Program's minimum size requirements, the ILO would no longer be eligible to participate in the Program but would maintain its time priority in the Exchanges' systems.

An ILO could be designated Immediate-or-Cancel or entered as a Reserve Order, in which case the order or any residual unexecuted portion would remain executable against contra-side interest in accordance with the Program's rules. An ILO could also be submitted with an MTV requirement that would be a necessary condition for the order's execution.

ILOs could be submitted with one of two designations to dictate how and where they could execute. A Type-1 designated ILO would interact with other interest at the Exchange to which it was submitted, but it would not route to other markets. A Type-1 ILO would interact, at each price level, first with displayed interest in the respective Exchange's systems, then available contra-side OLOs and ILOs in size-time priority, and then with any remaining non-displayed interest in the Exchange's systems—except that a Type 1-designated ILO would not trade through a protected quotation.[10]

A Type-2 ILO would interact with other interest at the Exchange to which it was submitted, but it could also route to away markets. The Type-2 ILO would interact, at each price level, first with displayed interest in the respective Exchange's systems, then available contra-side OLOs and ILOs in size-time priority, and then with any remaining non-displayed interest in the Exchange's systems; it would then route to away markets as necessary to avoid trading through a protected quotation.[11]

The Program would require member organizations that submit ILOs to maintain policies and procedures reasonably designed to ensure that applicable Program requirements are satisfied. The member organizations would further need to maintain records sufficient to reconstruct, in a time-sequenced manner, all orders routed to the Exchanges as ILOs, including how parent order instructions from which child-order ILOs were derived met the Program's size requirements and related to the child-order ILOs.

The Exchanges would allow a member organization to presume that an account's intent to establish, increase, liquidate, or decrease a position was bona fide, absent concrete indications to the contrary. According to the Exchanges, examples of such contrary indications include: (1) An account attempting to enter contemporaneous orders in the same security on both sides of the market; (2) An account entering a pattern of orders and cancellations apparently designed to implement a market-making or spread-trading strategy; and (3) An account entering a pattern of cancellations that consistently produced positions that were smaller that the Program's minimum size requirements.

In addition to the ILO, the Program would create a second new order type, the OLO. The OLO would be a non-displayed limit order with a minimum size of 500 shares, except for securities that trade with an Average Daily Volume of less than one million shares, in which case the minimum size would be 300 shares. An OLO that met the minimum size requirement and received a partial execution that reduced its size below the size requirement would still be eligible to interact with incoming ILOs. An OLO would become size ineligible if the size of the OLO was reduced below the minimum size requirement because of a partial cancellation. An OLO could be priced at, inside, or outside the Exchange's protected best bid or offer (''PBBO''), or as non-displayed Primary Pegging Interest pursuant to NYSE Rule 13 or NYSE MKT Rule 13—Equities. As noted above, OLOs would be eligible to interact only with ILOs.

The Exchanges, along with the Financial Industry Regulatory Authority (''FINRA''), would monitor activity in the Program and conduct surveillance for non-compliance with Program rules. The Exchanges would exclude non-compliant member organizations from participation in the Program when necessary to ensure that the Program functions properly.

C. Proposed Priority and Allocation of Proposed Order Types

The Exchanges have proposed that, in the Program, competing OLOs and ILOs would be ranked and allocated according to price, then size, then the time of their entry into each Exchange's systems. The size priority of OLOs and ILOs would be based upon their initial size at time of entry, but any partial cancellations of OLOs or ILOs would reduce their original size for priority purposes.

Displayed orders would have priority over equally priced ILOs and OLOs. An incoming ILO would execute first against displayed interest, then against contra-side ILOs and OLOs, and finally against any non-displayed interest in Exchange systems. Any remaining unexecuted ILO interest would remain available to interact with other incoming OLOs or ILOs if that ILO interest were at an eligible price, unless that interest were designated IOC.

D. Proposed Liquidity Identifier

The presence of OLOs or the remainder of partially executed ILOs in Exchange systems would be advertised with a new indicator, the Liquidity Identifier (''Identifier''), which would be disseminated through the Consolidated Quotation System. The Identifier would communicate only the presence of liquidity in a symbol and would not state the side, size, or price. The Exchanges have stated that the Identifier would be disseminated first by the Exchanges' proprietary data feeds. The Exchanges have represented that the Identifier would be disseminated through the publicly-available Consolidated Quotation System as soon as practicable.

E. Fees for the Program

The Exchanges have represented that, after approval of the Program by the Commission, they would each submit a proposed rule filing to set fees for the Program. The Exchanges have represented that the anticipated fee schedule would charge member organizations for executions of their

[9] The term ''member organization'' is defined in NYSE Rule 2(b) and NYSE MKT Rule 2(b)—Equities, respectively, and includes Floor brokers acting as agents.

[10] Any remaining portion of a Type-1 ILO would be cancelled if designated as a Regulation NMS-compliant Immediate or Cancel Order pursuant to NYSE Rule 13 or NYSE MKT Rule 13—Equities, or if it were designated as a Reserve Order, it would rest on the Exchange's book and be available to interact with other incoming contra-side OLOs, ILOs, and other available interest in the Exchange's systems, provided it does not trade through a protected quotation.

[11] Any remaining portion of a Type-2 ILO would be cancelled if designated as an Immediate or Cancel Order pursuant to NYSE Rule 13 or NYSE MKT Rule 13—Equities, or if designated as a Reserve Order, rest on the Exchange's book and be available to interact with other incoming contra-side OLOs, ILOs, and other available interest in the Exchange's systems.

ILOs against OLOs and, conversely, would provide credits or free executions to member organizations for executions of their OLOs against the ILOs of other member organizations. If two ILOs executed against each other, the Exchanges expect that they would charge both member organizations.

III. Comments Letters and the Exchanges' Response

As noted above, the Commission has received three comment letters on the proposed Program. One commenter was supportive of the Proposals.[12] This commenter stated its belief that the Program should improve the executions of institutional investors trading in large size and reduce transaction costs in such trades.[13] Additionally, the commenter stated its belief that the ability of ILOs to interact with displayed orders should not negatively affect, and may even positively affect, the incentives to use displayed markets.[14]

The two remaining commenters expressed concern with the Program. Both commenters suggested that the Program would add undue complexity to the public equity markets. For instance, one commenter argued that the Program's introduction of new order types would create another layer of quoting, additional messaging, and undue complexity to order routing.[15] The other commenter questioned whether it is appropriate to add additional message traffic to the Securities Information Processor, particularly message traffic that serves only one market and not the investing public at large.[16]

The two commenters also argued that the Program could segment order flow in a way that is inconsistent with the role that public exchanges are supposed to play in the marketplace. One commenter stated its belief that the Proposals would further chip away at the statutory mandate that exchanges provide fair, equal, non-discriminatory, and open access and that the Program would reflect a departure from the idea that exchanges are meant to provide interaction among all types of orders.[17] In this commenter's view, exchanges and dark pools serve distinct purposes and the Program could ''further blur the lines'' between exchanges and dark pools in a way that ''will unnecessarily increase market fragmentation and dilute an investor's ability to gauge best execution.'' [18] The other commenter raised similar issues and stated its belief that the Commission should address how permitting an exchange to segment order flow is consistent with the exchanges' obligation under Section 6(b)(5) of the Act to prevent unfair discrimination among market participants.[19]

Additionally, both commenters disagreed with the Exchanges about the extent to which the Program could provide public benefit. One commenter questioned whether the Program would in fact encourage lit markets and increased price discovery, since the new order types would not be displayed.[20] The other commenter expressed doubt that the Program could attract block-size interest and instead thought it was more likely that the Program would only receive child orders from larger block-size parent orders.[21] The commenter then stated its belief that the goal of increasing exchange execution volumes does not support a change in legal and regulatory policy.[22]

In response to these comments, the Exchanges' Response Letter contended that the Program is justified by the potential benefits it could provide to the public markets. According to the Exchanges, the Program would improve market structure by addressing three concerns: (1) The migration toward dark venues of orders entered by investors who are less informed with respect to short-term price movements; (2) The related isolation of such orders from displayed liquidity; and (3) The selective pre-trade transparency and inadequate post-trade transparency of broker internalization venues and dark pools.[23] The Response Letter asserted that competition with dark pools would provide a more transparent and price-competitive environment for the interaction of large orders and would reduce transaction costs; in the Exchanges' view, Section 11A of the Act promotes such competition. Additionally, the Exchanges noted that the dissemination of the Identifier could bolster pre-trade transparency and stimulate further the expression of institutional interest and the interest of liquidity providers that seek to interact with institutional orders.[24]

The Exchanges further argued that, because ILO's must first interact with displayed orders, ''the Program offers balanced and limited segmentation to enhance the discovery of size on the Exchanges and potentially increases the incentives for public price discovery.'' [25] Ultimately, the Exchanges argued, the Program ''has the potential to enhance the transparency and price competition associated with the execution of larger orders and should be considered in the current competitive and regulatory context rather than deferred until the fundamental structural issues referenced [by the commenters] are addressed.'' [26]

IV. Proceedings To Determine Whether to Disapprove SR–NYSE–2013–72 and SR–NYSEMKT–2013–91 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act [27] to determine whether the Proposals should be disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the Proposals. Institution of disapproval proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described in greater detail below, the Commission seeks and encourages interested persons to provide additional comment on the Proposals.

Pursuant to Section 19(b)(2)(B),[28] the Commission is providing notice of the grounds for disapproval under consideration. The Commission believes that the Program, which would seek to attract larger trading interest to the Exchanges, raises important market-structure issues that warrant further public comment and Commission consideration. The Program would create a separate liquidity pool within

[12] *See* CFA Letter.

[13] *Id.* at 2.

[14] *Id.*

[15] *See* T. Rowe Price Letter at 1.

[16] *See* SIFMA Letter at 5. This commenter also took the position that the Program's use of the Liquidity Identifier could implicate the same concerns that the Commission voiced in 2009 when it proposed a rule that would, among other things, address the use of privately transmitted actionable ''indications of interest.'' *See id.* at 4 (citing Securities Exchange Act Release No. 60997 (November 13, 2009), 74 FR 61208 (November 23, 2009) (''Regulation of Non-Public Trading Interest'')).

[17] *See* T. Rowe Price Letter at 1–2.

[18] *Id.* at 1.

[19] *See* SIFMA Letter at 3.

[20] *See* T. Rowe Price Letter at 2.

[21] *See* SIFMA Letter at 3.

[22] *See id.*

[23] *See* Response Letter at 5.

[24] *See id.* at 1.

[25] *Id.* at 5–6.

[26] *Id.* at 8. The Exchanges also responded to the point raised in the SIFMA Letter about whether the Liquidity Identifier could implicate the same concerns that the Commission has raised with respect to privately transmitted actionable indications of interest. The Exchanges noted that the Identifier is different than an actionable indication of interest because it communicates only the symbol, not the side, size or price of an OLO or ILO. Furthermore, the Exchanges noted that the identifier would not be private or limited to select market participants; rather, the Exchanges noted their intent to disseminate the identifier through the publicly available Consolidated Quotation System. *See id.* at 6–7.

[27] 15 U.S.C. 78s(b)(2)(B).

[28] *See id.*

each Exchange that would not be accessible to all market participants, and the Commission believes that proceedings are appropriate to consider (1) Whether the Program's segmentation of order flow would inhibit price discovery and order interaction on an exchange, (2) Whether the potential complexity of the Program would detract from the efficient execution of securities transactions or the maintenance of fair and orderly markets, (3) Whether the Program would permit unfair discrimination, and (4) Whether the Program would create an unnecessary or inappropriate burden on competition.

Accordingly, the Commission is instituting proceedings to allow for additional analysis of the proposed rule changes' consistency with Section 6(b)(5) of the Act,[29] which requires that the rules of a national securities exchange promote just and equitable principles of trade, perfect the mechanism of a free and open market and a national market system, protect investors and the public interest, and not permit unfair discrimination, and with Section 6(b)(8) of the Act,[30] which requires that the rules of an exchange not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

V. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the concerns identified above, as well as any others they may have with the Proposals. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule changes are inconsistent with Section 6(b)(5) or any other provision of the Act, or the rules and regulation thereunder. Although there do not appear to be any issues relevant to approval or disapproval which would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b-4, any request for an opportunity to make an oral presentation.[31]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule changes should be disapproved by March 24, 2014. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by April 7, 2014.

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–2013–72 or SR–NYSEMKT–2013–91 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–NYSE–2013–72 or SR–NYSEMKT–2013–91. 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. 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 publicly available. All submissions should refer to File Number SR–NYSE–2013–72 or SR–NYSEMKT–2013–91 and should be submitted on or before March 24, 2014. Rebuttal comments should be submitted by April 7, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–04552 Filed 2–28–14; 8:45 am]

BILLING CODE 8011–01–P

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78f(b)(8).

[31] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. See Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[32] 17 CFR 200.30–3(a)(57).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov.*

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov.*

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than May 2, 2014. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Disability Update Report—20 CFR 404.1589–404.1595 and 416.988–416.996—0960–0511. As part of our statutory requirements, SSA periodically uses Form SSA–455, the Disability Update Report, to evaluate current Title II disability beneficiaries' and Title XVI disability payment recipients' continued eligibility for

Social Security disability payments. Specifically, SSA uses the form to determine if: (1) There is enough evidence to warrant referring the respondent for a full medical Continuing Disability Review (CDR); (2) the respondent's impairment(s) is still present and is indicative of no medical improvement, precluding the need for a CDR; or (3) there are unresolved work-related issues for the respondent. SSA mails Form SSA–455 to specific disability recipients, whom we select as possibly qualifying for the continuing disability review process. SSA pre-fills the form with data specific to the disability recipient, except for the sections we ask the beneficiary to complete. When SSA receives the completed form, we scan it into SSA's system. This allows us to gather the information electronically to enable SSA to process the returned forms through automated decision logic to decide the proper course of action to take. The respondents are recipients of Title II and Title XVI Social Security disability payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–455	1,500,000	1	15	375,000

2. Request for Evidence from Doctor and Request for Evidence from Hospital—20 CFR 404 Subpart P and 20 CFR 416 Subpart I—0960–0722. Sections 223(d)(5) and 1614(a)(3)(H)(i) of the Social Security Act require claimants to furnish medical evidence of their disability when filing a disability claim. SSA uses Forms HA–66 and HA–67 to obtain evidence from medical sources identified by the claimants as having information relative to their impairments or ability to do work-related activities. In addition to accepting manual paper responses, SSA sends a barcode with the HA–66 and HA–67, allowing respondents to fax the information directly into the electronic claims folder rather than submitting it manually. SSA uses the information to determine eligibility for benefits. The respondents are medical sources, doctors, and hospitals that evaluate the claimants.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)
HA–66—Paper	3,060	22	67,320	15	16,830
HA–66—Electronic	8,940	22	196,680	15	49,170
HA–67—Paper	3,060	22	67,320	15	16,830
HA–67—Electronic	8,940	22	196,680	15	49,170
Totals	24,000		528,000		132,000

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than April 2, 2014. Individuals can obtain copies of the OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov*.

1. Advanced Notice of Termination of Child's Benefits & Student's Statement Regarding School Attendance—20 CFR 404.350–404.352, 404.367–404.368—0960–0105. SSA collects information on Forms SSA–1372–BK and SSA–1372–BK–FC to determine whether children of an insured worker meet the eligibility requirements for student benefits. The data we collect allows SSA to determine entitlement to initial and continuing student benefits. The respondents are student claimants for Social Security benefits, their respective schools and, in some cases, their representative payees.

Type of Request: Revision of an OMB-approved information collection.

SSA–1372–BK:

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Individuals/Households	99,850	1	8	13,313
State/Local/Tribal Government	99,850	1	3	4,993
Totals	199,700			18,306

SSA–1372–BK–FC:

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
Individuals/Households	150	1	8	20

Type of respondent	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
State/Local/Tribal Government	150	1	3	8
Totals	300			28
Grand Total	200,000			18,334

2. Work History Report—20 CFR 404.1515, 404.1560, 404.1565, 416.960 and 416.3965—0960–0578. Under certain circumstances, SSA asks individuals applying for disability about work they have performed in the past. Applicants use Form SSA–3369, Work History Report, to provide detailed information about jobs held prior to becoming unable to work. State Disability Determination Services evaluate the information, together with medical evidence, to determine eligibility for disability payments. Respondents are disability applicants and third parties assisting applicants.

Type of Request: Revision of an OMB-approved information collection.

Modality of collection	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3369 (Paper form)	1,553,900	1	60	1,553,900
Electronic Disability Collect System 3369	38,049	1	60	38,049
Totals	1,591,949			1,591,949

Dated: February 28, 2014.

Naomi Sipple,

Management Analyst, Reports Clearance, Social Security Administration.

[FR Doc. 2014–04577 Filed 2–28–14; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. DOT–OST–2014–XXXX]

Notice of Funding Availability for the Department of Transportation's National Infrastructure Investments under the Consolidated Appropriations Act, 2014

AGENCY: Office of the Secretary of Transportation, DOT.

ACTION: Notice of Funding Availability.

SUMMARY: This notice announces the availability of funding and requests proposals for the Department of Transportation's National Infrastructure Investments. This notice is addressed to organizations that are interested in applying and provides guidance on selection criteria and application requirements for the National Infrastructure Investments.

The Consolidated Appropriations Act, 2014 (Pub. L. 113–76, January 17, 2014) (''FY 2014 Appropriations Act'') appropriated $600 million to be awarded by the Department of Transportation (''DOT'') for National Infrastructure Investments. This appropriation is similar, but not identical, to the program funded and implemented pursuant to the American Recovery and Reinvestment Act of 2009 (the ''Recovery Act'') known as the Transportation Investment Generating Economic Recovery, or ''TIGER Discretionary Grants,'' program. Because of the similarity in program structure, DOT will continue to refer to the program as ''TIGER Discretionary Grants.'' As with previous rounds of TIGER, funds for the FY 2014 TIGER program (''TIGER FY 2014'') are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region.

Through this notice, DOT is soliciting applications for TIGER Discretionary Grants. In the event that this solicitation does not result in the award and obligation of all available funds, DOT may decide to publish an additional solicitation(s).

DATES: You must submit final applications through Grants.gov by April 28, 2014, at 5:00 p.m. EDT (the ''Application Deadline''). The Grants.gov ''Apply'' function will open on April 3, 2014, allowing applicants to submit applications. You are strongly encouraged to submit applications in advance of the deadline. Please be aware that you must complete the registration process before submitting an application, and that this process usually takes 2–4 weeks to complete. If interested parties experience difficulties at any point during the registration or application process, please call the Grants.gov Customer Support Hotline at 1–800–518–4726, Monday-Friday from 7:00 a.m. to 9:00 p.m. EDT. Additional information on applying through Grants.gov is available in *Information about Applying for Federal Grants through Grants.gov* at *www.dot.gov/TIGER.*

ADDRESSES: You must submit applications electronically through Grants.gov. Only applications received electronically through Grants.gov will be deemed properly filed. Instructions for submitting applications through Grants.gov can be found on the TIGER Web site (*www.dot.gov/TIGER*).

FOR FURTHER INFORMATION CONTACT: For further information concerning this notice please contact the TIGER Discretionary Grant program staff via email at *TIGERGrants@dot.gov*, or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. In addition, DOT will regularly post answers to questions and requests for clarifications on DOT's Web site at *www.dot.gov/TIGER.* Applicants are encouraged to contact DOT directly rather than rely on third parties to receive information about TIGER Discretionary Grants.

SUPPLEMENTARY INFORMATION: This notice is substantially similar to the final notice published for the TIGER Discretionary Grant program in the **Federal Register** on April 26, 2013.

However, there are a few significant differences:

1. Across the Federal Government, the Administration is dedicated to enhancing opportunity for all Americans by investing in transportation projects that better connect communities to centers of employment, education, and services (including for non-drivers) and that hold promise to stimulate long-term job growth, especially in economically distressed areas. Additional consideration will be given to proposals that seek to strengthen opportunities to expand the middle class. While the Department will award funds to a variety of project types, priority consideration will be given to applications that address this objective.

2. TIGER FY 2014 is authorized to award up to $35 million (of the program's $600 million total) for planning grants. Planning grant applications must identify themselves as project-level or regional plan applications.

3. In the previous round of TIGER, funding was available for obligation for a very short time. Therefore, DOT used project readiness as a primary criterion in awarding that funding. TIGER FY 2014 funds, in contrast, are available for obligation until the statutory deadline of September 30, 2016. This extended schedule allows DOT to encourage the submission of applications for complex and multimodal projects that may require slightly longer schedules. However, all applicants should provide schedules and evidence that they will be able to obligate funds, if awarded, by June of 2016 and expend such funds by September 30, 2021 (31 U.S.C. 1552).

4. Applications that identify project co-applicants or project partners in addition to a lead applicant must be signed by each co-applicant and/or partner organization.

Other than the differences above, and minor edits for clarification and those made to conform the notice to the statutory circumstances of this round of TIGER Discretionary Grant funding, there have been no material changes made to the notice. Each section of this notice contains information and instructions relevant to the application process for these TIGER Discretionary Grants, and you should read this notice in its entirety so that you have the information you need to submit eligible and competitive applications.

Table of Contents

I. Background and Outlook

The Transportation Investment Generating Economic Recovery or ''TIGER Discretionary Grants'' program was first created in the Recovery Act of 2009. Through the Recovery Act and subsequent four appropriations acts, Congress provided DOT with funding for five rounds of competitive grants totaling more than $4.1 billion for capital investments in surface transportation infrastructure. See DOT's Web site at *www.dot.gov/TIGER* for further background on the disbursement of past rounds of TIGER Discretionary Grants.

The FY 2014 Appropriations Act appropriated $600 million to be awarded by DOT for the TIGER Discretionary Grants program. As in previous rounds, the FY 2014 TIGER Discretionary Grants are for capital investments in surface transportation infrastructure, and are to be awarded on a competitive basis for projects that will have a significant impact on the Nation, a metropolitan area, or a region. Additionally, as in the 2010 round, the Act allows for up to $35 million (of the $600 million) to be awarded as grants for the planning of eligible transportation facilities. DOT is referring to these TIGER Discretionary Grants for planning as TIGER Planning Grants. The Act also allows DOT to use a small portion of the $600 million for oversight of grants.

''Eligible Applicants'' for TIGER Discretionary Grants are State, local, and tribal governments, including U.S. territories, transit agencies, port authorities, metropolitan planning organizations (MPOs), other political subdivisions of State or local governments, and multi-State or multi-jurisdictional groups applying through a single lead applicant (for multi-jurisdictional groups, each member of the group, including the lead applicant, must be an otherwise Eligible Applicant as defined in this paragraph).

To ensure applicants receive the most accurate information possible, you must contact DOT directly, rather than through intermediaries, to get answers to questions, set up briefings on the TIGER Discretionary Grants selection and award process, or receive other assistance. Assistance can be obtained by simply contacting the TIGER Discretionary Grant program staff via email at *TIGERGrants@dot.gov,* or by calling Howard Hill at 202–366–0301.

Projects that are eligible for TIGER Discretionary Grants (''Eligible Projects'') for capital projects include, but are not limited to: (1) Highway or bridge projects eligible under title 23, United States Code (including bicycle and pedestrian related projects); (2) public transportation projects eligible under chapter 53 of title 49, United States Code; (3) passenger and freight rail transportation projects; (4) port infrastructure investments; and (5) intermodal projects. Projects that are eligible for TIGER Planning Grants include, but are not limited to: Activities related to the planning, preparation, or design of a single surface transportation project, or activities related to regional transportation investment planning, including transportation planning that is coordinated with interdisciplinary factors including housing, economic development, stormwater and other infrastructure investments, and/or that addresses future risks and vulnerabilities, including extreme weather and climate change. Federal wage rate requirements included in subchapter IV of chapter 31 of title 40, United States Code, apply to all projects receiving funds under this program, and apply to all parts of the project, whether funded with TIGER Discretionary Grant funds, other Federal funds, or non-Federal funds. This description of Eligible Projects is identical to the description of eligible projects under earlier rounds of the TIGER Discretionary Grant program.[1]

As was the case in earlier rounds of the TIGER Discretionary Grant program, Eligible Projects do not include research, demonstration, or pilot projects that do not result in publicly accessible surface transportation infrastructure. To be funded, projects or elements of a project must have independent utility, which means that the project provides transportation

[1] Consistent with the FY 2014 Appropriations Act, DOT will apply the following principles in determining whether a project is eligible as a capital investment or a planning study in surface transportation: (1) Surface transportation facilities generally include roads, highways and bridges, marine ports, freight and passenger railroads, transit systems, and projects that connect transportation facilities to other modes of transportation; and (2) surface transportation facilities also include any highway or bridge project eligible under title 23, U.S.C., or public transportation project eligible under chapter 53 of title 49, U.S.C. Please note that the Department may use a TIGER Discretionary Grant to pay for the surface transportation components of a broader project that has non-surface transportation components, and applicants are encouraged to apply for TIGER Discretionary Grants to pay for the surface transportation components of these projects.

benefits and is ready for its intended use upon completion of project construction.

Each applicant may submit no more than three applications in each category (3 capital applications and 3 planning applications). You should focus on applications that are most likely to align well with DOT's selection criteria. While applications may include requests to fund more than one project, you may not bundle together unrelated projects in the same application for purposes of avoiding the three-application limit that applies to each applicant. Please note that the three-application limit applies only to applications where the applicant is the lead applicant, and there is no limit on applications for which an applicant can be listed as a partnering agency. If you submit more than three applications as the lead applicant, only the first three received in each category will be considered.

The FY 2014 Appropriations Act specifies that TIGER Discretionary Grants may not be less than $10 million (except in rural areas) and not greater than $200 million. For projects located in rural areas (as defined in Section V, *Projects in Rural Areas*), the minimum TIGER Discretionary Grant size is $1 million. For TIGER Planning Grants, there is no statutory minimum grant size, regardless of location.

DOT reserves the right to award funds for a part of the project included in an application, if a part of the project has independent utility and aligns well with the selection criteria specified in this notice.

Pursuant to the FY 2014 Appropriations Act, no more than 25 percent of the funds made available for TIGER Discretionary Grants (or $150 million) may be awarded to projects in a single State.

The FY 2014 Appropriations Act directs that not less than 20 percent of the funds provided for TIGER Discretionary Grants (or $120 million) shall be used for projects located in rural areas. Further, pursuant to the FY 2014 Appropriations Act, DOT must take measures to ensure an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes.

TIGER Discretionary Grants may be used for up to 80 percent of the costs of a project. DOT may increase the Federal share above 80 percent only for projects located in rural areas, in which case DOT may fund up to 100 percent of the costs of a project. However, priority will be given to projects that use Federal funds to complete an overall financing package, and both urban and rural projects can increase their competitiveness for purposes of the TIGER program by demonstrating significant non-Federal financial contributions. In the first five rounds, on average, projects attracted more than 3.5 additional non-Federal dollars for every TIGER grant dollar. DOT will consider any non-Federal funds, as well as funds from the Tribal Transportation Program (formerly known as Indian Reservation Roads), as a local match for purposes of this program, whether such funds are contributed by the public sector (State or local) or the private sector. However, DOT cannot consider any funds already expended (or otherwise encumbered) towards the matching requirement. Federal requirements also apply to any matching funds in your application. Therefore, the extent that a project is already underway or money intended to be matching funds is already encumbered, DOT will not consider those funds to be matching funds for the purposes of the TIGER Discretionary Grant program. You should also take note that even though ''matching'' funding may be provided by a State DOT or transit agency, DOT will not consider those funds to be matching funds if the source of those funds is ultimately a Federal program.

The FY 2014 Appropriations Act requires that TIGER funds are only available for obligation through September 30, 2016. DOT will, therefore, consider whether or not a project is ready to proceed with obligation of grant funds within the time provided. Under the FY 2014 Appropriations Act, TIGER funding expires automatically after the deadline of September 30, 2016, if grant funds are not obligated. There is no waiver possible under the statute for this deadline.

The FY 2014 Appropriations Act allows for an amount not to exceed 35 percent of the available funds (or $210 million of the $600 million) to be used by the Department to pay the subsidy and administrative costs for a project receiving credit assistance under the Transportation Infrastructure Finance and Innovation Act of 1998 (''TIFIA'') program, if it would further the purposes of the TIGER Discretionary Grant program.

Recipients of TIGER Discretionary Grants and TIGER Planning Grants in prior rounds may apply for funding to support additional phases of a project awarded funds in earlier rounds of this program. However, to be competitive, the applicant should demonstrate the extent to which the previously funded project phase has been able to meet estimated project schedules and budget, including the ability to realize the benefits expected for the project.

Transportation plays a critical role in expanding opportunities for every American. Recent research has found that economic mobility varies by geography, and poor transportation connections are a factor preventing some Americans from gaining access to the middle class.[2] This lack of access limits labor mobility and can be a drag on local and regional economic growth. Improving transportation infrastructure can be one of the easiest ways to address this problem.

Recognizing economic mobility as a defining trait of America's promise, the 2014 TIGER program will, in part, seek to improve access to reliable, safe, and affordable transportation for disconnected communities in urban, suburban, and rural areas. Providing opportunity to all Americans is a connecting theme that weaves together all of DOT's primary criteria. The concept can be found in the explanations of the primary criteria in this NOFA and should be addressed in applications through the description of how a proposed project addresses the primary criteria. This may include, but is not limited to, capital projects that better connect people to jobs, remove physical barriers to access, and strengthen communities through neighborhood redevelopment. Additionally, this objective may include capital projects with training opportunities that focus on strengthening human capital and workforce opportunities.

The above examples are not intended to be exhaustive, and project sponsors are strongly encouraged to highlight in their applications how their proposed capital projects will promote opportunities in ways not cited above.

DOT may consider the extent to which a proposed project strengthens access to opportunities through transportation improvements—in addition to the statutory requirements for an appropriate geographic, modal, and urban/rural distribution—as a factor to differentiate meritorious applications from one another. That said, the 2014 TIGER program will continue to fund innovative and significant projects of all types, and applications of all types are encouraged.

The purpose of this notice is to solicit applications for TIGER Discretionary Grants. This is a final notice.

[2] http://obs.rc.fas.harvard.edu/chetty/mobility_geo.pdf

II. Selection Criteria and Guidance on Application of Selection Criteria

This section specifies the criteria that DOT will use to evaluate applications for TIGER Discretionary Grants for capital projects. The criteria for TIGER Planning Grants are described in Section VI (D) of this notice. The criteria incorporate the statutory eligibility requirements for this program, which are specified in this notice as relevant. This section is divided into two parts. Part A (*Selection Criteria*) specifies the criteria that DOT will use to rate projects. Additional guidance about how DOT will apply these criteria, including illustrative metrics and examples, is provided in Part B (*Additional Guidance on Selection Criteria*).

TIGER Discretionary Grants will be awarded based on the selection criteria as outlined below. There are two categories of selection criteria, ''Primary Selection Criteria'' and ''Secondary Selection Criteria.''

A. Primary Selection Criteria: The five primary selection criteria are based on the priorities included in DOT's Strategic Plan for FY 2012–FY 2016. Applications that do not demonstrate a likelihood of significant long-term benefits based on these criteria will not proceed in the evaluation process. For more detail on DOT's long-term priorities, please refer to the Strategic Plan, which can be found at: *http://www.dot.gov/sites/dot.dev/files/docs/990_355_DOT_StrategicPlan_508lowres.pdf.* DOT does not consider any primary selection criterion more important than the others. The primary selection criteria, which will receive equal consideration, are:

1. State of Good Repair: Improving the condition of existing transportation facilities and systems, with particular emphasis on projects that minimize life-cycle costs and improve resilience. DOT will assess whether and to what extent (i) the project is consistent with relevant plans to maintain transportation facilities or systems in a state of good repair and address current and projected vulnerabilities; (ii) if left unimproved, the poor condition of the asset will threaten future transportation network efficiency, mobility of goods or accessibility and mobility of people, or economic growth; (iii) the project is appropriately capitalized up front and uses asset management approaches that optimize its long-term cost structure; (iv) a sustainable source of revenue is available for operations and maintenance of the project; and (v) the project improves the transportation asset's ability to withstand probable occurrence or recurrence of an emergency or major disaster or other impacts of climate change. Additional consideration will be given to the project's contribution to improvement in the overall reliability of a multimodal transportation system that serves all users.

2. Economic Competitiveness: Contributing to the economic competitiveness of the United States over the medium- to long-term, and creating and preserving jobs. DOT will assess whether the project will (i) improve long-term efficiency, reliability or cost-competitiveness in the movement of workers or goods, with a particular focus on projects that have a significant effect on reducing the costs of transporting export cargoes; (ii) increase the economic productivity of land, capital, or labor at specific locations, particularly in Economically Distressed Areas; (iii) result in long-term job creation and other economic opportunities, particularly for low-income workers or for people in Economically Distressed Areas, and opportunities for small businesses and disadvantaged business enterprises, including veteran-owned small businesses and service-disabled veteran-owned small businesses,[3] and (iv) improve economic mobility through enhanced multimodal connections to centers of employment, education, and services or the stimulation of such centers in Economically Distressed Areas.

3. Quality of Life: Like the livability criterion in past rounds, quality of life is focused on increasing transportation choices and access to transportation services for people in communities across the United States. DOT will consider whether the project furthers the six ''Livability Principles'' developed by DOT with the Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) as part of the Partnership for Sustainable Communities.[4] DOT will focus on the first principle, the creation of affordable and convenient transportation choices.[5] Projects that demonstrate this principle by providing transportation choices to connect economically disadvantaged populations, non-drivers, senior citizens, and persons with disabilities with employment, training and education will receive particular consideration. Further, DOT will prioritize projects developed in coordination with land-use planning and economic development decisions, including through programs like TIGER II Planning Grants, the Department of Housing and Urban Development's Regional Planning Grants, or the Environmental Protection Agency's Brownfield Area-Wide Planning Pilot Program, as well as technical assistance programs focused on quality of life or economic development planning.

4. Environmental Sustainability: Improving energy efficiency, reducing dependence on oil, reducing greenhouse gas emissions, addressing stormwater through natural means, avoiding and mitigating environmental impacts and otherwise benefitting the environment. DOT will assess the project's ability to (i) reduce energy use and air or water pollution; (ii) avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; (iii) provide environmental benefits, such as brownfield redevelopment, ground water recharge in areas of water scarcity, wetlands creation or improved habitat connectivity, and stormwater mitigation, including green infrastructure or (iv) improve the resilience of a transportation asset or the transportation system. Applicants are encouraged to provide quantitative information, including baseline information, that demonstrates how the project will reduce energy consumption, stormwater runoff, or achieve other benefits for the environment.

[3] The Executive Office of the President, Council of Economic Advisers (CEA), issued a memorandum in May 2009 on ''Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009.'' That memorandum provided a simple rule for estimating job-years created by government spending, which is that $92,000 of government spending creates one job-year (or 10,870 job-years per billion dollars of spending). More recently, in September 2011, based on further analysis both of actual job-creation experience from transportation projects under the Recovery Act and on further macroeconomic analysis, the CEA determined that a job-year is created by every $76,923 in transportation infrastructure spending (or 13,000 job-years per billion dollars of transportation infrastructure spending). This figure can be used in place of the earlier $92,000/job-year estimate. Applicants can use this estimate as an appropriate indicator of direct, indirect and induced job-years created by TIGER Discretionary Grant spending, but are encouraged to supplement or modify this estimate to the extent they can demonstrate that such modifications are justified. However, since this guidance makes job creation purely a function of the level of expenditure, applicants should also demonstrate how quickly jobs will be created under the proposed project.

[4] *http://www.sustainablecommunities.gov/index.html.*

[5] In full, this principle reads: ''Provide more transportation choices. Develop safe, reliable and economical transportation choices to decrease household transportation costs, reduce our nations' dependence on foreign oil, improve air quality, reduce greenhouse gas emissions and promote public health.''

5. Safety: Improving the safety of U.S. transportation facilities and systems for all modes of transportation and users. DOT will assess the project's ability to reduce the number, rate, and consequences of surface transportation-related accidents, serious injuries, and fatalities among operators, drivers and/or non-drivers in the United States or in the affected metropolitan area or region, and/or the project's contribution to the elimination of highway/rail grade crossings, or the prevention of unintended releases of hazardous materials. DOT will consider the project's ability to foster a safe, connected, accessible transportation system for the multimodal movement of goods and people.

B. Secondary Selection Criteria

1. Innovation: Use of innovative strategies to pursue the long-term outcomes outlined above. DOT will assess the extent to which the project uses innovative technology (such as intelligent transportation systems, dynamic pricing, value capture, rail wayside or on-board energy recovery, smart cards, active traffic management or radio frequency identification) to pursue one or more of the long-term outcomes outlined above and/or to significantly enhance the operational performance of the transportation system. DOT will also assess the extent to which the project incorporates innovations in transportation funding and finance and leverages both existing and new sources of funding through both traditional and innovative means. Further, DOT will consider the extent to which the project utilizes innovative practices in contracting, congestion management, safety management, asset management, or long-term operations and maintenance. DOT is particularly interested in projects that apply innovative strategies to improve the efficiency of project development or improve overall project delivery in the area.

2. Partnership: Demonstrating strong collaboration among a broad range of participants, integration of transportation with other public service efforts, and/or projects that are the product of a robust planning process.

(a) Jurisdictional and Stakeholder Collaboration: DOT will consider the extent to which projects involve multiple partners in project development and funding, such as State and local governments, other public entities, and/or private or nonprofit entities. DOT will also assess the extent to which the project application demonstrates collaboration among neighboring or regional jurisdictions to achieve national, regional, or metropolitan benefits. In the context of public private partnerships, DOT will assess the extent to which partners are incentivized to ensure long-term asset performance, such as through pay for success approaches. Multiple States or jurisdictions may submit a joint application and must identify a lead applicant as the primary point of contact. Joint applications must include a description of the roles and responsibilities of each project party and must be signed by each project party.

(b) Disciplinary Integration: DOT will consider the extent to which projects include partnerships that bring together diverse transportation agencies and/or are supported, financially or otherwise, by non-transportation public agencies that are pursuing similar objectives. For example, DOT will give priority to transportation projects that are coordinated with economic development, housing, water infrastructure, and land use plans and policies; similarly, DOT will give priority to transportation projects that encourage energy efficiency or improve the environment and are supported by relevant public agencies with energy or environmental missions. Projects that grow out of a robust planning process—such as those conducted with DOT's various planning programs and initiatives, the Department of Housing and Urban Development's Regional Planning Grants and Choice Neighborhood Planning Grants, or the Environmental Protection Agency's Brownfield Area-Wide Planning Pilot Program, as well as technical assistance programs focused on livability or economic development planning—will also be given priority.

C. Demonstrated Project Readiness

Projects that receive funding in this round of TIGER will have to obligate funds by September 30, 2016, or the funding will expire. Therefore, DOT will assess every application to determine whether the project is likely to proceed to obligation within the statutory deadline upon receipt of a TIGER Discretionary Grant (see *Additional Information on Project Readiness Guidelines* located at *www.dot.gov/TIGER* for further details), as evidenced by:

1. Technical Feasibility: The technical feasibility of the project should be demonstrated by engineering and design studies and activities; the development of design criteria and/or a basis of design; the basis for the cost estimate presented in the TIGER application, including the identification of contingency levels appropriate to its level of design; and any scope, schedule, and budget risk-mitigation measures. Applicants must include a detailed statement of work that focuses on the technical and engineering aspects of the project and describes in detail the project to be constructed;

2. Financial Feasibility: The viability and completeness of the project's financing package (assuming the availability of the requested TIGER Discretionary Grant funds) should be demonstrated including evidence of stable and reliable capital and (as appropriate) operating fund commitments sufficient to cover estimated costs; the availability of contingency reserves should planned capital or operating revenue sources not materialize; evidence of the financial condition of the project sponsor; and evidence of the grant recipient's ability to manage grants. You must include a detailed project budget in this section of your application or applications containing a detailed breakdown of how the funds will be spent that provides estimates—both dollar amount and percentage of cost—of how much each activity would cost—e.g., preparation, grading, asphalt, etc. If the project will be completed in individual segments or phases, a budget for each individual segment or phase must be included. Budget spending categories must be broken down between TIGER, other Federal, and non-Federal sources, and identify how each funding source will share in each activity.

3. Project Schedule: You must include a detailed project schedule that includes all major project milestones—such as start and completion of environmental reviews and approvals; design; right of way acquisition; approval of plan, specification and estimate (PS&E); procurement; and construction—in this section of your application with sufficiently detailed information to demonstrate that:

(a) all necessary pre-construction activities will be complete to allow for any potential grant funding awarded to be obligated no later than June 30, 2016, to give DOT reasonable assurance that the TIGER Discretionary Grant funds will likely to be obligated sufficiently in advance of the September 30, 2016, statutory deadline, and that any unexpected delays will not put TIGER Discretionary Grant funds at risk of expiring before they are obligated;

(b) the project can begin construction quickly upon receipt of a TIGER Discretionary Grant, and that the grant funds will be spent steadily and

expeditiously once construction starts; [6] and

(c) any applicant that is applying for a TIGER Discretionary Grant and does not own all of the property or right-of-way required to complete the project should provide evidence that the property and/or right-of-way acquisition can and will be completed expeditiously.

4. Assessment of Project Risks and Mitigation Strategies: You should identify the material risks to the project and the strategies that the lead applicant and any project partners have undertaken or will undertake in order to mitigate those risks. In past rounds of TIGER Discretionary Grants, certain projects have been affected by procurement delays, environmental uncertainties, and increases in real estate acquisition costs. You must assess the greatest risks to your projects and identify how those risks will be mitigated by the project parties.

Applicants, to the extent they are unfamiliar with the Federal program, should contact DOT modal field or headquarters offices for information on what steps are pre-requisite to the obligation of Federal funds in order to ensure that their project schedule is reasonable and that there are no risks of delays in satisfying federal requirements. Contacts for the Federal Highway Administration Division offices—which are located in all 50 States, Washington, DC, and Puerto Rico—can be found at *http://www.fhwa.dot.gov/about/field.cfm*. Contacts for the ten Federal Transit Administration regional offices can be found at *http://www.fta.dot.gov/12926.html*.

D. Additional Guidance on Evaluation

1. Project Costs and Benefits

Applicants for TIGER Discretionary Grants are generally required to identify, quantify, and compare expected benefits and costs, subject to the following qualifications: [7]

Applicants will be expected to prepare and submit an analysis of benefits and costs; however, DOT understands that the level of detail of analysis that should be expected (for items such as surveys, travel demand forecasts, market forecasts, and statistical analyses) is less for smaller projects than for larger projects. The level of sophistication of the benefit-cost analysis (BCA) should be reasonably related to the size of the overall project and the amount of grant funds requested in the application. Any subjective estimates of benefits and costs should still be quantified, and applicants should provide appropriate evidence to lend credence to their subjective estimates. Estimates of benefits should be presented in monetary terms whenever possible; if a monetary estimate is not possible, then at least another quantitative estimate (in physical, non-monetary terms, such as crash rates, ridership estimates, emissions levels, energy efficiency improvements, etc.) should be provided.

Based on feedback over previous rounds of TIGER, DOT recognizes that the benefit-cost analysis can be particularly burdensome on Tribal governments. Therefore, the Department is providing additional flexibility to Tribal governments for the purposes of this notice. At their discretion, Tribal applicants may elect to provide raw data to support the need for a project (such as crash rates, ridership estimates, and the number of people who will benefit from the project), without additional analysis. This data will then be used to allow DOT economists to make the best estimates they can develop (given the data provided) of benefits and costs. Examples of BCAs by successful Tribal applicants are also available online.[8]

The lack of a useful analysis of expected project benefits and costs may be the basis for not selecting a project for award of a TIGER Discretionary Grant. If it is clear to DOT that the total benefits of a project are not reasonably likely to justify the project's costs, DOT will not award a TIGER Discretionary Grant to the project.

Detailed guidance for the preparation of benefit-cost analyses is provided in the *2014 Benefit-Cost Analyses Guidance for TIGER Grant Applicants* and in the *BCA Resource Guide* (available at *www.dot.gov/TIGER*). A recording of the *Benefit-Cost Analysis Practitioner's Workshop (2010)* and two BCA-related webinars are also available for viewing at *www.dot.gov/TIGER,* along with examples of benefit-cost analyses that have been submitted in previous rounds of TIGER.

Benefits should be presented, whenever possible, in a tabular form showing benefits and costs in each year for the useful life of the project. Benefits and costs should both be discounted to the year 2014, and calculations should be presented for discounted values of both the stream of benefits and the stream of costs. If the project has multiple parts, each of which has independent utility, the benefits and costs of each part should be estimated and presented separately. The results of the benefit-cost analysis should be summarized in the Project Narrative section of the application itself, but the details may be presented in an attachment to the application if the full analysis cannot be included within the page limit for the project narrative. The requirement to conduct an economic analysis is not applicable to applicants seeking TIGER Planning Grants; however, such applicants should describe the expected benefits of the underlying project(s) that the planning activities will help advance.

2. Other Environmental Reviews and Approvals

(a) National Environmental Policy Act: An application for a TIGER Discretionary Grant must detail whether the project will significantly impact the natural, social and/or economic environment. The application should demonstrate receipt (or reasonably anticipated receipt) of all environmental approvals and permits necessary for the project to proceed to construction on the timeline specified in the project schedule and necessary to meet the statutory obligation deadline, including satisfaction of all Federal, State and local requirements and completion of the National Environmental Policy Act (''NEPA'') process. You should submit the information listed below with your application:

(i) Information about the NEPA status of the project. If the NEPA process is completed, an applicant must indicate the date of, and provide a Web site link or other reference to, the final Categorical Exclusion, Finding of No Significant Impact or Record of Decision. If the NEPA process is underway but not complete, the application must detail the type of NEPA review underway, where the project is in the process, and indicate the anticipated date of completion. You must provide a Web site link or other reference to copies of any NEPA documents prepared.

(ii) Information on reviews by other agencies. An application for a TIGER Discretionary Grant must indicate whether the proposed project requires reviews or approval actions by other agencies, indicate the status of such actions, and provide detailed information about the status of those reviews or approvals and/or

[6] The schedule should show how many direct, on-project jobs are expected to be created or sustained during each calendar quarter after the project is underway.

[7] DOT has a responsibility under Executive Order 12893, Principles for Federal Infrastructure Investments, 59 FR 4233, to base infrastructure investments on systematic analysis of expected benefits and costs, including both quantitative and qualitative measures.

[8] *http://www.dot.gov/policy-initiatives/tiger/tribal-tiger-bca-examples.*

demonstrate compliance with any other applicable Federal, State, or local requirements.

(iii) Environmental studies or other documents—preferably by way of a Web site link—that describe in detail known project impacts, and possible mitigation for those impacts.

(iv) A description of discussions with the appropriate DOT modal administration field or headquarters office regarding compliance with NEPA and other applicable environmental reviews and approvals.

(b) Legislative Approvals: Receipt of all necessary legislative approvals (for example, legislative authority to charge user fees or set toll rates), and evidence of support from State and local elected officials. Support from all relevant State and local officials is not required; however, you should demonstrate that the project is broadly supported.

(c) State and Local Planning: The planning requirements of the operating administration administering the TIGER project will apply.[9] You should demonstrate that a project that is required to be included in the relevant State, metropolitan, and local planning documents has been or will be included. If the project is not included in the relevant planning documents at the time the application is submitted, you should submit a certification from the appropriate planning agency that actions are underway to include the project in the relevant planning document. DOT reserves the right to revoke any award of TIGER Discretionary Grant funds and to award such funds to another project to the extent either that such funds cannot be timely expended and/or that construction does not begin in accordance with the project schedule. Because projects have different schedules, DOT will consider on a case-by-case basis how much time after selection for award of a TIGER Discretionary Grant each project has before funds must be obligated (consistent with law) and construction started through an executed grant agreement between the selected applicant and the relevant modal administration administering the grant. This deadline will be specified for each TIGER Discretionary Grant in the project-specific grant agreements signed by the grant recipients and will be based on critical path items identified by applicants in response to items (a)(i) through (iv) above.

[9] All regionally significant projects requiring an action by the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA) must be in the metropolitan transportation plan, transportation improvement program (TIP) and statewide transportation improvement program (STIP). Further, in air quality non-attainment and maintenance areas, all regionally significant projects, regardless of the funding source, must be included in the conforming metropolitan transportation plan and TIP. To the extent a project is required to be on a metropolitan transportation plan, TIP, and/or STIP, it will not receive a TIGER Discretionary Grant until it is included in such plans. Projects not currently included in these plans can be amended by the State and metropolitan planning organization (MPO). Projects that are not required to be in long range transportation plans, STIPs, and TIPs will not need to be included in such plans in order to receive a TIGER Discretionary Grant. Freight and passenger rail projects are not required to be on the State Rail Plans called for in the Passenger Rail Investment and Improvement Act of 2008. This is consistent with the exemption for high-speed and intercity passenger rail projects under the Recovery Act. However, applicants seeking funding for freight and passenger rail projects are encouraged to demonstrate that they have done sufficient planning to ensure that projects fit into a prioritized list of capital needs and are consistent with long-range goals.

III. Evaluation and Selection Process

A. Evaluation Process

TIGER Discretionary Grant applications will be evaluated in accordance with the evaluation process discussed below. DOT will establish application evaluation teams to review each application that is received by DOT prior to the Application Deadline. These evaluation teams will be organized and led by the Office of the Secretary of Transportation and will include members from each of the Relevant Modal Administrations and, in some cases, staff from other Federal agencies with relevant expertise, including freight, resilience, quality of life, environmental review, and permitting expertise. The evaluation teams will be responsible for evaluating and rating all of the projects and making funding recommendations to the Secretary.

DOT will not assign specific numerical scores to projects based on the selection criteria outlined above in Section II(A) (*Selection Criteria*). Rather, ratings of ''highly recommended,'' ''recommended,'' ''acceptable,'' or ''not recommended'' will be assigned to projects. DOT will award TIGER Discretionary Grants to projects that are well-aligned with one or more of the selection criteria. In addition, DOT will consider whether a project has a negative effect on any of the selection criteria, and any such negative effect may reduce the likelihood that the project will receive a TIGER Discretionary Grant.

DOT will give more consideration to the Primary Selection Criteria than to the two Secondary Selection Criteria (*Innovation* and *Partnership*), which will also be considered equally

Projects that are recommended by the evaluation teams for further review will have their benefit-cost analyses evaluated by an Economic Analysis Team, and will have their project readiness evaluated by a Project Readiness Team. The Economic Analysis Team will assess the likelihood that the project's benefits will exceed its costs, and the Project Readiness Team will assess the likelihood that the project will be able to obligate any grant awarded to it by the obligation deadline of September 30, 2016. The results of these evaluations will also be taken into account in the recommendations made to the Secretary.

Upon completion of this rating process, DOT will analyze the preliminary list and determine whether highly-rated projects are consistent with the distributional requirements of the FY 2014 Appropriations Act, including an equitable geographic distribution of grant funds, an appropriate balance in addressing the needs of urban and rural areas, and investment in a variety of transportation modes. If necessary, DOT will adjust the list of recommended projects to satisfy the statutory distributional requirements while remaining as consistent as possible with the competitive ratings. The Secretary of Transportation will make the final project selections.

B. Evaluation of Eligibility

To be selected for a TIGER Discretionary Grant, a project must be an Eligible Project and the applicant must be an Eligible Applicant. DOT may consider one or more components of a large project to be an Eligible Project, but only to the extent that the components have independent utility, meaning the components themselves, not the project of which they are a part, are Eligible Projects and satisfy the selection criteria identified above in Section II(A) (*Selection Criteria*). For these projects, the benefits described in an application must be related to the components of the project for which funding is requested, not the full project of which they are a part. DOT will not fund individual phases of a project if the benefits of completing only these phases would not align well with the selection criteria specified in this notice because the overall project would still be incomplete.

IV. Grant Administration

DOT expects that each TIGER Discretionary Grant will be administered by one of the Relevant Modal Administrations, pursuant to a grant agreement between the TIGER

Discretionary Grant recipient and the Relevant Modal Administration. Service Outcome Agreements, Stakeholder Agreements, Buy America compliance, and other requirements under DOT's other highway, transit, rail, and port grant programs will be incorporated into the TIGER grant agreements, where appropriate. The Secretary has the discretion to delegate such responsibilities to the appropriate Relevant Modal Administration.

Applicable Federal laws, rules, and regulations of the Relevant Modal Administration administering the project will apply to projects that receive TIGER Discretionary Grants.

V. Projects in Rural Areas

The FY 2014 Appropriations Act directs that not less than $120 million of the funds provided for TIGER Discretionary Grants are to be used for projects in rural areas. For purposes of this notice, DOT is defining ''rural area'' as any area not in an Urbanized Area, as such term is defined by the Census Bureau,[10] and will consider a project to be in a rural area if all or the majority of a project (determined by geographic location(s) where the majority of project money is to be spent) is located in a rural area. Therefore, if all or the majority of a project is located in a rural area, such a project is eligible to apply for less than $10 million, but at least $1 million in TIGER Discretionary Grant funds, and up to 100 percent of the project's costs may be paid for with Federal funds. To the extent more than a *de minimis* portion of a project is located in an Urbanized Area, you should identify the estimated percentage of project costs that will be spent in Urbanized Areas and the estimated percentage that will be spent in rural areas.

VI. TIGER Planning Grants

A. Background

On December 16, 2009, the President signed the Fiscal Year (FY) 2010 Consolidated Appropriations Act, which appropriated $600 million to DOT for National Infrastructure Investments, including up to $35 million for planning.

That round of planning grants was conducted in conjunction with $40 million in HUD Community Challenge grants. Thirty-three total DOT planning grants were made, including 14 joint grants with HUD. In this round, DOT will not be able to pair TIGER planning grants with HUD Community Challenge grants due to the lack of available HUD funds. However, those applicants seeking to fund regional transportation planning grants should show strong coordination with housing, land use, economic development, stormwater, and other infrastructure needs, including identifying risks from extreme weather and climate change, and plans to mitigate that risk.

B. Eligible Planning Activities

Activities eligible for funding under TIGER Planning Grants are related to the planning, preparation, or design—including environmental analysis, feasibility studies, and other pre-construction activities—of surface transportation projects, including, but not limited to:

(1) Highway or bridge projects eligible under Title 23, United States Code (including bicycle and pedestrian related projects);

(2) Public transportation projects eligible under Chapter 53 of Title 49, United States Code;

(3) Passenger and freight rail transportation projects;

(4) Port infrastructure investments; and

(5) Intermodal projects.

In addition, eligible activities related to multidisciplinary projects or regional planning may include:

(1) Development of master plans, comprehensive plans, or corridor plans that will provide connection to jobs for disadvantaged populations, or include affordable housing components.

(2) Planning activities related to the development of a multimodal freight corridor, including those that seek to reduce conflicts with residential areas and with passenger and non-motorized traffic.

(3) Development of port and regional port planning grants, including State-wide or multi-port planning within a single jurisdiction or region.

(4) Planning to encourage multiple projects within a common area to engage in programmatic mitigation in order to increase efficiency and improve outcomes for communities and the environment.

(5) Risk assessments and planning to identify vulnerabilities and address the transportation system's ability to withstand probable occurrence or recurrence of an emergency or major disaster or impacts of climate change.

C. Selection Criteria

Planning grant applications will be evaluated against the same criteria as capital grants. For project-level planning, this means considering how the project resulting from the plan will ultimately further the five primary and two secondary criteria. For regional transportation planning efforts, applications should demonstrate how the regional plan will help lead to these outcomes.

Similar to capital grant applications, planning applications will be more competitive if they can demonstrate funding support above the 20 percent match requirement for urban areas, and the 0 percent match requirement for rural areas.

Additionally, applicants should show the capacity to successfully implement the proposed activities in a timely manner.

VII. Application Cycle

A. Contents of Applications

You must include all of the information requested below in your application. DOT reserves the right to ask any applicant to supplement data in its application, but expects applications to be complete upon submission. To the extent practical, you should provide data and evidence of project merits in a form that is publicly available or verifiable.

1. Standard Form 424, Application for Federal Assistance

Additional clarifying guidance and FAQs to assist you in completing the SF–424 will be available at *www.dot.gov/TIGER* by April 3, 2014, when the ''Apply'' function within Grants.gov opens to accept applications under this notice.

2. Title Page

The title page must include the project title, location (city, State, district), type of application (capitol, project planning, or regional planning), the applicant organization name, the type of eligible applicant (State government, local government, U.S. territory, Tribal government, transit agency, port authority, MPO, RDO, other unit of government), and the amount of TIGER funding being applied for. The information may be presented in a table or formatted list.

3. Project Narrative (Attachment to SF 424)

The project narrative must respond to the application requirements outlined below. DOT recommends that the project narrative be prepared with standard formatting preferences (.i.e., a single-spaced document, using a standard 12-point font, such as Times New Roman, with 1-inch margins).

[10] For Census 2010, the Census Bureau defined an Urbanized Area (UA) as an area that consists of densely settled territory that contains 50,000 or more people. Updated lists of UAs are available on the Census Bureau Web site. Urban Clusters (UCs) will be considered rural areas for purposes of the TIGER Discretionary Grant program.

Your application must include information required for DOT to assess each of the criteria specified in Section II (A) (*Selection Criteria*), as such criteria are explained in Section II(B) (*Additional Guidance on Selection Criteria*). You must demonstrate the responsiveness of a project to any pertinent selection criteria with the most relevant information that you can provide, regardless of whether such information has been specifically requested, or identified, in this notice. You should provide concrete evidence of the feasibility of achieving project milestones, and of financial capacity and commitment in order to support project readiness. DOT will give priority to projects for which a TIGER Discretionary Grant will help to complete an overall funding package, so you should clearly demonstrate the extent to which the project cannot be readily and efficiently completed without a TIGER Discretionary Grant, and the extent to which other sources of funds, including Federal, State, or local funding, may or may not be readily available for the project. Any such information shall be considered part of the application, not supplemental, for purposes of the application size limits identified below in Part B (*Length of Applications*). Information provided pursuant to this paragraph must be quantified, to the extent possible, to describe the project's benefits to the Nation, a metropolitan area, or a region. Information provided pursuant to this paragraph should include projections for both the build and no-build scenarios for the project for each year between the completion of the project and a point in time at least 20 years beyond the project's completion date or the lifespan of the project, whichever is closer to the present.

All applications should include a detailed description of the proposed project and geospatial data for the project, including a map of the project's location and its connections to existing transportation infrastructure. An application should also include a description of how the project addresses the needs of an urban and/or rural area. An application should clearly describe the transportation challenges that the project aims to address, the project's potential vulnerabilities to extreme weather and climate change throughout its projected life, and how the project will address these challenges. The description should include relevant data, such as passenger or freight volumes, congestion levels, infrastructure condition, and safety experience.

DOT recommends that the project narrative generally adhere to the following basic outline and, in addition to a detailed statement of work, detailed project schedule, and detailed project budget, you should include a table of contents, maps, and graphics that make the information easier to review:

I. Project Description (including information on the expected users of the project, a description of the transportation challenges that the project aims to address, and how the project will address these challenges);

II. Project Parties (information about the grant recipient and other project parties);

III. Grant Funds and Sources/Uses of Project Funds (information about the amount of grant funding requested, availability/commitment of funds sources and uses of all project funds, total project costs, percentage of project costs that would be paid for with TIGER Discretionary Grant funds, and the identity and percentage shares of all parties providing funds for the project (including any other pending or past Federal funding requests for the project as well as Federal funds already provided under other programs and required match for those funds);

IV. Selection Criteria (information about how the project aligns with each of the primary and secondary selection criteria and a description of the results of the benefit-cost analysis):

a. Primary Selection Criteria
i. State of Good Repair
ii. Economic Competitiveness
iii. Quality of Life
iv. Environmental Sustainability
v. Safety
b. Secondary Selection Criteria
i. Innovation
ii. Partnership
c. Results of Benefit-Cost Analysis

V. Project readiness, including planning approvals, NEPA and other environmental reviews/approvals, (including information about permitting, legislative approvals, State and local planning, and project partnership and implementation agreements); and

VI. Federal Wage Rate Certification (an application must include a certification, signed by the applicant(s), stating that it will comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code (Federal wage rate requirements), as required by the FY 2014 Continuing Appropriations Act).

The purpose of this recommended format is to ensure that applications clearly address the program requirements and make critical information readily apparent.

B. Length of Applications

The project narrative may not exceed 30 pages in length. Documentation supporting the assertions made in the narrative portion may also be provided, but should be limited to relevant information. If possible, Web site links to supporting documentation (including a more detailed discussion of the benefit-cost analysis) should be provided rather than copies of these materials. Spreadsheets supporting the benefit-cost analysis should be original Excel spreadsheets, not PDFs of those spreadsheets. At your discretion, relevant materials provided previously to a Relevant Modal Administration in support of a different DOT discretionary program (for example, New Starts or TIFIA) may be referenced and described as unchanged. To the extent referenced, this information need not be resubmitted for the TIGER Discretionary Grant application (although provision of a Web site link would facilitate DOT's consideration of the information). DOT recommends use of appropriately descriptive file names (e.g., ''Project Narrative,'' ''Maps,'' ''Memoranda of Understanding and Letters of Support,'' etc.) for all attachments. Cover pages and tables of contents do not count towards the 30-page limit for the narrative portion of the application, and the federal wage rate certification may also be outside of the 30-page narrative. Otherwise, the only substantive portions of the application that should exceed the 30-page limit are any supporting documents (including a more detailed discussion of the benefit-cost analysis) provided to support assertions or conclusions made in the 30-page narrative section.

C. Contact Information

Contact information for a direct employee of the lead applicant organization is required as part of the SF–424. DOT will use this information to inform parties of DOT's decision regarding selection of projects, as well as to contact parties in the event that DOT needs additional information about an application. Contact information for a contractor, agent, or consultant of the lead applicant organization is insufficient for DOT's purposes.

D. Protection of Confidential Business Information

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If the application includes information

you consider to be a trade secret or confidential commercial or financial information, you should do the following: (1) Note on the front cover that the submission ''Contains Confidential Business Information (CBI);'' (2) mark each affected page ''CBI;'' and (3) highlight or otherwise denote the CBI portions. DOT protects such information from disclosure to the extent allowed under applicable law. In the event DOT receives a Freedom of Information Act (FOIA) request for the information, DOT will follow the procedures described in its FOIA regulations at 49 CFR 7.17. Only information that is ultimately determined to be confidential under that procedure will be exempt from disclosure under FOIA.

VIII. Performance Management

Each applicant selected for TIGER Discretionary Grant capital grant funding will be required to work with DOT on the development and implementation of a plan to collect information and report on the project's performance with respect to the relevant long-term outcomes that are expected to be achieved through construction of the project. Each recipient of a TIGER Discretionary Grant will, in accordance with its grant agreement, report on specified performance indicators for its project. Performance indicators will be negotiated for each project, considerate of the individual project's stated goals as well as resource constraints of applicants. Performance indicators will not include formal goals or targets, but will include baseline measures as well as post-project outcomes for an agreed-upon timeline, and will inform the TIGER Discretionary Grant program in working towards best practices, programmatic performance measures, and future decisionmaking guidelines.

IX. Questions and Clarifications

For further information concerning this notice please contact the TIGER Discretionary Grant program staff via email at *TIGERGrants@dot.gov,* or call Howard Hill at 202–366–0301. A TDD is available for individuals who are deaf or hard of hearing at 202–366–3993. DOT will regularly post answers to these questions and other important clarifications on DOT's Web site at *www.dot.gov/TIGER.*

Issued on February 25, 2014.

Anthony R. Foxx,

Secretary.

[FR Doc. 2014–04627 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Nineteenth Meeting: RTCA Special Committee 217—Aeronautical Databases Joint With EUROCAE WG–44—Aeronautical Databases

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

ACTION: Notice of RTCA Special Committee 217—Aeronautical Databases Joint with EUROCAE WG–44—Aeronautical Databases.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 217—Aeronautical Databases being held jointly with EUROCAE WG–44—Aeronautical Databases.

DATES: The meeting will be held March 17–21, 2014 from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be hosted by AIRBUS, Site de Saint Martin du Touch, 316 route de Bayonne, 1060 Toulouse Cedex 9 FRANCE.

FOR FURTHER INFORMATION CONTACT: Sophie Bousquet, *SBousquet@rtca.org*, 202–330–0663 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of RTCA Special Committee 217—Aeronautical Databases held jointly with EUROCAE WG–44—Aeronautical Databases. The agenda will include the following:

Monday, March 17, Opening Plenary

- Co-Chairmen's remarks and introductions
- Approve minutes from 18th meeting
- Review and approve meeting agenda for 19th meeting
- Review of joint WG–1/WG–2 Action Items
- ToR Update
- SC–216/SC–217 ISRA Update
- SWIM, Presentations and Discussion
- Continuation, ''Data Terms Definitions'' Review

Monday Thru Thursday, March 17–20—Working Group One (WG1)–DO–200A/ED–76

- Review of WG–1 Action Items Status
- Discussion and progress on ED76/DO200A update
- Process to develop a first mature draft update to ED76/DO200A

Working Group Two (WG2)–DO–272/DO–291

- WG–2 Action Item Status Review
- Sub-Group Status Reports (Content, Connectivity, Consistency, etc)
- Document Editor, Introduction and Status
- Review of Working Papers, Discussion Papers, Information Papers
- New Presentations, not related to WPs, DPs or IPs.

Closing Plenary Session (9:00 a.m. to Noon)

- Presentation of WG1 and WG2 conclusions
- Working arrangements for the remaining work
- Review of action items
- Next meetings, dates and locations
- Any other business and Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting.

Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 25, 2014.

Paige L. Williams,

Management Analyst, Business Operations Group, ANG–A12, Federal Aviation Administration.

[FR Doc. 2014–04635 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Sixtieth Meeting: RTCA Special Committee 186, Automatic Dependent Surveillance—Broadcast (ADS–B)

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

ACTION: Meeting Notice of RTCA Special Committee 186, Automatic Dependent Surveillance—Broadcast (ADS–B).

SUMMARY: The FAA is issuing this notice to advise the public of the sixtieth meeting of the RTCA Special Committee 186, Automatic Dependent Surveillance—Broadcast (ADS–B)

DATES: The meeting will be held March 17–20, 2014 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at the RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 330–0662/(202) 833–9339, fax (202) 833–9434, or Web site at *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of Special Committee 186. The agenda will include the following:

March 17

- All Day, WG–4/EUROCAE SubGroup 3—Application Technical Requirements, ARINC & A4A Rooms

March 18

- All Day, WG–4/EUROCAE SubGroup 3—Application Technical Requirements, ARINC & A4A Rooms

March 19

- All Day, WG–4/EUROCAE SubGroup 3—Application Technical Requirements, ARINC & A4A Rooms

March 20

- JOINT PLENARY SESSION, ARINC & A4A Rooms

March 20

- Chairman's Introductory Remarks
- Review of Meeting Agenda
- Review/Approval of the Fifty-Ninth Meeting Summary, RTCA Paper No. 006–14/SC186–329
- Review/Approval—Revised DO–317B—*Minimum Operational Performance Standards (MOPS) for Aircraft Surveillance Applications (ASA) System,* RTCA Paper No. 021–14/SC186–330
- Review/Approval—*Safety, Performance and Interoperability Requirements Document for CDTI Assisted Visual Separation (CAVS),* RTCA Paper No. 025–14/SC186–331
- FAA Surveillance and Broadcast Services (SBS) Program—Status
- EUROCAE WG–51 Report
- Coordination with SC–214/WG–78 for ADS–B Application Data Link Requirements—Status
- Working Group Reports
  - WG–4—Application Technical Requirements
  - Flight Deck-based Interval Management (FIM) SPR/MOPS Status & Schedule
  - Cockpit Assisted Pilot Procedures (CAPP)
- Terms of Reference—status update
- Date, Place and Time of Next Meeting
- New Business
  - ADS–B Compliance Monitor—FAA
- Other Business
- Review Action Items/Work Programs
- Adjourn Plenary

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC on February 25, 2014.

Paige Williams,

Management Analyst, Business Operations Group, NextGen, Management Services, Federal Aviation Administration.

[FR Doc. 2014–04622 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Meeting: RTCA Program Management Committee

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

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Program Management Committee.

DATES: The meeting will be held March 18, 2014 from 8:30am–1:30 p.m.

ADDRESSES: The meeting will be held at RTCA, Inc., 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org*.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a Program Management Committee meeting. The agenda will include the following:

March 18

- WELCOME AND INTRODUCTIONS
- REVIEW/APPROVE Meeting Summary
- December 18, 2014, RTCA Paper No. 032–14/PMC–1178
- PUBLICATION CONSIDERATION/ APPROVAL
  - Final Draft, New Document, *Safety, Performance and Interoperability Requirements Document for Traffic Situation Awareness with Alerts (TSAA),* RTCA Paper No. 020–14/PMC–1177, prepared by SC–186
  - Final Draft, New Document, *Architecture Recommendations for Aeronautical Information (AI) and Meteorological (MET) Data Link Services,* RTCA Paper No. 017–14/PMC–1174, prepared by SC–206.
  - Final Draft, Change 1 to DO–224C—*Signal-In-Space Minimum Aviation System Performance Standards (MASPS) for Advanced VHF Digital Data Communications Including Compatibility with Digital Voice Techniques,* RTCA Paper No. 011–14/PMC–1169, prepared by SC–214.
  - Final Draft, Change 1 to DO–280B—*Interoperability Requirements Standard for Aeronautical Telecommunication Network Baseline 1 (ATN B1 Interop Standards),* RTCA Paper No. 009–14/PMC–1167, prepared by SC–214.
  - Final Draft, Change 1 to DO–281C—*Minimum Operational Performance Standards (MOPS) for Aircraft VDL Mode 2 Physical Link and Network Layer,* RTCA Paper No. 010–14/PMC–1168, prepared by SC–214.
  - Final Draft, New Document, *Safety and Performance Standard for Baseline 2 ATS Data Communications, Initial Release, (Baseline 2 SPR Standard),* RTCA Paper No. 012–14/PMC–1170, prepared by SC–214.
  - Final Draft, New Document, *Interoperability Requirements Standard for Baseline 2 ATS Data Communications, Initial Release, (Baseline 2 Interop Standard),* RTCA Paper No. 013–14/PMC–1171, prepared by SC–214.
  - Final Draft, New Document, *Interoperability Requirements Standard for Baseline 2 ATS Data Communications, ATN Baseline 1 Accommodation, Initial Release, (ATN Baseline 1—Baseline 2 Interop Standard),* RTCA Paper No. 014–14/PMC–1172, prepared by SC–214.
  - Final Draft, New Document, *Interoperability Requirements Standard for Baseline 2 ATS Data Communication, FANS 1/A Accommodation, Initial Release, (FANS 1/A—Baseline 2 Interop Standard),* RTCA Paper No. 015–14/PMC–1173, prepared by SC–214.
  - Final Draft, New Document, *Detect and Avoid (DAA) White Paper,* RTCA Paper No. 018–14/PMC–

1175, prepared by SC–228.
- Final Draft, New Document, *Command and Control (C2) Data Link White Paper,* RTCA Paper No. 019–14/PMC–1176, prepared by SC–228.

- INTEGRATION and COORDINATION COMMITTEE (ICC)
  - Activity Report.—ISRA Review.
- ACTION ITEM REVIEW
  - Ground Proximity Warning Equipment—Discussion—Possible New Special
  - PMC Ad Hoc—Standards Overlap and Alignment—Discussion—Status
  - PMC Ad Hoc—Part 23 ARC Report—Areas/Recommendations for RTCA Support—Discussion—Status
  - RTCA Policy on Propriety Information—Discussion
- DISCUSSION
  - Wake Vortex—Presentation—Review of industry developments that support renewed standards work
  - SC–206—Aeronautical Information Services (AIS) and Meteorological Data Link Services—Discussion—Revised Terms of Reference
  - C–225—Rechargeable Lithium Batteries and Battery Systems—Discussion—Revised Terms of Reference
  - NAC—Status Update
  - FAA Actions Taken on Previously Published Documents—Report
  - Special Committees—Chairmen's Reports and Active Inter-Special Committee Requirements Agreements (ISRA)—Review
  - European/EUROCAE Coordination—Status Update
- OTHER BUSINESS
- SCHEDULE for COMMITTEE DELIVERABLES and NEXT MEETING DATE

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 25, 2014.

Paige Williams,

Management Analyst,

NextGen, Business Operations Group, Federal Aviation Administration.

[FR Doc. 2014–04638 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA–2014–0008]

State of Good Repair Grants Program: Proposed Circular

AGENCY: Federal Transit Administration (FTA).

ACTION: Notice of availability of proposed circular and request for comments.

SUMMARY: FTA has placed in the docket and on its Web site proposed guidance, in the form of a circular, to assist recipients of financial aid under the 49 U.S.C. 5337 State of Good Repair (''SGR'') Grants program. The proposed circular provides instructions and guidance on program administration and the grant application process.

DATES: Comments must be received by April 2, 2014. Late filed comments may be considered so far as practicable.

ADDRESSES: You may submit comments, identified by docket number FTA–2014–0008, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *U.S. Mail:* U.S. Department of Transportation Docket Operations, 1200 New Jersey Avenue Southeast, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery/Courier:* U.S. Department of Transportation Docket Operations, 1200 New Jersey Avenue Southeast, Room W12–140, Washington, DC 20590–0001, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions received must include the agency name and docket number for this notice at the beginning of your comment. If sent by mail, please include two copies. If you wish to receive confirmation that FTA received your comment, you must include a self-addressed and stamped postcard.

All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. You may review the U.S. Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477–8 or at *http://docketsinfo.dot.gov*.

Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties mailing comments should consider using an express mail firm to ensure their prompt filing.

FOR FURTHER INFORMATION CONTACT: Eric Hu, FTA Office of Program Management, (202) 366–0870, *Eric.Hu@dot.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Overview

The Moving Ahead for Progress in the 21st Century Act (''MAP–21''), Public Law 112–141, 126 Stat. 405 (2012), made significant changes to the Federal transit laws that are applicable across all of FTA's financial assistance programs. These changes further several important goals of the U.S. Department of Transportation. Most notably, MAP–21 grants FTA new authority to oversee and regulate the safety of public transportation systems in the United States and authorizes a new Public Transportation Safety Program at 49 U.S.C. 5329. MAP–21 also establishes a new National Transit Asset Management system at 49 U.S.C. 5326 including a new requirement for transit asset management plans, performance measures and annual target setting based on a definition of ''state of good repair'', and additional technical assistance from FTA.

MAP–21 also establishes the new State of Good Repair (SGR) Grants program at 49 U.S.C. 5337. In contrast to the repealed fixed guideway modernization program, the purpose of the SGR Grants program is the maintenance, replacement, and rehabilitation of capital assets, along with the development and implementation of transit asset management plans.

These three new sections—section 5326 transit asset management, section 5329 public transportation safety program, and section 5337 SGR Grants program—enhance the process by which a transit provider evaluates the SGR needs of capital assets and finances necessary replacement or rehabilitation, as informed by conditions of capital assets and safety risk priorities. A transit provider's safety and asset assessment informs its asset management process, which informs budgeting and project

selection. FTA anticipates publishing in the **Federal Register** an Advance Notice of Proposed Rulemaking [RIN 2132–AB20] that will begin an in-depth discussion of safety and asset management issues and the interrelation of these three programs.

This Notice provides a summary of a proposed guidance document, FTA Circular 5300.1, that provides program guidance and application instructions to assist grant recipients in implementing the SGR Grants program. FTA seeks public comment on the proposed Circular 5300.1. Any proposed policies on which FTA is seeking comment that impact service data used from National Transit Database to calculate the SGR formula apportionment will go into effect once a final circular is published.

This Notice does not include the proposed Circular 5300.1. The proposed circular is approximately 150 pages in length, and is available in its entirety on FTA's Web site, *http://www.fta.dot.gov*. Paper copies may be obtained by contacting FTA's Administrative Services Help Desk at (202) 366–4865.

The following is a chapter-by-chapter summary of the content of the proposed Circular 5300.1.

II. Chapter-By-Chapter Summary

A. Chapter I: Introduction and Background

Chapter I of the proposed circular is an introductory chapter that contains general information about FTA, a distinction between the new SGR grants program and previous programs that existed under section 5337, and a set of definitions applicable throughout the proposed circular. The circular includes several definitions that are new or that clarify statutory definitions including: ''bus rapid transit system,'' ''commuter rail,'' and ''high intensity motorbus.'' FTA specifically seeks comment on these proposed definitions. The proposed definitions would impact project eligibility under the SGR Grants program and how system data are reported to the National Transit Database, which is used to calculate SGR Grants program apportionments. The proposed definition of commuter rail includes a provision to preserve the designation of any service designated as commuter rail as of 2012. FTA specifically seeks comment on these proposed definitions.

B. Chapter II: Program Overview

Chapter II provides general information about the SGR grants program.

1. Statutory Authority

This section states the statutory authorization of the SGR grants program, MAP–21 section 20027, codified at 49 U.S.C. 5337.

2. Program Goals

This section describes the program goals for the SGR Grants program: the maintenance, repair or replacement of capital assets to bring fixed-guideway and high-intensity motorbus systems into a state of good repair. The SGR Grants program is part of MAP–21's emphasis on improved safety, asset management, and restoring aging transit infrastructure.

3. FTA Role in Program Administration

This section describes the respective roles of FTA's headquarters and regional offices in program administration. The headquarters office is generally responsible for policy guidance and national program reviews, while the regional offices are generally responsible for day-to-day program administration, obligating funds, providing technical assistance, and reviewing recipients' compliance with Federal requirements.

4. Designated Recipient Role in Program Administration

This section explains that SGR Grants are apportioned to designated recipients. The term designated recipient is defined at 49 U.S.C. 5302(4), and designated recipients for purposes of the SGR Grants program are the same as for the Section 5307 urbanized area formula grants program.

5. Direct Recipient and Sub-Recipient Eligibility

This section describes how to establish a direct recipient and the process for allocating funds to direct recipients and for sub-awarding funds to subrecipients. A direct recipient is a public entity that may apply for some or all of an urbanized area's funding if certain requirements are met.

6. FTA Oversight

This section describes the oversight conducted by FTA to ensure a recipient's compliance with grant program conditions. FTA performs comprehensive triennial reviews and may perform reviews focused specifically on a recipient's technical capability, procurement practices, civil rights compliance, safety and security, or other subject areas. Also, FTA may apply the Project Management Oversight Requirements to SGR grants for the rehabilitation of fixed guideway systems having total project costs in excess of $100 million.

7. Relationship to Other Programs

This section discusses other FTA grant programs that have been repealed but for which funds may still be available, and programs created or amended by MAP–21. Funds previously authorized for programs that were repealed by MAP–21 remain available for their authorized purposes until the statutory period of availability expires or until the funds are fully expended, rescinded by Congress, or reallocated.

C. Chapter III: General Program Information

This chapter discusses in more detail the apportionments for the SGR Grants program.

1. Apportionment of Program Funds

This section states that FTA will apportion SGR Grants program funds to designated recipients in urbanized areas with high intensity fixed guideway and high intensity motorbus systems.

2. Formula Apportionment

This section describes the statutory formula used to apportion funds under the SGR Grants program. Of the funds appropriated to the SGR Grants program by Congress, 97.15 percent is apportioned among urbanized areas with fixed-guideway systems that have been in operation for at least 7 years, and 2.85 percent is apportioned among urbanized areas with high-intensity motorbus systems that have been in operation for at least 7 years.

An urbanized area's fixed-guideway apportionment is determined by two calculations. Half of the apportionment is based on what the urbanized area would have received under the pre-MAP–21 fixed guideway modernization program, but using calculations contained in the current version of 49 U.S.C. 5336(b)(1). The other half of the apportionment is calculated based on fixed guideway service attributable to the urbanized area, weighted 60–40 between vehicle revenue miles and directional route miles; only segments of fixed guideway systems that have been in operation for at least seven years prior to the start of a fiscal year are included in the calculation for any given fiscal year.

An urbanized area's high-intensity motorbus apportionment is calculated based on vehicle revenue miles and directional route miles. FTA proposes that all high occupancy toll lane miles be excluded from the calculation, including those systems that were previously grandfathered after

conversion from high occupancy vehicle lanes. As with the fixed guideway calculation, the motorbus calculation is weighted 60–40 for vehicle revenue miles and directional route miles; only segments of motorbus systems in operation for seven years prior to the start of a fiscal year are included in the calculation for any given fiscal year.

3. Availability of Funds

SGR Grants program funds are available for obligation during the fiscal year of appropriation plus three additional years.

4. Eligible Recipients

State and local government authorities in urbanized areas with qualifying fixed guideway or motorbus systems are eligible recipients.

5. Eligible Projects

This section describes projects eligible for SGR Grants program funds. The SGR Grants program is available for the maintenance, rehabilitation or replacement of existing capital assets. SGR grants are not available for projects that expand system capacity or service or modernize assets. However, FTA will permit expansion of capacity within replacement projects to meet current or projected short-term service needs (e.g., replacing a maintenance facility with a larger facility, or replacing a bus with a larger bus). Replacement and rehabilitation includes (1) replacement of older features with new ones; (2) incorporation of current design standards; and (3) additional features required by Federal requirements. For any Expansion elements included in a replacement project, the grantee will need to address how the project meets current or short term service levels. FTA will review the reasonableness of such expansion elements when reviewing the grant. In addition to replacement and rehabilitation, new maintenance facilities or maintenance equipment are eligible if needed to maintain the existing fixed guideway system or equipment.

Funds apportioned under high intensity fixed guideway shall be available exclusively for fixed guideway projects. High intensity motorbus funds can be used interchangeably on any eligible high intensity motorbus or high intensity fixed guideway project. High intensity motorbus funds must be used for capital expenses of public transportation systems that provide regular, continuing shared-ride surface transportation service to the general public.

6. Federal Share of Project Costs

This section describes the requirement for local funding of projects assisted with the SGR Grants program. The Federal share of a project generally shall not exceed 80 percent of the net project cost. This section also discusses exceptions to the 80 percent limitation.

7. Capital Cost of Contracting

This section describes the eligibility of recipients who contract with a third party for the provision of transit services and therefore do not have direct capital costs. In such situations, FTA can apply a concept called the ''capital cost of contracting''.

8. Local Share of Project Costs

This section describes qualifying sources of the local share of a project.

9. Additional Sources of Local Share

This section describes qualifying sources of the local share of a project that have special requirements associated with their use.

10. Alternative Financing

This section describes alternative or innovative sources of project financing and the U.S. Department of Transportation's Transportation Infrastructure Finance and Innovation Act (TIFIA) loans. Recipients are encouraged to investigate and pursue innovative financing methods for transit projects.

11. Deferred Local Share

This section describes a possible arrangement whereby a project sponsor may defer contributing the local share of project costs until the Federal share has been fully drawn down.

D. Chapter IV: Planning and Program Development

Chapter IV describes planning requirements that apply to most recipients of FTA funding and are common to most of FTA's programs. The chapter contains a new section, Transit Asset Management (TAM), that describes the new national asset management system and the requirements for planning, target-setting, and reporting placed on recipients of FTA funding that will be effective upon completion of rulemaking. Asset management and the management of safety risks should inform recipients' selection of SGR Grants program projects.

Other sections in chapter IV are: (2) Metropolitan and Statewide Planning Requirements; (3) Metropolitan Planning Areas; (4) Transportation Management Areas; (5) Performance-Based Planning; (6) Role of Designated Recipient and Metropolitan Planning Organization in Allocating Program Funds; (7) Subarea Allocation; (8) Availability of FHWA ''Flexible Funds'' for Transit Projects; (9) Requirements Related to Vehicles and Equipment; (10) Requirements Related to Facilities; (11) Environmental Considerations; (12) Major Capital Projects; (13) Authority to Undertake Projects in Advance; and (14) Public Transportation Safety Requirements.

E. Chapter V: Program Management and Administrative Requirements

Chapter V describes management and administrative requirements that apply to FTA grants and are common to FTA's various programs. Sections included in chapter V are: (1) FTA Electronic Award Management System; (2) System for Award Management Requirements; (3) Data Universal Numbering System (DUNS) Registration; (4) DUNS Requirement for Subrecipients; (5) Electronic Clearing House Operation (ECHO) Requirements; (6) Federal Funding Accountability and Transparency Act (FFATA) Requirements; and (7) National Transit Database (NTD) Reporting.

F. Chapter VI: Other Provisions

Chapter VI describes some of the requirements and conditions that apply to FTA grants and are common to FTA's programs. Sections included in chapter VI are: (1) Introduction; (2) Charter Bus Services; (3) Civil Rights; (4) Clean Air Act (CAA); (5) Commercial Driver's License (CDL); (6) Debarment and Suspension; (7) Drug and Alcohol Testing; (8) Drug-Free Workplace; (9) Employee Political Activity; (10) Energy Conservation; (11) Environmental Reviews; (12) Intergovernmental Review; (13) Labor Protections; (14) Presidential Coin Act; (15) Private Sector Participation; (16) Use of Competitive Procurements; (17) Real Property Acquisition and Relocation Assistance; (18) Restrictions on Lobbying; (19) Safety and Security; (20) School Bus Transportation; (21) Seismic Design and Construction Standards; (22) Sensitive Security Information; and (22) State Safety Oversight.

G. Appendices

The proposed Circular 5300.1 contains three appendices. Appendix A contains instructions for recipients preparing a grant application. Appendix B contains instructions for how to prepare a project budget. Appendix C contains example documents to assist recipients in applying for and managing an SGR grant. Appendix D contains FTA

regional and metropolitan contact information. Appendix E contains a list of references for the circular.

Therese W. McMillan,

Deputy Administrator.

[FR Doc. 2014–04512 Filed 2–28–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0028]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel BEL CANTO; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 2, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0028. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION:

As described by the applicant the intended service of the vessel BEL CANTO is:

Intended Commercial Use of Vessel: ''Taking small groups of people on overnight and day charter for tourism, sightseeing, educational and research expeditions''

Geographic Region: ''Washington State, Oregon, California''

The complete application is given in DOT docket MARAD–2014–0028 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator Dated: February 25, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–04595 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0029]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ROCINANTE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 2, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0029. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ROCINANTE is:

Intended Commercial Use of Vessel: ''Private vessel charters. Personalized instruction in sailing and conservation. Passengers only''

Geographic Region: ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida''

The complete application is given in DOT docket MARAD–2014–0029 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments

should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator
Dated: February 25, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–04601 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0027]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel RV SEA LAB; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before April 2, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0027. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov*.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel RV SEA LAB is:

Intended Commercial Use of Vessel: ''Charter six passengers for Marine Science summer camp and educational classes.''

Geographic Region: ''North Carolina.''

The complete application is given in DOT docket MARAD–2014–0027 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.
Dated: February 25, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–04598 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0004; Notice 1]

Notice of Receipt of Petition for Decision that Nonconforming 2012 McLaren MP4[12C] Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that nonconforming 2012 McLaren MP4[12C] passenger cars that were not originally manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2012 McLaren MP4[12C]) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 2, 2014.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by 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., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change

to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC. of Baltimore, Maryland (Registered Importer 90–006) has petitioned NHTSA to decide whether nonconforming 2012 McLaren MP4[12C] passenger cars are eligible for importation into the United States. The vehicles which J.K. Technologies believes are substantially similar are 2012 McLaren MP4[12C] passenger cars that were manufactured for sale in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified 2012 McLaren MP4[12C] passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

J.K. Technologies submitted information with its petition intended to demonstrate that non-U.S. certified 2012 McLaren MP4[12C] passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that non-U.S. certified 2012 McLaren MP4[12C] passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 118 *Power-Operated Window, Partition, and Roof Panel Systems,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light Vehicle Brake Systems,* 138 *Tire Pressure Monitoring Systems,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 225 *Child Restraint Anchorage Systems,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* replacement of the instrument cluster with a U.S.-model component and reprogramming the vehicle computer.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* replacement of the headlamps, front and rear side marker lamps, and tail lamps with U.S.-model components and reprogramming the vehicle computer to activate necessary systems.

Standard No. 110 *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less:* installation of a tire and rim information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection and Rollaway Prevention:* reprogramming the vehicle computer to activate the key warning system.

Standard No. 201 *Occupant Protection in Interior Impact:* inspection of each vehicle for the presence of compliant ''A'' pillar airbags to verify compliance with the standard.

Standard No. 208 *Occupant Crash Protection:* The petitioner states that the vehicles meet the standard, and are equipped with all components needed to meet the standard's advanced airbag requirements. However, due to varying world market regulations each vehicle must be inspected for compliance with the standard. For example, the presence of knee bolster airbags and seat belt warning systems must be confirmed, and if not present, installed or modified to comply.

Standard No. 214 *Side Impact Protection:* inspection of each vehicle for the presence of compliant ''A'' pillar airbags and to verify compliance with the standard.

Standard No. 401 *Interior Trunk Release:* installation of U.S.-model interior trunk release components.

The petitioner states that the bumpers and bumper support structure are identical to that of the U.S. certified model. However, the bumper reinforcements and brackets must be inspected to ensure that the correct components were installed prior to importation. If not, they must be replaced with U.S.-model components to comply with 49 CFR part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR part 565.

Because the subject petition covers nonconforming vehicles likely to have been manufactured on or after September 1, 2006, compliance with the

advanced air bag requirements of FMVSS No. 208 is of significant concern to the agency. NHTSA is therefore particularly interested in comments regarding the ability of a Registered Importer to readily alter the subject vehicles to fully meet the driver and front outboard passenger frontal crash protection and child passenger protection requirements of FMVSS No. 208. The following is a partial listing of the components that may be affected:

a. Driver's frontal air bag module

b. Passenger frontal air bag module

c. Passenger frontal air bag cover

d. Knee air bags

e. Knee bolsters

f. Passenger outboard frontal seat belt system

g. Driver and front outboard seat assemblies including seat tracks and internal seat components

h. Steering wheel components, including the clock spring assembly, the steering column, and all connecting components

i. Instrument panel

j. Instrument panel support structure (i.e. cross beam)

k. Occupant sensing and classification systems, including sensors and processors

l. Restraint control modules

m. Passenger air bag status indicator light system, including related display components and wiring

n. Wiring harnesses between the restraint control module, occupant classification system and restraint system components

o. Control system computer software and firmware

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–04563 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2013–0066; Notice 1]

Ford Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of Petition.

SUMMARY: Ford Motor Company (Ford) has determined that certain model year (MY) 2013 Ford Fusion and Lincoln MKZ passenger cars built from August 12, 2012 through January 14, 2013 do not fully comply with paragraph S3.1.4.1(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 102 *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect,* or paragraph S5.2.1 of FMVSS No. 114 *Theft Protection and Rollaway Prevention*. Ford has filed an appropriate report dated March 4, 2013, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

DATES: The closing date for comments on the petition is April 2, 2014.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- Hand delivery: Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- Electronically: Submit comments electronically by: logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

SUPPLEMENTARY INFORMATION:

I. Ford's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Ford submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Ford's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 4,727 MY 2013 Ford Fusion and Lincoln MKZ passenger cars built from August 12, 2012 through January 14, 2013 at the Hermosillo Stamping and Assembly Plant (HSAP) in Hermosillo, Mexico.

III. Noncompliance: Ford has determined that because the affected vehicles were inadvertently shipped to dealers in the ''Factory Mode'' that the transmission gear selected in relation to other gears is not always displayed by the shift position sequence indicator (aka, PRNDL) as required by paragraph S3.1.4.1(a) of FMVSS No. 102. In addition, the affected Ford Fusion vehicles manufactured with mechanical key ignition systems do not fully meet the requirements of paragraph S5.2.1 of FMVSS No. 114 because under certain

conditions the mechanical key may be removed from the ignition lock cylinder when the transmission shift lever is in a position other than ''park.''

IV. Rule Text: Paragraph S3.1.4.1(a) of FMVSS No. 102 specifically states:

S3.1.4.1 Except as specified in S3.1.4.3, if the transmission shift position sequence includes a park position, identification of shift positions, including the positions in relation to each other and the position selected, shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted; . . .

Paragraph S5.2.1 of FMVSS No. 114 specifically states:

S5.2.1 For each vehicle type manufactured by a manufacturer, the manufacturer must provide at least 1,000 unique key combinations, or a number equal to the total number of the vehicles of that type manufactured by the manufacturer, whichever is less. The same combinations may be used for more than one vehicle type.

V. Summary of Ford's Analyses: Ford stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

1. The vehicle design is self-remedying. The affected vehicles are designed to automatically switch from Factory Mode to Transport Mode after 60 key cycles (beginning with assembly line initialization). Once in Transport Mode the vehicles are fully compliant with FMVSS requirements.

2. While in Factory Mode, affected vehicles clearly display the message ''Factory Mode Contact Dealer'' in either the message center or instrument cluster). Additionally, the ''Factory Mode Contact Dealer'' message does not obscure any regulatory malfunction indicator lamps, or (non-mandated) cautionary warnings.

3. The dealership's Pre-Delivery Inspection instructions require dealerships to change the vehicle into Customer Mode, prior to delivery, which ensures the condition will be remedied before delivery to the customer. Ford is not aware of any of the subject vehicles being delivered to customers in Factory Mode.

4. All other requirements of FMVSS No. 102 and FMVSS No. 114 are fully satisfied.

5. Ford is not aware of any owner complaints, accidents, or injuries attributed to this condition.

Ford has additionally informed NHTSA that it has corrected the noncompliance so that all future vehicles will comply with FMVSS Nos. 102 and 114.

In summation, Ford believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the 4,727 vehicles that Ford no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction for delivery or introduction into interstate commerce of the noncompliant vehicles under their control after Ford notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8)

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2014–04564 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35803]

United States Environmental Protection Agency—Petition for Declaratory Order

On January 24, 2014, the United States Environmental Protection Agency (EPA), Region IX, filed a petition for declaratory order requesting that the Board institute a proceeding to consider whether two rules concerning railroad locomotive idling issued by the South Coast Air Quality Management District (SCAQMD) would be preempted by 49 U.S.C. 10501(b), if those rules were approved into the California State Implementation Plan (SIP) under the Clean Air Act, 42 U.S.C. 7401 et seq.[1] The EPA indicates that it must decide whether to approve the rules into the California SIP and therefore seeks guidance on whether § 10501(b) would preempt the implementation of the rules if they are approved.

Replies to the EPA's petition were submitted by United States Representative Henry A. Waxman, SCAQMD, CARB, the Commonwealth of Massachusetts Department of Environmental Protection (MassDEP),[2] Norfolk Southern Railway Company, the Association of American Railroads, BNSF Railway Company, Union Pacific Railroad Company, East Yard Communities for Environmental Justice, and the Center for Community Action & Environmental Justice and Sierra Club.

The Board has discretionary authority under 5 U.S.C. 554(e) and 49 U.S.C. 721 to issue a declaratory order to eliminate a controversy or remove uncertainty. Here, it is appropriate to institute a declaratory order proceeding to remove the uncertainty raised in EPA's petition regarding whether the idling rules, if approved into the California SIP, would be preempted by § 10501(b). The record presented to date reveals that this is a matter of widespread and significant public interest and warrants thorough consideration by the Board after the development of a complete record. The Board will therefore institute a declaratory order proceeding to consider the issues and establish a procedural schedule for the filing of comments and replies.[3]

In its January 24, 2014 filing, the EPA also requested an expedited proceeding due to a statutory deadline of February 28, 2014, for the EPA to take action on CARB's request that the state-developed rules be accepted into the California SIP, which CARB had submitted to the EPA on August 30, 2012. The EPA's proposed schedule, submitted in its petition to the Board, would not provide sufficient time for all interested parties to comment on the preemption issue and for the Board to fully consider the matter. Accordingly, the Board hereby provides notice that issuance of a decision by February 28, 2014, will not be possible.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. A declaratory order proceeding is instituted.

[1] SCAQMD submitted the rules to the California Air Resources Board (CARB), which then submitted the rules to the EPA for approval into the California SIP.

[2] MassDEP filed a petition to intervene, which will be granted.

[3] Parties that have already replied to the petition need not refile unless they wish to supplement what they have already filed.

2. MassDEP's petition to intervene is granted.

3. Interested parties may submit new or supplemental comments by March 28, 2014. Replies to those comments are due by April 14, 2014.

4. This decision is effective on its service date.

By the Board, Chairman Elliott and Vice Chairman Begeman.

Derrick A. Gardner,

Clearance Clerk.

[FR Doc. 2014–04624 Filed 2–28–14; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket ID Number RITA 2008–0002]

Agency Information Collection; Activity Under OMB Review; Report of Financial and Operating Statistics for Small Aircraft Operators

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, Public Law 104–13, the Bureau of Transportation Statistics invites the general public, industry and other governmental parties to comment on the continuing need for and usefulness of BTS collecting financial, traffic and operating statistics from small certificated and commuter air carriers. Small certificated air carriers (operate aircraft with 60 seats or less or with 18,000 pounds of payload capacity or less) currently must file the two quarterly schedules listed below:

F–1 *Report of Financial Data,*

F–2 *Report of Aircraft Operating Expenses and Related Statistics,* and

Commuter air carriers must file the Schedule F–1 *Report of Financial Data.*

Commenters should address whether BTS accurately estimated the reporting burden and if there are other ways to enhance the quality, utility, and clarity of the information collected.

DATES: Written comments should be submitted by May 2, 2014.

FOR FURTHER INFORMATION CONTACT: Marianne Seguin, Office of Airline Information, RTS–42, Room E34–418, RITA, BTS, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, Telephone Number (202) 366–1457, Fax Number (202) 366–3383 or EMAIL *marianne.seguin@dot.gov.*

Comments: Comments should identify the associated OMB approval #2138–0009 and Docket ID Number RITA 2008–0002. Persons wishing the Department to acknowledge receipt of their comments must submit with those comments a self-addressed stamped postcard on which the following statement is made: Comments on OMB #2138–0009, Docket—RITA 2008–0002. The postcard will be date/time stamped and returned.

SUPPLEMENTARY INFORMATION:

OMB Approval No. 2138–0009.

Title: Report of Financial and Operating Statistics for Small Aircraft Operators.

Form No.: BTS Form 298–C.

Type of Review: Extension of a currently approved collection for the financial data.

Respondents: Small certificated (29) and commuter air carriers (24).

Schedule F1:

Number of Respondents: 53.

Number of Annual Responses: 212.

Total Burden per Response: 4 hours.

Total Annual Burden: 848 hours.

Schedule F2:

Number of Respondents: 29.

Number of Annual Responses: 116.

Total Burden per Response: 12 hours.

Total Annual Burden: 1,392 hours.

Needs and Uses: Program uses for Form 298–C financial data are as follows:

Mail Rates

The Department of Transportation sets and updates the Intra-Alaska Bush mail rates based on carrier aircraft operating expense, traffic, and operational data. Form 298–C cost data, especially fuel costs, terminal expenses, and line haul expenses are used in arriving at rate levels. DOT revises the established rates based on the percentage of unit cost changes in the carriers' operations. These updating procedures have resulted in the carriers receiving rates of compensation that more closely parallel their costs of providing mail service and contribute to the carriers' economic well-being.

Essential Air Service

DOT often has to select a carrier to provide a community's essential air service. The selection criteria include historic presence in the community, reliability of service, financial stability and cost structure of the air carrier.

Carrier Fitness

Fitness determinations are made for both new entrants and established U.S. domestic carriers proposing a substantial change in operations. A portion of these applications consists of an operating plan for the first year (14 CFR Part 204) and an associated projection of revenues and expenses. The carrier's operating costs, included in these projections, are compared against the cost data in Form 298–C for a carrier or carriers with the same aircraft type and similar operating characteristics. Such a review validates the reasonableness of the carrier's operating plan.

The quarterly financial submissions by commuter and small certificated air carriers are used in determining each carrier's continuing fitness to operate. Section 41738 of Title 49 of the United States Code requires DOT to find all commuter and small certificated air carriers fit, willing, and able to conduct passenger service as a prerequisite to providing such service to an eligible essential air service point. In making a fitness determination, DOT reviews three areas of a carrier's operation: (1) The qualifications of its management team, (2) its disposition to comply with laws and regulations, and (3) its financial posture. DOT must determine whether or not a carrier has sufficient financial resources to conduct its operations without imposing undue risk on the traveling public. Moreover, once a carrier begins conducting flight operations, DOT is required to monitor its continuing fitness.

Senior DOT officials must be kept fully informed and advised of all current and developing economic issues affecting the airline industry. In preparing financial condition reports or status reports on a particular airline, financial and traffic data are analyzed. Briefing papers prepared for senior DOT officials may use the same information.

The Confidential Information Protection and Statistical Efficiency Act of 2002 (44 USC 3501 note), requires a statistical agency to clearly identify information it collects for non-statistical purposes. BTS hereby notifies the respondents and the public that BTS uses the information it collects under this OMB approval for non-statistical purposes including, but not limited to, publication of both Respondent's identity and its data, submission of the information to agencies outside BTS for review, analysis and possible use in regulatory and other administrative matters.

Issued on February 25, 2014.

Rolf R. Schmitt,

Deputy Director, Bureau of Transportation Statistics.

[FR Doc. 2014–04565 Filed 2–28–14; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request; Office of Financial Stability

AGENCY: Departmental Office, Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a revision of an existing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). This clearance will allow the Office of Financial Stability, within the Department of the Treasury, to collect information from homeowners that have received mortgage modifications under the Home Affordable Modification Program (HAMP), in order to study the performance of HAMP modifications

DATES: Written comments should be received on or before April 2, 2014 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at OIRA_Submission@OMB.EOP.GOV and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave., NW., Suite 8140, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Department of the Treasury, Departmental Offices, Office of Financial Stability, ATTN: Jay Warden, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Title: Study of MHA Program Performance.

OMB Control Number: 1505–0249

Abstract: Pursuant to its authority under the Emergency Economic Stabilization Act (EESA) of 2008 (Pub.L. 110–343), the Department of the Treasury established the Making Home Affordable Program (MHA), a voluntary foreclosure prevention program, to help stabilize the housing market. Under MHA, the Department provides financial incentives to servicers, investors and homeowners to facilitate loan modifications and other foreclosure alternatives. MHA includes, among other things, the Home Affordable Modification Program (HAMP). HAMP is designed to reduce each qualifying homeowner's first lien mortgage payments to a more affordable level. The Department, through its financial agent, plans to conduct a survey of homeowners who have received mortgage modifications under HAMP, in order to study the performance of HAMP modifications. The survey will collect information about reasons for loss of good standing and the homeowner's experience during the HAMP modification process.

Type of Review: Revision of a Currently Approved Collection.

Affected Public: Individuals, Households.

Respondent's Obligation: Voluntary.

The study will likely involve up to 4800 subjects. Each individual data collection session will be approximately 15 to 20 minutes long.

Estimated Average Time per Respondent: 15 to 20 minutes per response.

Estimated Total Annual Burden Hours: Approximately 1600 burden hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit written comments concerning: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Robert Dahl,

Treasury Department PRA Clearance Officer.

[FR Doc. 2014–04544 Filed 2–28–14; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning exclusions From gross income of foreign corporations.

DATES: Written comments should be received on or before May 2, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at *Allan.M.Hopkins@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Exclusions From Gross Income of Foreign Corporations.

OMB Number: 1545–1677.

Regulation Project Number: TD 9502.

Abstract: This regulation contains rules implementing the portions of section 883(a) and (c) of the Internal Revenue Code that relate to income derived by foreign corporations from the international operation of a ship or ships or aircraft. The rules provide, in general, that a foreign corporation organized in a qualified foreign country and engaged in the international operation of ships or aircraft shall exclude qualified income from gross income for purposes of United States Federal income taxation, provided that the corporation can satisfy certain ownership and related documentation requirements.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit and not-for-profit institutions and individuals or households.

Estimated Number of Respondents: 16,400.

Estimated Time Per Respondent: 1 hr., 27 min.

Estimated Total Annual Burden Hours: 23,900.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 24, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–04505 Filed 2–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–100194–10 (T.D. 9518)]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the existing proposed regulations, REG–100194–10, Specified Tax Return Preparers Required to File Individual Income Tax Returns Using Magnetic Media—Taxpayer Choice Statements.

DATES: Written comments should be received on or before May 2, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Sara Covington at Internal Revenue Service, Room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION: *Title:* Specified Tax Return Preparers Required to File Individual Income Tax Returns Using Magnetic Media—Taxpayer Choice Statements:

OMB Number: 1545–2201.

Regulation Project Number: REG–100194–10.

Abstract: This document contains proposed regulations implement the statutory requirement under new section 6011(e)(3) of the Internal Revenue Code for specified tax return preparers (STRPs) to file individual income tax returns (returns) using magnetic media (electronically) for individuals, estates, and trusts if the STRPs prepare and file the returns. The proposed regulations provide that (1) a tax return preparer or an STRP is not required to electronically file returns that they prepare if the taxpayers choose to file the returns in paper format and submit them to the IRS on their own behalf and (2) a return will not be considered to be filed by a tax return preparer or STRP if the tax return preparer or STRP obtains, on or prior to the date the return is filed, a signed and dated written statement from the taxpayer that states the taxpayer chooses to file the return in paper format, and that the taxpayer, and not the preparer, will submit the paper return to the IRS. A notice is to be published contemporaneously with these proposed regulations. The proposed revenue procedure contained in the notice provides, among other things, guidance regarding the form and content of the written statement described in § 301.6011–6(a)(4)(ii) of the proposed regulations. The collection of information with regard to documenting a taxpayer's choice to file in paper format is in the proposed regulations. This collection of information is voluntary to document that the related return filed in paper format was not required to be filed electronically pursuant to section 6011(e)(3) and § 301.6011–6(a)(4)(ii) of these proposed regulations.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 319,000 .

Estimated Time per Respondent: 5.42.

Estimated Total Annual Burden Hours: 1,689,930.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–04507 Filed 2–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Revenue Procedure 2013–3

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2013–30, Uniform Late S Corporation Election Revenue Procedure.

DATES: Written comments should be received on or before May 2, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Christie Preston, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedures should be directed to Sara Covington, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, through the internet at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Revenue Procedure 2013–30, Uniform Late S Corporation Election Revenue Procedure.

OMB Number: 1545–1548.

Revenue Procedure Number: Revenue Procedure 2013–30.

Abstract: Revenue Procedure 2013–30 provides a simplified method for taxpayers to request relief for late S corporation elections, Electing Small Business Trust (ESBT) elections, Qualified Subchapter S Trust (QSST) elections, Qualified Subchapter S Subsidiary (Q Sub) elections, and late corporate classification elections which the taxpayer intended to take effect on the same date that the taxpayer intended that an S corporation election for the entity should take effect. Generally, this revenue procedure facilitates the grant of relief to taxpayers that request relief previously provided in numerous other revenue procedures by consolidating the provisions of those revenue procedures into one revenue procedure and extending relief in certain circumstances. Revenue Procedures 97–48, 2003–43, 2004–48., 2004–49, and 2007–62 are affected.

Current Actions: There are no changes being made to these revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Average Time Per Respondent varies: .5 hours to 1 hour.

Estimated Total Annual Burden Hours: 50,000.

The following paragraph applies to the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 18, 2014.

Christie Preston,

IRS Reports Clearance Officer.

[FR Doc. 2014–04502 Filed 2–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting for the Electronic Tax Administration Advisory Committee (ETAAC)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of open meeting.

SUMMARY: In 1998, the Internal Revenue Service established the Electronic Tax Administration Advisory Committee (ETAAC). The primary purpose of ETAAC is to provide an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC offers constructive observations about current or proposed policies, programs, and procedures, and suggests improvements. Listed is a summary of the agenda along with the planned discussion topics.

Summarized Agenda

10:00 a.m.—Meet and Greet
10:15 a.m.—Meeting Opens
11:15 a.m.—Meeting Adjourns

The discussion will include: Response to 2013 ETAAC Recommendations.

Note: Last-minute changes to these topics are possible and could prevent advance notice.

DATES: There will be an ETAAC meeting on Friday, March 28, 2014.

You must register in advance to be put on a guest list to attend the meeting. This meeting will be open to the public, and will be in a room that accommodates approximately 40 people, including members of ETAAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. Escorts will be provided and attendees are encouraged to arrive at least 15 minutes before the meeting begin. Members of the public may file written statements sharing ideas for electronic tax administration. Send written statements to *etaac@irs.gov*.

ADDRESSES: The meeting will be held at the Internal Revenue Service, 1111 Constitution Avenue NW., Room 3716, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: You must provide your name in advance for the guest list and be able to show your state-issued picture identification on the day of the meeting. Otherwise, you will not be able to attend the meeting as this is a secured building. To receive a copy of the agenda or general information about ETAAC, call Cassandra Daniels on 240–613–6155 or send an email to *etaac@irs.gov* by Tuesday, March 25, 2014. Notification of intent should include your name, organization and telephone number. Please spell out all names if you leave a voice message.

SUPPLEMENTARY INFORMATION: ETAAC reports to the Director, e-File Services. Increasing participation by external stakeholders in the development and implementation of the strategy for electronic tax administration will help IRS achieve the goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend the public meetings and working sessions each year.

Dated: February 18, 2014.

Diane L. Fox,

Manager, Industry Stakeholder Engagement & Strategy.

[FR Doc. 2014–04358 Filed 2–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Season for Membership to the Electronic Tax Administration Advisory Committee (ETAAC)

AGENCY: Internal Revenue Service (IRS), Department of the Treasury.

ACTION: Request for nominations and applications.

SUMMARY: The Internal Revenue Service (IRS) requests nominations for individuals to be considered for membership on the ETAAC. Nominations may be received from individuals and outside groups that wish to have representatives on the ETAAC. Nominations should describe the candidate's qualifications for ETAAC membership. Submittal of an application and resume is required.

The ETAAC provides an organized public forum for discussion of electronic tax administration issues in support of the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members convey the public's perception of IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements.

The IRS seeks a diverse group of individuals to represent various groups including: (1) Tax practitioners and preparers, (2) transmitters of electronic returns, (3) tax software developers, (4) large and small business, (5) employers and payroll service providers, (6) individual taxpayers, (7) financial industry (payers, payment options and best practices), (8) system integrators or technology providers, (9) academic (marketing, sales or technical perspectives), (10) trusts and estates, (11) tax exempt organizations, and (12) state and local governments.

This is a volunteer position and members will serve a three-year term on the ETAAC to allow for a rotation in membership which ensures that different perspectives are represented. Travel expenses within government guidelines will be reimbursed. Potential candidates must pass an IRS tax compliance check and Federal Bureau of Investigation (FBI) background investigation. Members of the ETAAC may not be federally registered lobbyists.

DATES: The complete application package must be received no later than Monday, April 21, 2014.

ADDRESSES: Applications should be sent to Internal Revenue Service, 5000 Ellin Road (M/Stop C4–470, Attn: ETAAC Analyst (C4–213), SE:WE:CAS:SP:IS Lanham, Maryland 20706, by email: *etaac@irs.gov* or by fax to (240) 613–6155 (not a toll-free number). An application can be obtained by sending an email to *etaac@irs.gov* or calling (240) 613–6155 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Cassandra Daniels, (240) 613–6155 or send an email to *etaac@irs.gov*.

SUPPLEMENTARY INFORMATION: The establishment and operation of the Electronic Tax Administration Advisory Committee (ETAAC) is required by the Internal Revenue Service (IRS) Restructuring and Reform Act of 1998 (RRA'98), Title II, Section 2001 (b) (2). ETAAC follows a charter in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. The ETAAC provides continued input into the development and implementation of the IRS's strategy for electronic tax administration. The ETAAC will research, analyze, consider, and make recommendations on a wide range of electronic tax administration issues and will provide input into the development of the strategic plan for electronic tax administration. Members will provide an annual report to Congress by June 30th.

Applicants must complete the application, which includes describing and documenting your qualifications for membership to the Committee. Submit a short (one or two page) statement, including recent examples, addressing your specific skills and qualifications as they relate to the following: (1) E-filing employment tax and information returns; (2) Developing mobile or web applications, including understanding and designing for the customer experience; (3) Developing software product lines for small and midsized businesses; (4) Producing or processing large volumes of Form 1099; (5) Thinking and planning strategically in order to collaborate on issues and ideas in electronic tax administration; (6) Communicating (oral and written) issues and recommendations; (7) Working cooperatively across industry or business lines to achieve mutually acceptable solutions and recommendations; (8) Interacting effectively with a variety of personalities and backgrounds to achieve consensus often in a virtual environment; and (9) Adopting an IRS-centered mindset separate from personal or business-related perspectives that will benefit all taxpaying citizens. An acknowledgement of receipt will be sent to all applicants.

Equal opportunity practices will be followed in all appointments to the ETAAC in accordance with Department of Treasury and IRS policies. The IRS has a special interest in assuring that women and men, members of all races and national origins, and individuals with disabilities have an opportunity to serve on advisory committees: And therefore, extends particular encouragement to nominations from such appropriately qualified individuals.

Dated: February 19, 2014.

Diane L. Fox,

Manager, Industry Stakeholder Engagement and Strategy.

[FR Doc. 2014–04372 Filed 2–28–14; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Research Advisory Committee on Gulf War Veterans' Illnesses;

Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that the Research Advisory Committee on Gulf War Veterans' Illnesses will conduct a telephone conference call meeting from 2:00 p.m. to 5:00 p.m. on Monday, March 19, 2014. The toll-free number for the meeting is (800) 767–1750, and the access code is 56978#. The meeting is open to the public.

The purpose of the Committee is to provide advice and make recommendations to the Secretary of Veterans Affairs on proposed research studies, research plans, and research strategies relating to the health consequences of military service in the Southwest Asia theater of operations during the Gulf War.

The Committee will discuss its 2014 Committee report. The session will also include discussion of other Committee business and activities.

A 30-minute time period will be reserved at 4:30 p.m. for public comments. Individuals who wish to address the Committee are invited to submit a 1–2 page summary of their comments for inclusion in the official meeting record. Members of the public may also submit written statements for the Committee's review to Dr. Roberta White by email at *rwhite@bu.edu.*

Any member of the public seeking additional information should contact Dr. White, Scientific Director, at (617) 638–4620 or Dr. Victor Kalasinsky, Designated Federal Officer, at (202) 443–5682 or by email at *victor.kalasinsky@va.gov.*

Dated: February 26, 2014.

Jeffrey M. Martin,

Office Program Manager, Regulation Policy and Management, Office of the General Counsel.

[FR Doc. 2014–04572 Filed 2–28–14; 8:45 am]

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FEDERAL REGISTER

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Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 101

Food Labeling: Revision of the Nutrition and Supplement Facts Labels; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2012–N–1210]

RIN 0910–AF22

Food Labeling: Revision of the Nutrition and Supplement Facts Labels

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is proposing to amend its labeling regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices. The updated information is consistent with current data on the associations between nutrients and chronic diseases or health-related conditions, reflects current public health conditions in the United States, and corresponds to new information on consumer behavior and consumption patterns. We are proposing to update the list of nutrients that are required or permitted to be declared; provide updated Daily Reference Values and Reference Daily Intake values that are based on current dietary recommendations from consensus reports; amend requirements for foods represented or purported to be specifically for children under the age of 4 years and pregnant and lactating women and establish nutrient reference values specifically for these population subgroups; and revise the format and appearance of the Nutrition Facts label.

DATES: Submit either electronic or written comments on the proposed rule by June 2, 2014. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by April 2, 2014 (see the ''Paperwork Reduction Act of 1995'' section of this document). See section III of this document for the proposed effective date of a final rule based on this proposed rule.

ADDRESSES: You may submit comments, identified by Docket No. FDA–2012–N–1210, and/or Regulatory Information Number (RIN) 0910–AF22, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document).

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- *Mail/Hand delivery/Courier (for paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5360 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2012–N–1210 and RIN 0910–AF22 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Blakeley Fitzpatrick, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–5429, email: *NutritionProgramStaff@fda.hhs.gov.*

With regard to the information collection: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400T, Rockville, MD 20850, *Domini.bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

Executive Summary

Purpose of the Regulatory Action

FDA is proposing to amend the regulations for the nutrition labeling of conventional foods and dietary supplements to assist consumers in maintaining healthy dietary practices.

Following the passage of the Nutrition Labeling and Education Act (NLEA) of 1990 (the 1990 amendments) (Pub. L. 101–535), which added section 403(q) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343(q)), we issued various regulations related to nutrition information on food labels, including the declaration of nutrients, the format for nutrition labeling, reference values for use in declaring the nutrient content, and allowances for certain specified products to be exempt from nutrition labeling (§ 101.9 (21 CFR 101.9)). In addition, following the passage of the Dietary Supplement Health and Education Act (DSHEA) of 1994 (Pub. L. 103–417 and 21 U.S.C. 321(ff)), we amended our food labeling regulations to establish requirements for nutrition labeling of dietary supplements (§§ 101.9(j)(6) and 101.36). Section 403(q) of the FD&C Act specifies certain nutrients to be declared in nutrition labeling, and authorizes the Secretary of Health and Human Services to require other nutrients to be declared if the Secretary determines that a nutrient will provide information regarding the nutritional value of such food that will assist consumers in maintaining healthy dietary practices. The Secretary also has discretion under section 403(q) of the FD&C Act to remove, by regulation and under certain circumstances, nutrient information that is otherwise explicitly required in food labeling under this section.

We are proposing to revise our regulations to provide updated nutrition information on the label and improve how the nutrition information is presented to consumers, in light of current scientific evidence, dietary recommendations of most recent consensus reports, and public comments received in response to advance notices of proposed rulemaking. FDA invites comment on its use of the most recent consensus reports and whether the information and data on which FDA relies from such reports for proposed changes is consistent with current scientific information.

Summary of the Major Provisions of the Regulatory Action in Question

We discuss the need to update the Nutrition Facts and Supplement Facts labels in section I.B., and our scientific considerations for mandatory and voluntary declaration of nutrients are presented in section I.C. In sections II.A. through II.K., we discuss provisions related to the declaration, reference values, analytical methods, and definitions of nutrients that are required or permitted to be declared on the Nutrition Facts label of conventional foods, whereas corresponding changes to the Supplement Facts label of dietary supplements are presented in section II.L. We present our considerations related to the format of the Nutrition Facts and Supplement Facts labels in section II.M., and discuss issues related to compliance with the proposed requirements in section II.N. Some of the key proposed actions and considerations of the proposed rule are highlighted in this document.

Among other amendments related to declaration of nutrients, we are proposing to remove the declaration of ''Calories from fat'' because current science supports a view that the type of fat is more relevant than overall total fat intake in increased risk of chronic diseases. In addition, removal of the ''calories from fat'' disclosure had no effect on consumers' judgments of product healthfulness, accuracy in identifying nutrient contents of products, or perceptions in FDA's consumer research.

Considering current science and recommendations related to added sugars, we are also proposing to require the declaration of ''added sugars,'' that will provide consumers with information they need to implement the dietary recommendations of the *Dietary Guidelines for Americans, 2010* (2010 DGA).

We are also proposing to update the list of vitamins and minerals of public health significance. We currently require the mandatory declaration of percent Daily Values (DVs) of vitamins A and C, calcium and iron. We analyzed the nutrient inadequacy for vitamins and minerals based on biomarker data and total dietary intake (conventional foods and dietary supplements) using National Health and Nutrition Examination Survey (NHANES) data and other factors for mandatory and voluntary declaration discussed in section I.C. to determine which essential vitamins and minerals should be included as nutrients of public health significance. Based on this analysis, we are not proposing any changes to the current requirement for mandatory declaration of calcium and iron. In addition, we are proposing to require the declaration of vitamin D and potassium, and to permit, rather than require, the declaration of vitamins A and C.

With respect to reference values used to declare percent DVs of nutrients, since 1993, new reports from the Institute of Medicine (IOM) and other consensus and policy reports (for example, the 2010 DGA and the *Report of the Dietary Guidelines Advisory Committee on the Dietary Guidelines for*

Americans) have been published that update the quantitative intake recommendations of nutrients as well as their association with chronic disease and health-related conditions. We are using these new data to update, as appropriate, the reference values used in the declaration of percent DVs of nutrients on the Nutrition Facts and Supplement Facts labels.

Among other amendments to reference values, we are proposing an updated reference value for the declaration of percent DV for sodium from the current value of 2,400 mg (milligrams) to 2,300 mg based on a consideration of current science and IOM's report that set Dietary Reference Intakes (DRIs) for sodium, including a Tolerable Upper Intake Level of 2,300 mg/day (d) as a reference intake level not to exceed.

A primary change that we are proposing to the format of the Nutrition Facts and Supplement Facts labels is to increase the prominence of the ''Calories,'' numeric value of calories, ''Servings per container,'' and numeric value of servings per container declarations. Research suggests that these proposed changes may increase consumers' attention to the information, and in certain situations, help consumers to accurately identify the number of calories in a product. We are also proposing to move the ''% DV'' to the left side of the label in order to highlight the information for consumers. We are also proposing to remove the requirement for the footnote table listing the reference values for certain nutrients for 2,000 and 2,500 calorie diets. We intend to continue to perform consumer research during this rulemaking process to evaluate how variations in label format may affect consumer understanding and use of the Nutrition Facts label. We intend to publish the results of our research for public review and comment.

CURRENT LABEL

Nutrition Facts

Serving Size 2/3 cup (55g)
Servings Per Container About 8

Amount Per Serving

Calories 230	Calories from Fat 40
	% Daily Value*
Total Fat 8g	**12%**
Saturated Fat 1g	**5%**
Trans Fat 0g	
Cholesterol 0mg	**0%**
Sodium 160mg	**7%**
Total Carbohydrate 37g	**12%**
Dietary Fiber 4g	**16%**
Sugars 1g	
Protein 3g	
Vitamin A	10%
Vitamin C	8%
Calcium	20%
Iron	45%

* Percent Daily Values are based on a 2,000 calorie diet. Your daily value may be higher or lower depending on your calorie needs.

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

PROPOSED LABEL

Nutrition Facts

8 servings per container
Serving size 2/3 cup (55g)

Amount per 2/3 cup
Calories 230

% DV*	
12%	**Total Fat** 8g
5%	**Saturated Fat** 1g
	***Trans* Fat** 0g
0%	**Cholesterol** 0mg
7%	**Sodium** 160mg
12%	**Total Carbs** 37g
14%	**Dietary Fiber** 4g
	Sugars 1g
	Added Sugars 0g
	Protein 3g
10%	**Vitamin D** 2mcg
20%	**Calcium** 260mg
45%	**Iron** 8mg
5%	**Potassium** 235mg

* Footnote on Daily Values (DV) and calories reference to be inserted here.

We are also proposing to require the maintenance of records to support the declarations of certain nutrients under specified circumstances. Currently, there are no analytical methods that can distinguish between dietary fiber (soluble and insoluble fiber) and non-digestible carbohydrates that do not meet the definition of dietary fiber; added and naturally occurring sugars; the various forms of vitamin E; or folate and folic acid and there are no analytical methods that can determine the amount of added sugar in specific foods containing added sugars alone or in combination with naturally occurring sugars, where the added sugars are subject to fermentation. Therefore, for products that contain non-digestible carbohydrates that do not meet the definition of dietary fiber, more than one source of sugar, added sugars that undergo fermentation, various forms of vitamin E, or folate and folic acid, we are proposing that manufacturers must make and keep certain written records to verify their declarations of each of these nutrients in the labeling of the food associated with such records. We are also proposing that records must be kept for a period of at least 2 years after introduction or delivery for introduction of the food into interstate commerce and

may be kept as original records, as true copies, or electronically, and manufacturers must provide those records to us for inspection and copying upon request during an inspection.

We anticipate that consumer education efforts would be needed to help with consumer understanding and use of information presented under the changes to the Nutrition Facts and Supplement Facts labels proposed in this rule. We plan to use the results of our consumer research to help inform our future actions on this issue.

Finally, we are proposing an effective date of 60 days after the date of the final rule's publication in the **Federal Register** with a compliance date 2 years after the effective date. We invite comment on the proposed compliance date. In addition to the proposed compliance date, we invite comment on various other issues, as summarized in section XI.

Costs and Benefits

We have developed one comprehensive preliminary regulatory impact analysis that presents the benefits and costs of this proposed rule as well as the proposed rules entitled Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One Eating Occasion; Dual Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments taken together. The cumulative impact of these two nutrition labeling proposals, taken as a whole, is shown in the following table.

SUMMARY OF COSTS AND BENEFITS

[In billions of 2011 $]

	Benefits	Costs	Net benefits
Present Value (PV):			
3%	$31.4	$2.3	$29.1
7%	21.1	2.3	18.8
Annualized (3% PV Amount)			
3%	2.0	0.2	1.8
Annualized (7% PV Amount)			
7%	1.9	0.2	1.7

Notes: Compliance period is 24 months. Costs include relabeling and reformulation costs, which are one-time costs, as well as recordkeeping costs, which recur. Present values of relabeling and reformulation costs are equivalent at 3 or 7 percent because we conservatively assume that these one-time costs are incurred upon publication of the rule instead of at the end of the compliance period. Recordkeeping costs, because of their recurring nature, differ by discount rate; however, such costs comprise a very small percentage of total costs.

I. Background

The 1990 amendments added section 403(q) to the FD&C Act, which specifies, in part and with certain exceptions, that food is deemed misbranded unless its label or labeling bears nutrition information for certain nutrients. To implement the 1990 amendments, on January 6, 1993, FDA issued several rules, including ''Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label (the 1993 nutrient content final rule)''; ''Food Labeling; Reference Daily Intakes and Daily Reference Values (1993 RDI/DRV final rule)''; and ''Food Labeling: Serving Sizes'', to modify how nutrition information is presented on food labels (58 FR 2079; 58 FR 2206; 58 FR 2229, respectively). FDA published regulations related to: (1) Declaration of nutrients on food labeling, including nutrients that are required or permitted to be declared and the format for such declaration; (2) label reference values for use in declaring the nutrient content of a food on its label or labeling; (3) two types of reference values, Reference Daily Intakes (RDIs) for vitamins and minerals and Daily Reference Values (DRVs) for certain nutrients, which are used to declare nutrient contents as percent DVs on the Nutrition Facts label; (4) exemptions for certain specified products; and (5) a simplified form of nutrition labeling and the circumstances in which such simplified nutrition labeling can be used. (See § 101.9.) Elsewhere in this issue of the **Federal Register**, we are publishing a proposed rule that will amend the definition of a single-serving container, require dual column labeling for certain containers, update the reference amounts customarily consumed and serving sizes for several food product categories and amend the serving size for breath mints.

In 1994, DSHEA became law. Among other things, DSHEA amended section 403(q)(5)(F) of the FD&C Act by adding specific requirements that relate to the labeling of dietary supplement products. Accordingly, we amended our food labeling regulations to establish requirements for nutrition labeling of dietary supplements (§§ 101.9(j)(6) and 101.36).

The regulatory history, our rationale for existing requirements, and FDA activities related to nutrition labeling of foods and dietary supplements are described in Reference 1.

A. Legal Authority

We are proposing to update the Nutrition Facts label and Supplement Facts label, as set forth in this proposed rule, consistent with our authority in section 403(q) of the FD&C Act. Section 403(q)(1) of the FD&C Act states that a food shall be deemed to be misbranded if, with certain exceptions, it fails to bear nutrition labeling and identifies specific nutrient and calorie information required in labeling. Section 403(q)(2)(A) of the FD&C Act provides the Secretary, and by delegation, FDA, with discretion to require by regulation nutrition information about nutrients other than those specified in section 403(q)(1) of the FD&C Act to assist consumers in maintaining healthy dietary practices. Section 403(q)(2)(B) of the FD&C Act permits the Secretary, and by delegation, FDA, to remove information relating to a nutrient required by section 403(q)(1) or 403(q)(2)(A) of the FD&C Act if the Secretary determines that it is not necessary to assist consumers in maintaining healthy dietary practices. Consistent with these authorities, we are proposing to revise certain nutrient declarations in the Nutrition Facts label and Supplement Facts label. In addition, FDA's authority includes section 2(b)(1) of the 1990 amendments (21 U.S.C. 343 note). Specifically, section 2(b)(1)(A) of the 1990 amendments requires nutrition label information be conveyed in a manner that enables the public to readily observe and comprehend the information and to understand its relative significance in the context of a total daily diet. Such section states that such information should be consistent

with current scientific knowledge about nutrients and health. We are proposing changes to DVs (RDIs and DRVs, as applicable) for some nutrients, which values are used to calculate the percent DV for use on food labels. The use of reference values based on current science and the use of such values to calculate the percent DV assists consumers in comprehending the nutrition information and its relative significance in a total daily diet. We are also proposing changes to the format pertaining to information on the percent DV value. Further, section 2(b)(1)(C) of the 1990 amendments stipulates that regulations ''shall permit the label or labeling of food to include nutrition information which is in addition to the information required by such section 403(q) [of the FD&C Act] and which is of the type described in subparagraph (1)(or (2) of such section . . . .'' We are proposing changes to the voluntary declaration of certain nutrients in the Nutrition Facts label consistent with such authority.

Other relevant authorities include sections 701(a), 403(a)(1) and 201(n) of the FD&C Act (21 U.S.C. 371(a), 21 U.S.C. 343(a)(1), and 21 U.S.C. 321(n), respectively). Under section 701(a) of the FD&C Act, the Agency may issue regulations for the efficient enforcement of the FD&C Act in order to ''effectuate a congressional objective expressed elsewhere in the Act'' (*Association of American Physicians and Surgeons, Inc.* v *FDA,* 226 F. Supp. 2d 204 (D.D.C. 2002) (citing *Pharm. Mfrs. Ass'n.* v *FDA,* 484 F. Sup. 1179, 1183 (D. Del. 1980).)

We are relying on our authority under sections 403(q), 403(a), 201(n) and 701(a) of the FD&C Act, to propose record requirements to support nutrient declarations in labeling for added sugars, dietary fiber, soluble fiber, insoluble fiber, vitamin E, and folate/folic acid, under certain circumstances, so that we can determine compliance with labeling requirements and take enforcement action, as needed. For these nutrients, as explained in section II.N., there is no AOAC official method of analysis of AOAC International or other reliable or appropriate analytical procedure, otherwise required by § 101.9(g), available for FDA to quantify the declared amount of the nutrient, under certain circumstances. Section 101.9(g) sets forth the standards for accuracy of the amount statements of nutrients on food labels. Failing to accurately state the amounts of nutrients on the label under § 101.9(g) would result in a product being misbranded. Under section 403(q) of the FD&C Act, a food must bear, in its label or labeling, the amount of the nutrient the food contains. Moreover, the nutrient declaration must be truthful and not misleading under sections 403(a)(1) and 201(n) of the FD&C Act. Thus, when a food product contains dietary fiber (whether soluble, insoluble, or a combination of both) and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber, we are proposing to require manufacturers to make and keep certain written records to verify the amount of added non-digestible carbohydrate that does not meet the definition of dietary. When vitamin E is present in a food as a mixture of all *rac*-α-tocopherol acetate and *RRR*-α-tocopherol, we are proposing to require manufacturers to make and keep written records to verify the amount of all *rac*-α-tocopherol acetate added to the food and *RRR*-α-tocopherol in the finished food. When a mixture of folate and folic acid is present in a food, we are proposing to require manufacturers to make and keep records to verify the amount of folic acid added to the food and folate in the finished food. When added sugars as well as naturally occurring sugars are present in a food, we are proposing to require manufacturers to make and keep records to verify the declared amount of added sugars in the food. Finally, we are proposing to require manufacturers to make and keep records to verify the declared amount of added sugars in specific foods, alone or in combination with naturally occurring sugars, where the added sugars are subject to fermentation.

The proposed record requirements for these nutrients, under the circumstances described, are designed to ensure that the nutrient declarations are accurate, truthful and not misleading, based on information known only to the manufacturer, and to facilitate efficient and effective action to enforce the requirements when necessary. Our authority to establish records requirements has been upheld under other provisions of the FD&C Act where FDA has found such records to be necessary (*National Confectioners Assoc.* v *Califano,* 569 F.2d 690, 693–94 (D.C. Cir. 1978). The records we propose to require are only for foods for which an adequate analytical method is not available. The records would allow us to verify the declared amount of each of these nutrients and that such amount is truthful and not misleading. Thus, the proposed records requirements would help in the efficient enforcement of the FD&C Act.

The authority granted to FDA under sections 701(a), 403(q), 403(a)(1) and 201(n) of the FD&C Act not only includes authority to establish records requirements, but also includes access to such records. Without such authority, the nutrient declarations for these specific nutrients that FDA has determined are necessary to assist consumers in maintaining healthy dietary practices under section 403(q)(2)(A) of the FD&C Act are, practically speaking, not enforceable. Without access to such records, FDA would not know whether the amount declared on the label or in the labeling of each these nutrients, under the circumstances described, is truthful and not misleading under sections 403(a)(1) and 201(n) of the FD&C Act. The introduction or delivery for introduction into interstate commerce of a misbranded food is a prohibited act under section 301(a) of the FD&C Act (21 U.S.C. 331(a)). Thus, to determine whether the food is misbranded and the manufacturer has committed a prohibited act, we must have access to the manufacturer's records that we are requiring be made and kept under sections 403(q), 403(a)(1), 201(n) and 701(a) of the FD&C Act. Failure to make and keep records and provide the records to FDA, as described in proposed § 101.9(g)(10) and (g)(11), would result in the food being misbranded under sections 403(q) and 403(a)(1) of the FD&C Act.

B. Need To Update the Nutrition Facts and Supplement Facts Labels

FDA first issued regulations related to the Nutrition Facts label in 1993. We have not updated the Nutrition Facts label since the 2003 *trans* fat rulemaking (68 FR 41434; July 11, 2003) or established new or updated DVs for nutrients since 1995 (60 FR 67164; December 28, 1995). Since that time, the public health profile of the U.S. population has changed (e.g., increase in obesity), new information has become available about nutrient definitions (e.g., vitamin E), reference intake values, and analytical methods, and new dietary recommendations (see section I.B.2.) have been published. As a result, we are reconsidering what nutrients we should require or permit to be listed on the Nutrition Facts label and what nutrient reference intake values we should use as a basis for calculating the percent DVs in food labeling. We also considered corresponding changes to the Supplement Facts labels. We discuss specific nutrient declarations in greater detail in section II. Section I.B. includes an overview of information we considered when forming our tentative conclusions, including scientific and technical data and recommendations, citizen petitions submitted to us, and public comments to previous requests

for comment in advance notices of proposed rulemaking on topics related to this proposed rule. We also considered the role of nutrition labeling to assist consumers in maintaining healthy dietary practices and consumers' use and understanding of the Nutrition Facts label.

1. Rates of Chronic Disease

Chronic diseases, such as heart disease, cancer and stroke are the leading causes of death and disability in the United States, and account for 70 percent of all deaths in the United States (Ref. 2). In 2005, 133 million Americans, almost one out of every two adults, had at least one chronic illness (Ref. 2). An estimated 37 percent of Americans suffer from cardiovascular disease (CVD) (Ref. 3), 11.3 percent of the population 20 years and older has diabetes, 35 percent of adults has pre-diabetes (Ref. 4), and 41 percent of the population is predicted to be diagnosed with cancer during their lifetime (Ref. 5). While the causes of these chronic diseases are multifactorial, poor diet is a contributing factor associated with morbidity and mortality (Ref. 6). Many nutrients are associated with chronic disease risk. For example, diets low in saturated fat and cholesterol, and/or sodium are associated with a decreased risk of CVD (58 FR 2739; January 6, 1993, and 58 FR 2820; January 6, 1993). Adequate or increased intake of calcium and vitamin D may decrease the risk of osteoporosis (73 FR 56477; September 29, 2008).

Obesity rates have increased dramatically over the last three decades. Between 1976 and 1980 and 2007 and 2008, obesity rates increased more than twofold (from 15 to 34 percent) in adults and more than threefold (from 5 to 17 percent) among children and adolescents (Refs. 6 to 8). Data published by the U.S. Centers for Disease Control and Prevention (CDC) indicate that 68 percent of adults and about 32 percent of children aged 2 to 19 years in the U.S. population are overweight or obese (Refs. 7 and 8). Excessive body weight is a risk factor for chronic diseases such as heart disease, some forms of cancer, and type II diabetes (Ref. 9). The 2010 DGA affirmed the role of over consumption of calories and physical inactivity as the primary risk factors contributing to an epidemic of overweight and obesity in this country, and urged for a focus on improved nutrition and physical activity choices among Americans (Ref. 6).

Elevated blood pressure, an important risk factor for CVD (Ref. 10), affects about one-third of the U.S. adult population (Ref. 2). High intakes of sodium are directly associated with elevated blood pressure (Ref. 10). Average sodium intake for the U.S. population 4 years of age and older is approximately 3,650 mg/d (Ref. 11). Almost all Americans consume more sodium than the levels recommended by the 2010 DGA (Ref. 12)

Furthermore, while concerns in recent years have largely shifted away from nutritional deficiencies, some population subgroups may consume excess calories but still consume inadequate amounts of certain micronutrients such as iron, vitamin D, calcium and potassium (see section II.H.).

The mandatory declaration of nutrients that have public health significance, the use of updated DVs based on current scientific evidence, and the use of a format for the Nutrition Facts label to assist with consumer use and understanding can help consumers make informed food choices to consume a nutritionally adequate diet while monitoring calorie intake and lowering their risk of some chronic diseases.

2. Dietary Recommendations, Consensus Reports, and National Survey Data

a. IOM Dietary Reference Intakes Reports (IOM DRI Reports)—In 1994, the Food and Nutrition Board (FNB) of the Institute of Medicine (IOM) identified principles for the development of a new set of reference values that could expand and replace the IOM's Recommended Dietary Allowances (RDAs) of 1989 (Refs. 13 and 14). A comprehensive review and application of a growing body of nutritional science research resulted in the development of a set of reference values, collectively known as DRIs, published from 1997 to 2010 (Ref. 15). The DRIs represent a shift in the way that reference values are established or intended for use. In contrast to previous editions of RDAs (e.g., the 1968 and 1989 RDAs), which involved establishing single values for each nutrient with appropriate adjustments for age, sex and physiological status, the new DRI framework consisted of four categories of reference values. These categories include the Estimated Average Requirement (EAR), RDA, Adequate Intake (AI) and Tolerable Upper Intake Level (UL). For macronutrients—carbohydrates, fats, and protein—the IOM developed a new set of reference values called the Acceptable Macronutrient Distribution Ranges (AMDRs).

The EAR is the average daily nutrient intake level that is estimated to meet the requirements of half of the healthy individuals in a particular life stage and gender group. EARs are used for assessing the statistical probability of adequacy of nutrient intakes of groups of people. The RDA is an estimate of the average intake level that meets the nutrient requirements of nearly all (97 to 98 percent) healthy individuals in a particular life stage and gender group. The RDA is set using the EAR. In general, the RDA is the EAR plus two times the standard deviation of the EAR. The RDA is used to plan nutrient intakes for individuals to ensure a low probability of inadequacy. Nutrients with EARs and RDAs include carbohydrate, protein, vitamin A, vitamin C, vitamin E, thiamin, riboflavin, niacin, vitamin B_6, folate, vitamin B_{12}, copper, iodine, iron, magnesium, phosphorus, selenium, zinc, calcium and vitamin D.

An AI is the level determined for an essential nutrient or a nutrient that is beneficial for human health when there is insufficient evidence to calculate an EAR for that nutrient, and therefore insufficient evidence on which to establish an RDA. AIs can be based on a variety of data, including scientific evidence about the essentiality of a nutrient (i.e., choline, biotin, fluoride), experimental data on risk reduction of chronic disease (i.e., dietary fiber, potassium), and median intakes of a nutrient using national survey data (i.e., vitamin K, pantothenic acid, chromium, manganese, linoleic acid, and [alpha]-linolenic acid). Although there is less certainty about an AI value than about an RDA value, the AI is similarly designed to cover the needs of nearly all individuals. The IOM Dietary Planning Report and Dietary Assessment Report noted that ''the AI should be used with less confidence if it has not been established as the mean intake of a healthy group.''

The UL is the highest average daily intake level likely to pose no risk of adverse health effects for nearly all people in a particular group. The UL is not intended to be a recommended level of intake. The UL is used to assess the risk of adverse health effects from excessive nutrient intake. As intake above the UL increases, so does the potential for risk of adverse health effects. Nutrients with ULs include vitamin A, vitamin C, vitamin D, vitamin E, niacin, vitamin B_6, folate, choline, calcium, copper, fluoride, iodine, iron, magnesium, manganese, molybdenum, phosphorus, selenium, zinc, sodium, and chloride.

Moreover, while the previous RDAs primarily focused on reducing the incidence of diseases of nutrient deficiency in the population, the DRIs

now take into consideration data on chronic disease risk, such as heart disease, and developmental abnormalities, such as teratogenicity, rather than only the signs of deficiency. Finally, where sufficient data exist, the DRIs take into account the potential benefit or risk to health of substances that are not essential (such as dietary fiber and fluoride) that are in addition to the macronutrients of total carbohydrate, protein, and fat, and the micronutrient vitamins and minerals permitted or required on the Nutrition Facts label (Ref. 15). Beginning in 1997, the IOM began publishing its DRIs for those vitamins, minerals, and macronutrients that are essential in humans or provide a beneficial role in human health (Refs. 16 to 22). In addition, the IOM also set AMDRs for carbohydrates, fat, and protein (Ref. 23). The AMDR for a macronutrient is based on the amount of the macronutrient that is associated with a reduced risk of chronic disease while providing adequate intakes of essential nutrients. The AMDR is expressed as a range of percent energy intake (e.g., 20 to 35 percent of calories from total fat for adults over 18 years of age). The DRIs and AMDRs were set for the following life stage groups: Infants (0 to 6 and 7 to 12 months); toddlers (1 to 3 years); boys and girls (4 to 8 years); adolescent boys and girls (9 to 13 and 14 to 18 years); adult men and women (19 to 30, 31 to 50, 51 to 70, and greater than 70 years); and pregnant and lactating women.

b. IOM Dietary Fiber Report—In 2001, the IOM Panel on the Definition of Dietary Fiber (the IOM Dietary Fiber Panel) responded to our request to provide definitions for dietary fiber based on its role in human physiology and health. The IOM Dietary Fiber Panel developed two categories of definitions of fiber: ''Dietary Fiber'' and ''Added Fiber'' in its report *Dietary Reference Intakes: Proposed Definition of Dietary Fiber* (the IOM Dietary Fiber Report) (Ref. 24).

c. IOM Dietary Assessment Report—In 2000, the IOM Subcommittee on Interpretation and Uses of Dietary Reference Intakes (IOM uses Committee) published the report, DRIs Application in Dietary Assessment (IOM Dietary Assessment report) on how to use the DRIs for dietary assessment of individuals and groups.

d. IOM Labeling Report—In 2003, the IOM Committee on nutrition labeling (IOM Labeling Committee) considered how the DRIs can be used to develop appropriate reference values for nutrition labeling and published its report, co-funded by FDA, *DRI Guiding Principles for Nutrition Labeling and Fortification* (the IOM Labeling Report) (Ref. 25), with the goal of having an updated nutrition label that consumers can use to make informed dietary choices.

e. IOM Dietary Planning Report—In 2003, the IOM Subcommittee on interpretation and uses of DRIs (IOM Uses Committee) published a report, *DRIs Application in Dietary Planning* (IOM Dietary Planning Report) (Ref. 26) on how to use the DRIs for planning intakes of individuals and groups. This report discusses the use of the DRIs for food and supplement labels.

f. IOM Sodium Strategies Report—In 2008, the IOM convened a Committee on Strategies to Reduce Sodium Intake in the United States to address a Congressional request for recommendations about various means that could be employed to reduce dietary sodium intake to levels recommended by the 2005 DGA (less than 2,300 mg/d and no more than 1,500 mg/d for African-Americans, people with hypertension, and middle-aged and older adults). The Committee's report, *Strategies to Reduce Sodium Intake in the United States* (IOM Sodium Strategies Report), published in 2010, among other strategies, discusses how the labeling of sodium on foods can serve as a supporting strategy for reducing sodium intake (Ref. 27).

g. IOM Front-Of-Package Nutrition Rating Systems and Symbols Phase I and Phase II Reports—In 2010, the IOM Committee on Front-of-Package (FOP) Nutrition Rating Systems and Symbols reviewed the existing FOP systems and their underlying nutrition criteria. In the Phase I report, the IOM identified the nutrients for which there was sufficient evidence of their role in chronic disease risk and which should be included in a FOP label (Ref. 28). In 2012, the IOM published its phase II report that recommended developing a single standardized FOP rating system and updated their recommendations for nutrients to be included on the FOP label (Ref. 29).

h. IOM Sodium Intake in Populations Report—In 2012 the IOM convened a Committee to review and assess the benefits and adverse outcomes (if any) of reducing the sodium intake in the population, particularly in the range of 1,500 to 2,300 mg/d. The Committee was also asked to specifically emphasize relevant subgroups in the analysis including those 50 years of age and older, African Americans, and those with diabetes, chronic kidney disease, and congestive heart failure. The Report was published in May of 2013 and focused its findings and conclusions on evidence for associations between sodium intake and the risk of CVD-related events and mortality.

i. *Dietary Guidelines for Americans* (DGA), 2010—The 2010 DGA, developed jointly by the U.S. Department of Agriculture (USDA) and the U.S. Department of Health and Human Services (HHS), provide several key recommendations including recommendations about dietary patterns, as well as quantitative intake recommendations with respect to micronutrients and macronutrients, most of which are based on the IOM DRI reports (Ref. 6). In a few cases, the 2010 DGA provided quantitative intake recommendations for certain nutrients (i.e., cholesterol and saturated fat) that were not provided by the IOM DRI reports (Ref. 6). The 2010 DGA emphasized the importance of meeting food and nutrient recommendations while balancing calorie needs (Ref. 6). More information regarding the scientific basis that informed the development of the 2010 DGA can be found in the *Report of the Dietary Guidelines Advisory Committee on the Dietary Guidelines for Americans,* 2010 (2010 DGAC) (Ref. 30). An important note related to the 2010 DGA is the specified intended audience for its recommendations (Ref. 6). From the 1980s until 1995, the DGAs were targeted toward healthy Americans and designed to provide advice to healthy individuals about food choices that promote health and prevent disease (Refs. 31 to 34). In 2000, the recommendations specified an audience of ''healthy children ages 2 years and older and adults of any age,'' and the 2005 DGA provided recommendations for the ''general public age 2 years and older.'' (Refs. 35 and 36). While the DGAs have always taken into account the needs of subpopulations, the most recent 2010 DGA goes beyond the traditional target of a ''healthy'' audience to provide chronic disease,'' noting ''the reality that a large percentage of Americans are overweight or obese and/or at risk of various chronic diseases'' (Ref. 6).

j. National Health and Nutrition Examination Survey (NHANES)—The NHANES provides the primary source of information on the health and nutritional status of adults and children in the United States. The survey examines a nationally representative sample of about 5,000 persons each year. These persons are located in counties across the country. The survey combines interviews, which include demographic, socioeconomic, dietary, and health-related questions, and physical examinations, which consist of

medical, dental, and physiological measurements, as well as laboratory tests administered by highly trained medical personnel (Ref. 37).

3. Consumer Use and Understanding of the Nutrition Facts Label

The Nutrition Facts label is intended to help consumers make informed food choices and maintain healthy dietary practices. Consumers became increasingly aware of the new label in the years following implementation of the 1990 amendments, and reported using food labels more often in their purchasing decisions compared to their use before the introduction of the Nutrition Facts label (Ref. 38).

Data from a nationally representative sample of U.S. adults collected through FDA's Health and Diet Surveys suggest that the frequency of food label use among consumers progressively increased between 2002 and 2008 (Refs. 39 to 41). For example, the percentage of consumers reporting that they ''often'' read a food label the first time they purchase a food product rose from 44 percent in 2002 to 54 percent in 2008. Among those indicating they read food labels when purchasing a product for the first time, two-thirds of them in 2008 reported using the label to see how high or low the food was in calories, salt, vitamins or fat, while more than half said they used labels to get a general idea of the nutritional content of the product. A similar increase in reported use of food labels has also been shown using data from the National Health and Nutrition Examination Surveys 2007–2008 and 2009–1010. The percent of working age adults that reported using the Nutrition Facts Panel (NFP) always or most of the time when shopping for food increased to 42% in 2009–2010 from 34% in 2007–2008. Among older adults the percentage increased to 57% in 2009–2010 from 51% in 2007–2008. (Ref. 42).

Consumer research data suggest that, despite the widespread use of food labels, certain elements of the Nutrition Facts label may need improvement. For example, some consumers have difficulty understanding the concept of percent DV (Refs. 43 and 44) or are confused by the label footnote that lists DVs for certain nutrients based on a 2,000 and 2,500 calorie diet (Ref. 45).

Section 2(b)(1)(A) of the 1990 amendments mandated that FDA regulations implementing section 403(q) of the FD&C Act require that nutrition labeling must be conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet. In particular, the percent DV of a nutrient present in food is declared on food labels to help consumers understand the relative significance of nutrition information in the context of a total daily diet, compare the nutritional values of food products, and to plan general diets (58 FR 2206 at 2213; January 6, 1993). We also noted that the percent DV information advises the consumer how much of a recommended intake of that nutrient is provided by the food (58 FR 2079 at 2123; January 6, 1993). We developed the term ''Daily Value'' to refer to all reference values on the nutrition label (DRVs and RDIs). We noted that some of the reference values were intended to guide consumers relative to maximum intakes (DRVs) (e.g., saturated fat), while others were intended to serve as the basis for planning general diets to meet nutrient requirements (RDIs) (e.g., vitamin C) (58 FR 2079 at 2124). Our research at the time showed that the term ''Daily Value'' was generally understood by consumers as a point of reference (58 FR 2079 at 2125).

In order to determine a nutrition labeling format that could be used most effectively by consumers, we conducted consumer research and evaluated research conducted by others in considering requirements for the nutrition label format (58 FR 2079 at 2115–2121). When available, we used empirical data on how consumers use and understand the label in proposing what information should be declared on the label and how. We used focus group data to inform what we would test in experimental studies, but did not rely on such data to make policy decisions. Several comments to the ANPRMs submitted focus group data. However, we are not relying on focus group data for the proposed changes to the Nutrition Facts label because focus groups do not yield meaningful quantitative findings and are not able to support conclusions about the relationships between the presentation of label information and consumer responses. As such, they cannot be used to drive the development of policies, programs, and services. Policy makers and educators can use focus groups findings to test and refine their ideas, but should then conduct further research before making important decisions such as adopting new policies and allocating or redirecting significant resources to support these policies.

We have completed one study that examined dual-column labels and ways to increase prominence of certain label information, and intend to continue to perform research during this rulemaking process to evaluate how variations in label format may affect consumer understanding and use of the Nutrition Facts label. Issues to be addressed include how a declaration of ''Added Sugars'' and alternative footnote statement may influence consumer use of the label.

The overall goal of these studies is to assess a consumer's ability to use the Nutrition Facts label and assess a consumer's preferences related to proposed modifications of the Nutrition Facts label format. In addition, the studies will help us focus our efforts on consumer education as well as enhance our understanding of whether modifications to the Nutrition Facts label format could help consumers make more informed choices based on their perceptions of the nutritional attributes and overall healthfulness of a food product. (See also discussion in section II.M.)

4. Other Relevant Considerations

In developing this proposed rule, we considered changes that would assist consumers in maintaining healthy dietary practices and recognize that it is important for the updated Nutrition Facts label to be useful and relevant to the American population. While the Nutrition Facts label information has never been nor is it now targeted to individuals with acute or chronic disease, we are considering the large portion of the U.S. population that is at risk for chronic disease in proposing changes to the label's content and format. The population at risk for chronic disease includes those who are overweight, and therefore at increased risk of certain chronic diseases, or those who are obese, leading to a variety of complications including diabetes and CVD. This approach is consistent with the new IOM DRIs, which are for healthy individuals, including those at-risk of disease, but not for individuals with acute or chronic disease or nutrient deficiencies (Ref. 15). Similarly, the DGAs are for Americans ages 2 years and older, including those at risk of chronic disease. While consumers with acute or chronic disease, such as obesity, CVD, or diabetes, may be able to use quantitative information on the label to follow advice they have received from a health care professional concerning their conditions, the nutrient declarations and percent DVs on the label are to help consumers make more informed choices to consume a healthy diet and not intended for the clinical management of an existing disease. In addition, we recognize the importance of federal regulations reflecting the most current science. In developing this proposed rule, we

considered new scientific evidence and dietary recommendations about the relationship between nutrients and health.

Finally, we recognize that the goal of assisting consumers in maintaining healthy dietary practices requires that we consider certain practicalities. For example, as we noted in the 1993 nutrient content final rule (58 FR 2079 at 2107), while the 1990 amendments permit the Secretary of Health and Human Services to include in the Nutrition Facts label any information about a nutrient that will assist consumers in maintaining healthy dietary practices, there is not room on the label for all information that may be related to maintaining healthy dietary practices. Space constraints on the label of most foods make declaring all essential nutrients impractical. In addition, having a large amount of information on the label could interfere with consumers' abilities to use the information that has the greatest public health significance. Therefore, not only are we aware of the amount and format of mandatory information on the label, but we recognize that limits to the voluntary information are necessary, so that voluntary information does not clutter the label, does not mislead, confuse, or overwhelm the consumer, and does not take away prominence of and emphasis on the required information.

5. Citizen Petitions

Since 1993, we received a number of citizen petitions requesting that FDA make various changes to the Nutrition and Supplement Facts labels. We are addressing a number of issues raised in the following petitions within this proposed rule: (1) The Calorie Control Council submitted a citizen petition on April 13, 1995 (Docket No. FDA–1995–P–0142) requesting that FDA permit the use of the term ''polyols'' in lieu of sugar alcohols on the Nutrition Facts label (*http://www.regulations.gov/#!docketDetail;D=FDA-1995-P-0142*); (2) the American Cocoa Research Institute submitted a citizen petition on April 4, 1996 (Docket No. FDA–1996–P–0035) recommending the accurate communication of the scientific fact that stearic acid does not affect blood cholesterol (*http://www.regulations.gov/#!docketDetail;D=FDA-1996-P-0035*); (3) Nabisco, Inc. submitted a citizen petition on May 8, 1997 (Docket No. FDA–1997–P–0476) requesting that FDA amend the definition of ''total fat'' and ''saturated fat'' in its food labeling regulations to clarify that acetic, propionic, and butyric acids may be excluded when calculating the amount of fat in a food product (*http://www.regulations.gov/#!docketDetail;D=FDA-1997-P-0476*); (4) the Calorie Control Council submitted a citizen petition on February 13, 1998 (Docket No. FDA–1997–P–0232) requesting that the caloric value of soluble fiber be no more than 2 kcal/g (*http://www.regulations.gov/#!docketDetail;D=FDA-1997-P-0232*); (5) the Center for Science in the Public Interest (CSPI) submitted a citizen petition on August 4, 1999 (Docket No. FDA–1999–P–0158) requesting that FDA establish a DV for added sugars and require the amount of added sugar, and the percent DV that represents, to be declared on food labels (*http://www.regulations.gov/#!docketDetail;D=FDA-1999-P-0158*); (6) Protein Technologies International, Inc. submitted a citizen petition on December 21, 2000 (FDA–2000–P–0569) requesting that FDA modify the reference to the method used to calculate protein content (*http://www.regulations.gov/#!docketDetail;D=FDA-2000-P-0569*); (7) the National Starch and Chemical Company (''National Starch'') submitted a citizen petition on July 8, 2004 (Docket No. FDA–2004–P–0094) requesting that dietary fiber content be excluded from the ''total carbohydrate'' declaration on the Nutrition Facts label (*http://www.regulations.gov/#!docketDetail;D=FDA-2004-P-0094*); (8) the Sugar Association submitted a citizen petition on August 15, 2005 (Docket No. FDA–2005–P–0373) requesting, in part, that FDA amend regulations related to the labeling of sugar and alternative sweeteners (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0373*); (9) CSPI submitted a citizen petition on November 8, 2005 (Docket No. FDA–2005–P–0196) requesting, in part, that FDA lower the DV for sodium from 2,400 to 1,500 mg/day (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0196*); (10) an individual submitted a citizen petition on May 25, 2005 (Docket No. FDA–2005–P–0126) requesting that FDA preclude the declaration of β-carotene in supplements as vitamin A (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0126*); (11) an individual submitted a citizen petition on January 17, 2007 (Docket No. FDA–2007–P–0404) requesting that FDA amend the definition of trans fat in its food labeling regulations to express the value of ''zero'' for *trans* fat when there are ''absolutely no trans fats at all'' and require the use of a symbol (e.g., ''~'') to indicate when there is ''more than zero but less than 0.5 grams (g) of trans fat per tablespoon'' (*http://www.regulations.gov/#!docketDetail;D=FDA-2007-P-0404*); and (12) CSPI submitted a citizen petition on February 13, 2013 (Docket No. FDA–2013–P–0217) requesting, in part, that FDA revise the ''Sugars'' line on the Nutrition Facts label to address ''added sugars'' (*http://www.regulations.gov/#!docketDetail;D=FDA-2013-P-0217*).

We address the specific requests identified previously for each citizen petition related to the labeling of conventional foods and dietary supplements in the appropriate sections in this document. Requests in these citizen petitions that are unrelated to the content of the Nutrition Facts label are outside of the scope of this rulemaking and we will address those requests separately from this rulemaking.

6. Advance Notices of Proposed Rulemaking (ANPRMs)

We also published three ANPRMs seeking public comment on issues relevant to updating the Nutrition Facts label.

a. ANPRM on *Trans* Fat—In the **Federal Register** of July 11, 2003 (68 FR 41507), we published an ANPRM (the 2003 ANPRM) to solicit information and data that potentially could be used to establish new nutrient content claims about *trans* fatty acids; to establish qualifying criteria for *trans* fat in nutrient content claims for saturated fatty acids and cholesterol, lean and extra lean claims, and health claims that contain a message about cholesterol-raising lipids; and, in addition, to establish disclosure and disqualifying criteria to help consumers make heart-healthy food choices. We also requested comments on whether we should consider statements about *trans* fat, either alone or in combination with saturated fat and cholesterol, as a footnote in the Nutrition Facts label or as a disclosure statement in conjunction with claims to enhance consumer understanding about cholesterol-raising lipids and how to use the information to make healthy food choices. On March 1, 2004 (69 FR 9559), we reopened the comment period for the 2003 ANPRM to receive comments that considered the information in the IOM Labeling Report (Ref. 25) published in the interim that addressed the labeling of *trans* fat. On April 19, 2004 (69 FR 20838), we extended the comment period for the 2003 ANPRM to receive comments that considered the information in the 2004 meeting of the Nutrition Subcommittee of the Food Advisory Committee (Ref.

46), which addressed whether the available scientific evidence supported listing the percent DV for saturated fat and *trans* fat together or separately on the Nutrition Facts label and what the maximal daily intake of *trans* fat may be.

In response to the 2003 ANPRM, we received about 120 comments. We consider the comments related to determining a DV for *trans* fat in section II.B.3. (see also accompanying Ref. 47). Other issues raised by comments that are unrelated to the DV for *trans* fat will be addressed in a separate rulemaking at a future time.

b. ANPRM on Prominence of Calories—In the **Federal Register** of April 4, 2005 (70 FR 17008), we published an ANPRM on the prominence of calories on the food label (the 2005 ANPRM). The 2005 ANPRM was issued in response to recommendations from the Obesity Working Group created by the Commissioner of Food and Drugs to develop an action plan to address the growing incidence of obesity in the United States. The 2005 ANPRM, in part, requested comments on whether giving more prominence to the declaration of calories per serving would increase consumer awareness of the caloric content of the packaged food. We also sought comment on whether providing a percent DV for total calories would help consumers understand the caloric content of the packaged food in the context of a 2,000 calorie diet. In addition, we also requested comments on questions concerning the declaration of ''Calories from fat'' (70 FR 17008 at 17010).

We received about 400 comments to the 2005 ANPRM, each containing one or more issues, from industry, trade associations, consumer groups, individual consumers, government, and academia. We consider the comments in sections II.A. and II.M. (see also accompanying Ref. 47).

c. ANPRM on Food Labeling: Revision of Reference Values and Mandatory Nutrients—In the **Federal Register** of November 2, 2007 (72 FR 62149), we published an ANPRM regarding the revision of reference values and mandatory nutrients (the 2007 ANPRM). The 2007 ANPRM requested comment on various aspects of nutrition labeling, including what new reference values we should use to calculate the percent DV in the Nutrition Facts and Supplement Facts labels and what factors we should consider in establishing such new reference values. In addition, we requested comments on whether we should require that certain nutrients be added or removed from the Nutrition Facts and Supplement Facts labels.

In response to the 2007 ANPRM, we received about 820 comments, from industry, trade associations, consumer groups, individual consumers, government, and academia. We consider these comments in each of the relevant individual nutrient sections in this document (see also accompanying Ref. 47).

7. Impact on Other Regulations

We recognize that changes to the list of nutrients declared on the Nutrition Facts label or the RDIs or DRVs of nutrients will likely affect other FDA regulations, including certain labeling requirements for foods in 21 CFR part 101. For example, the DVs are used to determine, in part, whether a food or dietary supplement is eligible to bear nutrient content claims or health claims (see for example §§ 101.14, 101.54, 101.76, 101.78, and 101.79). In addition, our fortification policy refers to RDIs and certain DRVs that are specified in § 101.9 in describing principles for the rational addition of nutrients to foods (§ 104.20 (21 CFR 104.20)). We plan to evaluate the impact of the proposed changes to the Nutrition Facts and Supplement Facts labels, if finalized, on other FDA regulations. We intend to address, as appropriate, the impact on other FDA regulations in future separate rulemakings. Thus, issues related to nutrient content claims and health claims are outside the scope of this rulemaking.

C. Factors for Mandatory or Voluntary Declaration of Non-Statutory Nutrients

Under section 403(q)(1)(C) and (D) of the FD&C Act, nutrition information in food labeling must include the total number of calories, derived from any source and derived from the total fat, and the amounts of total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein. For purposes of this proposed rule, we consider the nutrients that are explicitly required by the FD&C Act to be declared on the Nutrition Facts label as ''statutorily required nutrients.'' Section 403(q)(2)(B) of the FD&C Act permits the Secretary, and by delegation, FDA, to remove a statutorily required nutrients from the label or labeling of food, by regulation, if the Secretary determines the information related to that nutrient is not necessary to assist consumers in maintaining healthy dietary practices. FDA regulations require the declaration of the following statutorily required nutrients: Total calories, calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrates, sugars, dietary fiber, and total protein (See Ref. 1 for information on regulatory history). As part of the effort to update the Nutrition Facts label, we reconsidered the declaration of these statutorily required nutrients. Our considerations and tentative conclusions on these nutrients are presented within the discussion of individual nutrients in section II.

Section 403(q)(2)(A) of the FD&C Act provides that the Secretary (and by delegation FDA) may, by regulation, require other nutrients to be declared if the Secretary determines that a nutrient will provide information regarding the nutritional value of such food that will assist consumers in maintaining healthy dietary practices. For purposes of this proposed rule, we consider such nutrients that are not statutorily required but subject to our discretion under section 403(q)(2)(A) of the FD&C Act, as ''non-statutory nutrients'' to distinguish such nutrients from those expressly required by the statute. In the 1993 nutrient content final rule (58 FR 2079), we considered the existence of a quantitative intake recommendation highlighted in U.S. consensus reports and the public health significance of the nutrient in exercising our discretion to determine which non-statutory nutrients to require or permit on the Nutrition Facts label. Based on these considerations, with respect to non-statutory nutrients, we (1) required the declaration of certain essential vitamins and minerals for which an RDI was established and that were determined to have public health significance (i.e., vitamins A and C, iron, and calcium); and (2) permitted the declaration of the remaining essential vitamins and minerals for which there was an established RDI or DRV (i.e., vitamin E) *or* that had public health significance, as well as permitted the declaration of certain subcategories of macronutrients for which a DRV was not established (including monounsaturated fat, polyunsaturated fat, soluble fiber, insoluble fiber, sugar alcohol, and other carbohydrate) (58 FR 2079).

In this section, we describe our current thinking related to considerations used to determine whether a non-statutory nutrient should be required or permitted to be declared on the Nutrition Facts label. Applying this current thinking, in section II, we are proposing the mandatory declaration of certain non-statutory nutrients, voluntary declaration of others, and proposing to remove the mandatory declaration of another nutrient. For purposes of this proposed rule, we use the term ''nutrient'' to refer to

substances that are currently included or that we are considering for inclusion on the Nutrition Facts label, including carbohydrate, fat, and protein and their subcomponents (e.g., added sugars, sugar alcohols, saturated fat), micronutrients (vitamins and minerals), and to calories, including calories from fat.

1. Factors Considered

We updated the information that we consider for determining whether the declaration of a non-statutory nutrient should be mandatory or voluntary. This update responds to several developments. Since the 1993 nutrient content final rule was published, (1) new scientific data have provided additional evidence of the role of certain nutrients in chronic disease risk, health-related conditions, or health-related physiological endpoints and, in some cases, based on the review of this evidence, DRIs are now available from the IOM that can be used as quantitative intake recommendations (i.e., RDA and AI), as well as for assessing the inadequacy and adequacy of essential vitamins and minerals in the U.S. population (i.e., EAR and AI); (2) the rates of certain diseases or health-related conditions have either changed or remained high; and (3) the process for evaluating the relationship between a nutrient and chronic disease risk, a health-related condition, or a health-related physiological endpoint has been refined based on the use of systematic evidence-based reviews for a number of nutrients (e.g., 2010 DGA, FDA health claims).

We continue to be mindful of past factors we considered as part of our deliberations related to the Nutrition Facts label, such as the number of nutrients that could be listed in nutrition labeling, that some individuals could interpret a long list of nutrients as implying that a food has greater nutritional significance than is the case, and that there is limited space for nutrition information on the label (55 FR 29487 at 29493; July 19 1990).

To help us determine whether a non-statutory nutrient should be a required or permitted declaration, we are considering the same general types of information used in 1993 when the nutrient content final rule was published: (1) Existence of quantitative intake recommendations; and (2) public health significance. We discuss each of these factors in greater detail in this document.

a. Quantitative Intake Recommendations—Quantitative intake recommendations are reference intake levels provided in consensus reports that can be used to set a DRV or RDI. We expect these consensus reports to be published for the purpose of setting quantitative intake recommendations (e.g., the IOM DRI reports). If DRIs are not available for nutrients, other than essential vitamins and minerals, then we consider science-based recommendations from other U.S. consensus reports or the DGA policy reports. Such recommendations may be identified as a conclusion, key recommendation, or reported in the executive summary of the consensus report.

b. Public Health Significance—For the purposes of nutrition labeling of foods and dietary supplements, we consider public health significance to refer to two elements. First we consider whether there is evidence of a relationship between the nutrient and a chronic disease, health-related condition, or health-related physiological endpoint. This can be demonstrated either by well-established evidence or, for essential vitamins and minerals, recommendations regarding the health consequences of inadequacy of the nutrient. Second we consider whether there is evidence of a problem related to health in the general U.S. population. This needs to be demonstrated by both evidence of a problem with the intake of the nutrient in the general U.S. population and evidence of the prevalence of the chronic disease, health-related condition, or health-related physiological endpoint that is linked to that nutrient in the general U.S. population. We consider public health significance to refer to the following: (1) Existence of ''well-established'' scientific evidence from U.S. consensus reports that there is a relationship between a nutrient and chronic disease risk, a health-related condition, or a health-related physiological endpoint and where the intake of such nutrient is of general importance in the general U.S. population, e.g., where intakes are generally too low or too high among the U.S. population. U.S. consensus reports are those reports that provide consensus conclusions or recommendations by a group of experts as requested by U.S. Government Agencies (e.g., IOM reports, the DGAs, National Institutes of Health (NIH) consensus reports). We generally consider scientific evidence to be ''well-established'' when such consensus reports have determined the evidence to be ''conclusive,'' ''documented,'' or ''strong.'' Evidence that meets the significant scientific agreement standard in section 403(r)(3)(B)(i) of the FD&C Act in support of those nutrients and disease or health-related conditions for which we have authorized a health claim would be considered ''well-established'' evidence for the purposes of what public health significance refers to in this proposed rule; or (2) nutrients for which there are DRIs set by the IOM (i.e., RDA or AI) that are based on chronic disease risk (e.g., osteoporosis), a health-related condition (e.g., blood pressure) or a nutrient deficiency with clinical significance (e.g., low iron storage leading to iron deficiency anemia) for which inadequate intakes of these nutrients are likely to have important clinical consequences. The nutrients for which this may occur are essential vitamins and minerals; and (3) for all nutrients, there is evidence of inadequate or excess intake of the nutrient based on national nutritional survey data or U.S. consensus reports, and that a substantial prevalence exists in the general U.S. population of the chronic disease, health-related condition, or health-related physiological endpoint that was linked to the particular nutrient (e.g., soluble fiber and coronary heart disease (CHD) risk, calcium and risk of osteoporosis). Because we remain concerned about the large number of nutrients that could be listed as mandatory or voluntary, for essential vitamins and minerals, we are proposing for mandatory declaration, those for which inadequacy has the greatest impact on public health because of their association with a risk of chronic disease, a health-related condition, or a nutrient deficiency with clinical significance (e.g., iron deficiency anemia).

The methods used in the evaluation of public health significance of essential vitamins and minerals are discussed in greater detail in section II.H. and the accompanying reference document (Ref. 48).

2. Approach for Mandatory Declaration

In general, we continue to consider mandatory declaration appropriate when there is public health significance and a quantitative intake recommendation that can be used for setting a DV (DRV or RDI). However, we have also considered mandatory declaration based, in part, on evidence highlighting the role of a nutrient in chronic disease risk. For example, in 2003, we published a final rule requiring *trans* fat declaration on the Nutrition Facts label (68 FR 41434). We considered data and information related to the risk of coronary heart disease from consumption of *trans* fat. In addition, we considered the public health significance of *trans* fat intake

based on consensus reports and federal policy statements.

Information related to nutrient intake and its effect on health is not static. Recommendations from various scientific bodies of the U.S. Government that are responsible for public health protection or research directly relating to human nutrition may change or evolve over time. We include, as part of our review of nutrient information in this proposed rule, the current recommendations from such scientific bodies. In section D.3, we specifically consider recommendations from the 2010 DGA related to the intake of added sugars in the diet and the role of such information in assisting consumers to maintain healthy dietary practices. Our review is not based on the factors we have traditionally considered for mandatory declaration that are related to chronic disease, health-related condition, or health-related physiological endpoint linked to the particular nutrient. Instead, our review is based on the need for nutrient information for consumers to implement key dietary recommendations to assist consumers to maintain healthy dietary practices and the need for consumers to be able to readily observe and comprehend the information and to understand its relative significance in the context of a total daily diet.

3. Approach for Voluntary Declaration

For nutrients that are not essential vitamins and minerals (e.g., fluoride, soluble and insoluble fiber, monounsaturated fatty acids and polyunsaturated fatty acids), we consider voluntary declaration to be appropriate when the nutrient either has a quantitative intake recommendation but does not have public health significance, or does not have a quantitative intake recommendation available for setting a DRV but has public health significance. In addition, we consider that voluntary declaration should be permitted for essential vitamins or minerals that we determine do not fit within our considerations for mandatory declaration, but that have an RDI.

We invite comment on the factors for considering mandatory and voluntary declaration of non-statutory nutrients.

II. The Proposed Rule

In this proposed rule, we address issues related to the information declared on the Nutrition Facts label, i.e., declaration of nutrients, definitions, analytical methods, RDIs and DRVs, format, and compliance with declared values. Sections II.A. through II.E. discuss issues related to calories and macronutrients (including fat, fatty acids, cholesterol, carbohydrates, sugars, fiber, and protein), whereas sections II.F. through II.J. discuss issues related to vitamins and minerals, and sections II.K. and II.L. discuss nutrition labeling requirements applicable to certain population subgroups and dietary supplements, respectively. Section II.M. covers issues related to the format of the Nutrition Facts label, followed by section II.N., which focuses on provisions related to compliance and verification. Finally, section II.O. describes technical amendments to existing provisions in § 101.9.

As discussed in this document, our evaluation of these issues was informed by current scientific evidence, dietary recommendations, and conclusions of current consensus reports. We took into account any related requests from petitioners and public comments.

A. Calories

Section 403(q)(1)(C) of the FD&C Act requires the declaration of the total number of calories derived from any source. Correspondingly, FDA regulations require the total caloric content of a food to be declared on the Nutrition Facts label (§ 101.9(c)(1)). We are not proposing to modify the requirement to declare total calories. However, we are reconsidering a number of other requirements related to the declaration of information about calories. The requirements related to ''Calories from fat,'' ''Calories from saturated fat,'' the 2,000 reference calorie intake level, and a percent DV for calories are discussed in section II.A., whereas requirements related to prominence of the calorie declaration and the footnote statement and table of DVs for 2,000 and 2,500 calorie diets are discussed in section II.M.

1. Calories From Fat

The declaration of ''Calories from fat'' is mandatory (§ 101.9(c)(1)(ii)). Section 403(q)(1)(C)(ii) of the FD&C Act requires total calories from fat to be declared on the label or labeling of food. Section 403(q)(2)(B) of the FD&C Act provides the Secretary of Health and Human Services (and by delegation, FDA) with discretion to remove the requirement by regulation if the Secretary determines that it is not necessary to assist consumers in maintaining healthy dietary practices. We reviewed current scientific evidence and recommendations in current consensus reports in determining whether information on calories from fat is necessary to assist consumers in maintaining healthy dietary practices. We also considered comments (Ref. 47) to the 2005 and 2007 ANPRMs, in which we requested comment on various questions related to ''Calories from fat'' declared on the Nutrition Facts label. Unlike dietary recommendations that we relied on during the 1993 rulemaking, current dietary recommendations no longer emphasize total fat. Certain fatty acids are understood to be beneficial, while others are understood to have negative health effects, particularly related to cardiovascular disease (Refs. 6, 36, and 49). Accordingly, the 2005 DGA shifted its focus from total fat reduction to reduction in certain types of fatty acids and their influence on the risk of cardiovascular disease (Ref. 36). The 2002 IOM Macronutrient Report (Ref. 49) set an AMDR for total fat at 20 to 35 percent of calories, recognizing that there were some benefits to consuming moderate amounts of fat (Ref. 49). The 2002 IOM Macronutrient Report and the 2010 DGA (Refs. 6 and 49) concluded that the type of fat consumed was more relevant in reducing the risk of CHD than overall total fat intake.

Based on the these dietary recommendations and consensus reports that emphasize intake of total calories and the type of fat consumed, as well as comments to the 2005 and 2007 ANPRMs that supported eliminating the declaration of ''Calories from fat'' in order to place greater emphasis on total calories (Ref. 47), we tentatively conclude that declaration of ''Calories from fat'' is not necessary to assist consumers in maintaining healthy dietary practices. Therefore, we are proposing to no longer require, and to not allow voluntarily, the declaration of ''Calories from fat'' on the Nutrition Facts label. While eliminating the declaration of ''Calories from fat'' may appear to be a loss of information on the amount of fat being consumed, as some comments suggested, the amount of fat being consumed can still be obtained from the total fat declaration elsewhere on the Nutrition Facts label, and consumers can still use the percent DV for total fat to put fat content in the context of a total daily diet, compare products, and plan diets. Therefore, we are proposing to remove current § 101.9(c)(1)(ii) to remove the requirement for declaration of calories from fat (and redesignate § 101.9(c)(1)(iii) as proposed § 101.9(c)(1)(ii)). We invite comment on the tentative conclusion to no longer require, and to not allow voluntarily the declaration of ''Calories from fat'' on the Nutrition Facts label.

2. Calories From Saturated Fat

The declaration of ''Calories from saturated fat'' is voluntary (§ 101.9(c)(1)(iii)). The 2010 DGA continues to recommend that Americans should consume less than 10 percent of calories from saturated fat (Ref. 6). Saturated fat is known to increase the risk of cardiovascular disease and, unlike ''Calories from fat,'' which could include calories attributable to fatty acids that decrease or increase the risk of certain diseases, ''Calories from saturated fat'' would provide information about calories from a source known to increase disease risk (Ref. 49). We considered the recommendations in current consensus reports as well as the comments (Ref. 47) received in response to the 2007 ANPRM requesting comment on whether the declaration of ''Calories from saturated fat'' should continue to be voluntary or whether it should be mandatory.

Based on the recommendations in current consensus reports and supported by many comments, we tentatively conclude that mandatory declaration of ''Calories from saturated fat'' is not necessary because the amount of saturated fat being consumed can still be obtained from the total saturated fat declaration elsewhere on the Nutrition Facts label. Additionally, as with total fat, consumers can still use the percent DV for saturated fat to put saturated fat content in the context of a total daily diet, compare products, and plan diets. However, because there is strong evidence associating higher intakes of saturated fat with higher low-density lipoprotein (LDL) cholesterol levels, information on ''Calories from saturated fat'' can assist consumers in maintaining healthy dietary practices. Therefore, we are not proposing to change the current voluntary labeling of ''Calories from saturated fat'' in the Nutrition Facts label as specified in § 101.9(c)(1)(iii). However, considering our proposal to eliminate the declaration of ''Calories from fat'' on the Nutrition Facts label (see section II.A.1.), we are proposing to revise § 101.9(c)(1)(iii) and (d)(5) to specify that the statement ''Calories from saturated fat,'' when declared, must be indented under the statement of calories. In addition, we are proposing to redesignate § 101.9(c)(1)(iii) as proposed § 101.9(c)(1)(ii).

3. Two Thousand Calories as the Reference Caloric Intake Level

Per FDA regulations, a reference calorie intake level of 2,000 calories is used to set DRVs for total fat, saturated fat, total carbohydrate, protein, and dietary fiber (§ 101.9(c)(9)). In addition, we require a footnote on the Nutrition Facts label that states, ''Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs,'' followed by a table with certain DVs based on 2,000 and 2,500 calorie diets (§ 101.9(c)(9)). In reconsidering the 2,000 calories reference intake level, we considered relevant recommendations from the IOM macronutrient report that provided estimated energy requirements (EERs) and the IOM Labeling Report (Refs. 25 and 50). We also considered comments (Ref. 47) received in response to the 2007 ANPRM, in which we asked whether 2,000 calories should continue to be used as the reference calorie intake level and asked questions related to the use of the EERs.

An EER is a DRI set by the IOM for energy intake and is defined as the dietary energy intake that is predicted to maintain energy balance in a healthy adult of defined age, gender, weight, height, and level of physical activity consistent with good health. The IOM set EERs for all life-stage and gender groups and based these EERs on normal weight individuals (i.e., BMI < 25) (Ref. 50). The IOM Labeling Committee considered whether there was a basis to use the EERs for developing a new reference calorie intake level for macronutrients in nutrition labeling. The IOM Labeling Committee noted that using the EER to derive a reference calorie intake level would require making assumptions about height, weight, and physical activity level. Furthermore, the equations used to calculate the EERs were based on normal weight individuals; however, the American population has a high prevalence of overweight and obesity. Thus, the IOM Labeling Committee found that the data necessary to use the EER concept as the basis for a reference calorie intake level for nutrition labeling were incomplete and it could not recommend the approach (Ref. 25). The IOM Labeling Committee concluded that retaining the current 2,000 reference calorie intake level would be the best approach as it would provide continuity and would not encourage higher calorie intake and overconsumption of energy (Ref. 25).

We agree with the IOM Labeling Report and comments in response to the 2007 ANPRM (Ref. 47) that the EERs do not provide an appropriate basis for the derivation of a reference calorie intake level for the purpose of nutrition labeling. The EERs are influenced by various parameters such as age, gender, height, weight, and physical activity level (PAL), which makes it challenging to combine the EERs into a single reference calorie intake level applicable to the general population. Further, all of the comments supported the use of the 2,000 calorie reference intake level.

Therefore, we are not proposing any changes to the current use of 2,000 reference calorie intake level as the basis for setting DRVs for total fat, saturated fat, total carbohydrate, dietary fiber, and protein, as specified in § 101.9(c)(9).

4. Percent DV Declaration for Calories

Current regulations do not provide for a DRV for calories. Setting a DRV for calories would necessitate the determination of a quantitative intake recommendation for calories. To determine an appropriate DRV for calories, we reviewed recommendations in current consensus reports. We also considered comments (Ref. 47) received in response to the 2005 and 2007 ANPRMs, in which we asked whether providing a percent DV disclosure for total calories would assist consumers in understanding the caloric content of the packaged food in the context of a 2,000 calorie diet. The IOM macronutrient report is the most recent consensus report that provides quantitative intake recommendations for calories (Ref. 50), and those quantitative intake recommendations are the EERs. For the same reasons that EERs are not appropriate for setting the reference calorie intake level as described previously, these EERs are not appropriate for setting a DV for calories. First, the EERs do not apply to overweight individuals, and are therefore not applicable to a substantial portion of the general population. Second, combining the EERs into a single, meaningful reference value is challenging because they vary by age, gender, height, weight, and PAL. In addition, DRVs were established for those nutrients that are important in diet and health interrelationships and/or based on caloric intake (55 FR 29476 at 29479; July 19, 1990). Accordingly, most of the DRVs have been based on quantitative intake recommendations associated with chronic disease risk or a health-related condition (e.g., total fat, saturated fat, cholesterol, and dietary fiber). In contrast, the EERs are neither associated with chronic disease risk or a health-related condition, nor are they intended to be treated as a single recommended value that can be applied to the general U.S. population. Thus, we tentatively conclude that there is no appropriate quantitative intake recommendation and we are not aware of any other data or information on which a DRV for calories can be determined. Although a majority of

comments to the ANPRMs supported the addition of a percent DV for total calories, we are not persuaded to propose to require or permit such declaration due to the lack of an appropriate quantitative intake recommendation or other data or information on which FDA could rely to establish a DRV for calories. We invite comment on the tentative conclusion not to establish a DRV for calories and include a percent DV for the declaration of calories.

Therefore, we are not proposing to set a DRV for calories and, as a result, a percent DV declaration for calories would be neither required nor permitted.

B. Fat

In section II.B., we discuss considerations related to definitions, declaration, and DRVs for total fat, saturated fat, *trans* fat, monounsaturated fat, and polyunsaturated fat.

1. Total Fat

a. Definition—FDA defines ''fat, total'' or ''total fat'' in § 101.9(c)(2) as a statement of the number of g of total fat in a serving defined as total lipid fatty acids and expressed as triglycerides.

In 1997, we received a citizen petition from Nabisco, Inc. (Docket No. FDA–1997–P–0476) requesting that FDA amend the definitions of ''total fat'' and ''saturated fat'' in its food labeling regulations to clarify that acetic, propionic, and butyric acids may be excluded when calculating the amount of fat in a food product (*http://www.regulations.gov/#!docketDetail;D=FDA-1997-P-0476*). The petitioner's requests related to the definition and labeling of total fat are presented here and the petitioner's requests related to the definition of saturated fat are discussed in section II.B.2.

With respect to total fat, the petitioner requested that we amend § 101.9(c)(2) to read as follows: ''Fat, total'' or ''Total fat'': A statement of the number of g of total fat in a serving defined as total lipid fatty acids, excluding acetic (C:2), propionic (C:3), and butyric (C:4) acids and expressed as triglycerides . . .'' The petitioner stated that acetic, propionic, and butyric acids (''the acids''), which have very short two, three, and four carbon chains, respectively, are organic acids that should not be considered fatty acids for food labeling purposes for the following reasons: (1) The acids are chemically different from fatty acids because they are water soluble; (2) the digestion and absorption of the acids are distinctly different from those of fatty acids; (3) the acids are metabolized differently than fatty acids and are biochemically and physiologically more closely related to carbohydrates than to fat; and (4) the acids do not cause the adverse health effects associated with fat and may even have benefits that make them distinct from fat. The petitioner noted that excluding the acids from the definition of fat would not affect current labeling practices because they are found in such small amounts in the food supply. In addition, the petitioner asserted that analytical methods would not be affected because approved AOAC methods for total fat measurement do not detect the acids.

We disagree with the petitioner that the acids are chemically different from fatty acids because they are water soluble and that insolubility in water is the essential chemical property of a fat. Fatty acids are monocarbonic acids with chain lengths between 1 and nearly 30 carbon atoms (Ref. 51). The chain length of a fatty acid determines its physical properties (Ref. 51). Short-chain fatty acids are compounds that are soluble in water. As the chain length increases, water-solubility decreases (Ref. 51). Short chain acids such as acetic, propionic, and butyric acids are still considered fatty acids although they are water soluble. Furthermore, the characteristic feature of a fatty acid is a terminal carboxyl group attached to a chain of alkyl groups containing carbon atoms of which these short chain acids are composed (Ref. 52).

We determine the amount of the major macronutrients (carbohydrate, fat, and protein) in a food product by their chemical composition. We tentatively conclude that the petitioner did not provide a scientific basis on which we could rely to propose to exclude acetic, propionic, and butyric acids from the definition of total fat based on differences in chemical composition. Moreover, the petitioner did not explain why we should define total fat based on physiological differences identified for such fatty acids compared to other fatty acids, even if true, and not retain our current approach to define total fat based on chemical composition. Therefore, we are not proposing any changes to the current definition of ''total fat.'' We request comment on our tentative conclusion that acetic, propionic, and butyric acids should not be excluded from the definition of ''total fat.''

To clarify what we consider to be a fatty acid, we are proposing to define ''fatty acids'' in § 101.9(c)(2) as ''aliphatic carboxylic acids consisting of a chain of akyl groups and characterized by a terminal carboxyl group.'' This definition is consistent with other similar definitions found in nutrition and chemistry references (Refs. 51 to 54). We request comment on the proposed definition of fatty acids.

b. Mandatory Declaration—Section 403(q)(1)(D) of the FD&C Act requires the declaration of the amount of total fat on food labels. Consequently, the Nutrition Facts label includes the mandatory declaration of the gram amount for total fat in § 101.9(c)(2).

The 2010 DGA recognizes that the types of fatty acids consumed are more important in influencing the risk of CVD than the total amount of fat in the diet (Ref. 6). Current dietary recommendations and clinical guidelines encourage replacing saturated and *trans* fatty acids with beneficial fats, such as polyunsaturated and monounsaturated fatty acids (Refs. 6 and 55). A high intake of most types of saturated fatty acids, *trans* fatty acids, and cholesterol can increase LDL cholesterol levels, which in turn may increase the risk of CHD (Ref. 49). While there is a significant amount of evidence showing that a diet high in saturated or *trans* fatty acids may be detrimental to health, there is also evidence that consumption of less than 20 percent of calories from fat can lead to an increased risk of insufficient intake of vitamin E and essential fatty acids (Ref. 49). In addition, consumption of a low fat diet that is high in carbohydrate can lead to a reduction in high density lipoprotein cholesterol concentration and an increase in blood triglycerides, which can result in an increased risk of CHD (Ref. 49).

We concur with the 2010 DGA that consuming a diet low in saturated fatty acids and cholesterol is more important for reducing CVD risk than consuming a diet low in total fat. This finding is consistent with the conclusions in the IOM Macronutrient Report (Ref. 49), as well as with current practice guidelines such as the National Heart, Lung, and Blood Institute (NHLBI) Third Report of the Expert Panel on Detection, Evaluation, and Treatment of High Blood Cholesterol in Adults (Ref. 55). Total fat is a calorie-yielding macronutrient and an important piece of the macronutrient profile of a food. However, consumption of inadequate amounts of total fat is also associated with an increased risk of impaired growth and consumption of excessive amounts of total fat is associated with an increased risk of chronic diseases, such as CHD and diabetes (Ref. 49). In addition, the IOM noted that high fat diets are usually accompanied by increased intakes of saturated fatty acids which can increase the risk of CHD (Ref. 49). Thus, we tentatively conclude that

mandatory declaration of total fat on the Nutrition Facts label continues to be necessary to assist consumers in maintaining healthy dietary practices. Therefore, we are not proposing any changes to the current requirement for mandatory declaration of total fat on the Nutrition Facts label.

c. DRV—The DRV for total fat is 30 percent of calories (65 g/d) (§ 101.9 (c)(9)). In developing the DRIs for various nutrients, the IOM cited a lack of data sufficient to determine a defined level of fat intake at which no risk of inadequacy or prevention of chronic disease occurs, and therefore, decided to establish neither an AI nor an RDA for total fat (Ref. 49). Instead, the IOM established an AMDR for total fat intake of 20 to 35 percent of energy for adults and an AMDR of 25 to 35 percent of energy for children age 4 to 18 years. The AMDRs are associated with reduced risk of chronic diseases, such as CHD, while providing for adequate intake of essential nutrients. The 2010 DGA acknowledged the IOM's AMDR and noted that total fat intake should fall within the AMDRs set by the IOM (Ref. 6). The IOM Labeling Committee recommended that AMDRs should be the basis for DVs for protein, total carbohydrate, and total fat (72 FR 62149 at 62164). Accordingly, for total fat, the IOM Labeling Committee recommended a population-weighted midpoint of the AMDR since AMDRs vary with age. A population-weighted mid-point of the AMDR for adults, i.e., 20 to 35 percent, yields a DRV of 28 percent or 62 g of total fat. The use of the upper level (35 percent of energy) of the AMDR would increase the DRV from 65 g to 78 g for a 2,000 calorie diet.

Considering the recommendations of the IOM Labeling Committee, we requested comment, in the 2007 ANPRM, on: (1) Whether a population-weighted midpoint of the AMDR (e.g., 28 percent for adults) should be used, as suggested in the IOM Labeling Report and (2) whether the upper level of AMDR of 35 percent (78 g) should be used.

We reviewed the IOM Labeling Committee's recommendations, IOM DRIs, and comments in response to the 2007 ANPRM (Ref. 47). We tentatively conclude that changing the DRV for total fat to the lower end of 20 percent of 2,000 calories would not be appropriate because: (1) It would not be appropriate for children 4 to 18 years of age because it falls below the lower end of the AMDR (i.e., 25 to 35 percent of energy) and (2) scientific evidence supports consumption of greater than 20 percent of total calories from total fat for reduction in risk of chronic diseases, such as CHD and diabetes (Ref. 49).

We also conclude that the upper level of the AMDR of 35 percent of 2,000 calories as the basis for a DRV would provide no meaningful health benefit and that a population-weighted mid-point of 28 percent of the AMDR (28 percent of calories) as the basis for the DRV is not significantly different from a public health outcome standpoint than the current value of 30 percent of calories. Using the population-weighted AMDR midpoint approach would result in an insignificant reduction from the DRV of 65 g (rounded from 30 percent of a 2,000 calorie diet) to 60 g (rounded from 28 percent of calories), which may imply a greater level of precision in a DRV than is actually true.

Furthermore, the DRV for total fat is linked to the DRVs for total carbohydrate and protein. For reasons discussed in sections II.D. and II.E., we are not proposing to change the DRVs for carbohydrate or protein at this time. Because the DRV for carbohydrate is determined by difference, an increase in the DRV for fat would result in a decrease in the DRV for carbohydrate.

The DRV of 30 percent of calories fits within the AMDR and represents a moderate value that is not close to the upper or lower levels of the AMDR. A majority of comments supported maintaining the current DRV of 30 percent of calories. As noted previously, the DRV for total fat was calculated based on a 2,000 reference calorie intake and the dietary recommendation for fat intake at the time of 30 percent or less of total caloric intake, amounting to 66.7 g of fat, which was rounded down to 65 g. Current dietary recommendations for fat intake provide a range of acceptable intakes (i.e., between 20 and 35 percent of caloric intake) and encompass the 30 percent value that formed the basis for the existing DRV. Therefore, we are not proposing any changes to the current DRV for total fat of 30 percent of calories.

2. Saturated Fat

a. Definition—FDA regulations define ''Saturated fat'' in § 101.9(c)(2)(i) as the sum of all fatty acids containing no double bonds. We received a citizen petition from the American Cocoa Research Institute on April 3, 1996 (Docket No. FDA–1996–P–0035) requesting that the Agency exclude stearic acid from the definition of saturated fat because the petitioner claimed that stearic acid does not raise LDL-cholesterol levels or the risk of CHD (*http://www.regulations.gov/#!docketDetail;D=FDA-1996-P-0035*). In the 2007 ANPRM, we did not seek comments on the definition of saturated fat, but received a few comments that requested excluding stearic acid from the definition of saturated fat or permitting a separate listing for stearic acid below the line for saturated fat (Ref. 47).

We considered the comments to the 2007 ANPRM and the request by the American Cocoa Research Institute petition, and do not agree that stearic acid should be excluded from the definition of saturated fat. While there is evidence that there are potential differences in the physiological effects of different saturated fatty acids, including on LDL cholesterol levels, the definitions of nutrients for food labeling purposes have traditionally been based on chemical definitions, rather than on individual physiological effects. The definition for saturated fat in § 101.9(c)(2)(i) includes all fatty acids without double bonds and the accepted analytical methods capture all of the saturated fatty acids, including stearic acid. In adopting this definition, we addressed the issue of inclusion/exclusion of individual saturated fatty acids and determined that a chemical definition (which includes all fatty acids containing no double bonds) was the appropriate approach to define saturated fat (58 FR 2079 at 2088). We further note that the 2010 DGA recommendation related to saturated fat intake is based on scientific evidence related to the intake of all saturated fatty acids combined, which includes stearic acid. The DGA recommendation to consume less than 10 percent of calories from saturated fatty acids makes no specific exclusion of stearic acid and, instead, relates to the intake of total saturated fatty acids (Ref. 6). There are no quantitative intake recommendations for stearic acid.

The inclusion of stearic acid in the definition of saturated fat is consistent with our overall approach to rely on chemical definitions of nutrients as the basis for regulatory definitions for food labeling purposes. The American Cocoa Research Institute petition did not provide a basis for why we should deviate from this overall approach to rely on the chemical definition of nutrient as a basis for a regulatory definition. Thus, we are not proposing to exclude stearic acid from the definition of saturated fat.

Finally, we also considered voluntary declaration of stearic acid on the Nutrition Facts label, as recommended by a few comments. The effects of stearic acid on LDL cholesterol levels appear to vary depending on the macronutrient component that is replaced by stearic acid (Ref. 30).

Moderate evidence indicates that when stearic acid substitutes for other saturated fatty acids or *trans* fat, plasma LDL cholesterol levels decrease whereas when it replaces monounsaturated or polyunsaturated fatty acids, LDL cholesterol levels increase (Ref. 30). Considering such scientific data, the 2010 DGAC concluded that the potential effects of changes in dietary intake of stearic acid on the risk of CVD remain unclear. Thus, the evidence for a role of stearic acid in human health (e.g., changes in plasma LDL cholesterol levels) is not well-established. Furthermore, there is no quantitative intake recommendation available for stearic acid. Therefore, we tentatively conclude that the individual declaration of stearic acid is not necessary to assist consumers in maintaining health dietary practices, consistent with the factors we consider, discussed in section I.C., and therefore the declaration would not be permitted on the Nutrition Facts label.

As discussed in section II.B.1., we received a citizen petition from Nabisco, Inc. on May 7, 1997 (Docket No. FDA–1997–P–0476) requesting that FDA amend the definitions of ''total fat'' and ''saturated fat'' in its food labeling regulations to exclude acetic, propionic, and butyric acids (*http://www.regulations.gov/#!docketDetail;D=FDA-19970-P-0476*). With respect to saturated fat, the petition requested that FDA amend § 101.9(c)(2) to read as follows: (i) ''Saturated fat,'' or ''Saturated'': A statement of the number of g of saturated fat in a serving defined as the sum of all fatty acids, excluding acetic (C:2), propionic (C:3), and butyric (C:4) acids, containing no double bonds.'' For the same reasons discussed in section II.B.1. regarding total fat, we are not proposing to exclude acetic, propionic, and butyric acids from the definition of saturated fat.

b. Mandatory Declaration—Section 403(q)(1)(D) of the FD&C Act requires the declaration of the amount of saturated fat on food labels. Accordingly, FDA regulations require mandatory declaration of the gram amount for saturated fat (§ 101.9(c)(2)).

Dietary recommendations continue to recognize the well-established relationship between consumption of saturated fat and its effect on blood cholesterol levels (Refs. 6 and 49). In addition, the 2010 DGA provided a quantitative intake recommendation for saturated fat. We are unaware of evidence to support a determination that information relating to saturated fat on the Nutrition Facts label is no longer necessary to assist consumers in maintaining healthy dietary practices. Therefore, we are not proposing to change the requirement for mandatory declaration of saturated fat on the Nutrition Facts label in § 101.9(c)(2)(i).

c. DRV—The DRV for saturated fat is 20 g, which is 10 percent of calories based on a 2,000 reference calorie intake level (§ 101.9(c)(9)). The IOM Labeling Committee recommended that the DV for saturated fatty acids (along with trans fatty acids and cholesterol) should be set at a level that is as low as possible in keeping with an achievable health-promoting diet and consistent with IOM DRIs (Ref. 25). The IOM Labeling Committee suggested that FDA use food composition data, menu modeling, and data from dietary surveys to estimate minimum intakes that are consistent with nutritionally adequate and health-promoting diets for diverse populations. In the 2007 ANPRM, we asked for public comment on (1) whether the current DRV for saturated fat of 20 g should be retained and (2) whether food composition data, menu modeling, and data from dietary surveys should be used to establish a DRV for saturated fat that is as low as possible while consuming a nutritionally adequate diet. We received several comments in response to these questions (Ref. 47).

Current consensus reports that reviewed scientific evidence related to saturated fatty acid intake continue to recommend saturated fat intakes of no more than 10 percent of calories, based on risk of CVD. Specifically, the IOM DRIs recommended that intakes of these fats should be as low as possible while consuming a nutritionally adequate diet (Ref. 49). In addition, confirming the relationship between high intakes of saturated fatty acids and increased risk of unhealthy blood lipid levels and CHD, the 2010 DGA reaffirmed the recommendation to reduce saturated fatty acid intake to less than 10 percent of calories and noted that lowering the intake even more, to 7 percent of calories, can further reduce the risk of CVD (Ref. 6). The 2002 report from the National Cholesterol Education Program of the NIH National Heart, Lung, and Blood Institute established saturated fat intakes of no more than 10 percent of calories as an optimal intake level for reduction of CHD risk while also establishing intakes of no more than 7 percent of calories as a therapeutic intake level for treating CHD (Ref. 55). Although some comments suggested reducing the DRV to 15 g and to lower the DRV to 7 percent of calories, we are not persuaded to do so because the current saturated fatty acid recommendation of less than 10 percent of calories is still appropriate for the general U.S. population and that the existing DRV of 20 g continues to conform to current dietary recommendations as a maximum intake level that covers the general U.S. population.

We do not consider the use of food composition data, menu modeling, or dietary survey data as a suitable approach to determine DRVs. We note that the majority of comments opposed the use of such alternative methods to determine the DRV for saturated fat.

We established the current DRVs based on quantitative intake recommendations and underlying science on the association between increased intakes and either reduced risk of chronic disease (e.g., dietary fiber and CHD) or increased risk of chronic disease (e.g., saturated fat and CHD). The approach to determine DRVs using food composition data, menu modeling, or dietary surveys has a number of deficiencies. Menu modeling is an approach, based on available foods in the marketplace, to design a set of food items for meals, which will meet certain nutrient or food intake pattern recommendations (Ref. 56). Menu modeling, by its very nature, would not permit the selection of DRVs that are based on scientific evidence related to actual public health outcomes. Furthermore, menu modeling permits the creation of model menus that may be able to meet certain nutrient thresholds through the inclusion of foods that are not representative of the type or quantity of foods eaten in the U.S. population or any specific population and, thus, may result in nutrient intake levels that do not reflect typical diets and, as such, may be unachievable or unreasonable. The use of menu modeling can be appropriate in other circumstances, such as the use of modeling to determine scenarios of highest possible nutrient intake levels or potential nutrient profiles of diets. Thus, food composition data and related models can help provide useful information about consumption trends and the general nutrient content of the food supply and can serve as an additional consideration in choosing a reference point for daily intake that is realistically achievable and practical in light of the current food supply and consumption patterns. However, these data cannot form the primary scientific bases for selecting DRVs. Another challenge with the use of the menu modeling approach is that numerous and rapid changes to food formulations can make it difficult for food composition databases to provide current and accurate estimates of nutrient intakes. Based on these inherent limitations of menu modeling

and the data sources used, we tentatively conclude that the menu modeling approach, as recommended in the IOM Labeling Report, is an unsuitable method for determining DRVs (or RDIs). Instead, we intend to continue using science-based recommendations to set DRVs and RDIs. In the case of saturated fat, as explained previously, the existing scientific evidence does not support a change to the current 20 g DRV. Therefore, we are not proposing any changes to the current DRV of 20 g for saturated fat as specified in § 101.9(c)(9).

3. *Trans* Fat

a. Definition—FDA defines ''*Trans* fat'' or ''*Trans''* in § 101.9(c)(2)(ii) as the sum of all unsaturated fatty acids that contain one or more isolated (i.e., non-conjugated) double bonds in a *trans* configuration. In the 2007 ANPRM, we did not seek public comment on the definition of *trans* fat. However, we received a comment recommending the exclusion of a specific *trans* fat isomer, vaccenic acid (18:1 t11) from the definition of *trans* fat because, according to the comment, unlike other *trans* fat isomers, vaccenic acid may not have adverse health effects. As discussed in the preamble to the final rule regarding *trans* fat labeling (68 FR 41434 at 41461), we defined trans fatty acids by their chemical structure, not their physiological effects or functional attributes. While the comment provided us with some preliminary observational data suggesting that *trans* fat from ruminant sources, such as vaccenic acid, may not have the same effects on CHD risk as *trans* fat from industrial sources, such as partially hydrogenated oils, we do not agree that potential differences in physiological effects should be the basis for determining the specific isomers to be included in a regulatory definition of *trans* fat. The definition for *trans* fat is its chemical definition which captures all *trans* fat isomers that have isolated bonds and, thus, vaccenic acid would be measured by the analytical method used to determine *trans* fat content of foods. This chemical definition is consistent with how polyunsaturated fat is defined as *cis, cis*-methylene-interrupted (§ 101.9(c)(2)(ii)). Accordingly, we are not proposing to change the definition of *trans* fat in § 101.9(c)(2)(ii).

b. Mandatory Declaration—FDA regulations require the declaration of *trans* fat on the Nutrition Facts label (§ 101.9(c)(2)(ii). Dietary recommendations continue to recognize the well-established relationship between consumption of *trans* fat and its effect on blood cholesterol levels (Ref. 6). Furthermore, under section 403(r)(3)(C) of the FD&C Act, we did not object to a 2006 Food and Drug Administration Modernization Act of 1997 (FDAMA) notification for the health claim ''Diets low in saturated fat and cholesterol, and as low as possible in *trans* fat, may reduce the risk of heart disease,'' based on statements made in the 2005 DGA (Ref. 57). As such, because of its role in chronic disease, *trans* fat continues to be a nutrient with public health significance. We are unaware of evidence to support a determination that information relating to *trans* fat on the Nutrition Facts label is not necessary to assist consumers in maintaining healthy dietary practices. We tentatively conclude that information on the amount of *trans* fat in food products allows consumers to reduce their intake of *trans* fat, and thus, reduce the risk of CHD. Therefore, we are not proposing any changes to the requirement for mandatory declaration of *trans* fat on the Nutrition Facts label in § 101.9(c)(2)(ii). However the Agency recently published a tentative determination that partially hydrogenated oils, the source of industrially produced *trans* fat, may not be generally recognized as safe (78 FR 67169; November 8, 2013). We request comment on whether mandatory labeling of *trans* fat would still be necessary if this determination is finalized.

Per § 101.9(c)(2)(ii), if a food contains less than 0.5 g of trans fat per serving, the content, when declared, is to be expressed as zero. We received a citizen petition from an individual on January 17, 2007 (Docket No. FDA–2007–P–0404) which requested that FDA amend the definition of *trans* fat in its food labeling regulations to express the value of ''zero'' for *trans* fat only when there are ''absolutely no *trans* fats at all'' and require the use of a symbol (e.g., ''~'') to indicate when there is ''more than zero but less than 0.5g of *trans* fat per tablespoon'' (*http://www.regulations.gov/#!docketDetail;D=FDA-2007-P-0404*). The petition claimed that the declaration of zero *trans* fats on the label is misleading to consumers because it does not denote the absence of *trans* fat (as ''zero'' is defined in Webster's Dictionary) and that people will consume a food incorrectly thinking that it has zero amount of *trans* fat. The petition stated that, because *trans* fat is associated with negative effects on heart health, this situation could be detrimental to people's health.

Validated analytical methodologies that provide sensitive and reliable estimates of *trans* fatty acids in all foods at levels below 0.5 g per serving are currently not available. For most nutrients declared on the nutrition label, the maximum amount permitted for a declaration of a zero value is governed by the limitations associated with analytical methods available to determine the content of a nutrient in a food. The analytical methods used to determine nutrient content for purposes of compliance are discussed in more depth in section II.N. The petition did not provide any information on alternative analytical methodologies that are more sensitive and reliable nor did the petition provide any evidence to support the claim that consumers are misled by the provisions for the declaration of zero *trans* fat. Thus, we are not proposing any changes to the requirement for the declaration of zero when *trans* fat content is less than 0.5 g per serving.

c. DRV—FDA regulations do not provide a DRV for *trans* fat. At the time of the issuance of the *trans* fat final rule, we concurrently issued the 2003 ANPRM in the same issue of the **Federal Register** (68 FR 41507) to solicit information and data on several *trans* fat labeling issues. In the 2007 ANPRM, we again requested comments on various issues related to the DV for trans fat, including the use of food composition data, menu modeling and data from dietary surveys, and a potential joint percent DV for *trans* fat and saturated fat. We received several comments in response to the 2007 ANPRM. We considered the recommendations in the IOM Labeling Report, available scientific evidence, and comments (Ref. 47) received in response to both the 2003 and 2007 ANPRMs.

i. Use of food composition data, menu modeling, and dietary surveys. FDA considered the approach recommended in the IOM Labeling Report to use food composition data, menu modeling, and dietary survey data to estimate a minimum *trans* fat intake within a nutritionally adequate diet.

As explained previously (see section II.B.2.c.), we do not consider food composition data, menu modeling, or dietary survey data suitable for determining DRVs. Furthermore, such an approach is not linked to a health outcome, which we have traditionally used as a basis for determining DRVs. As described in the IOM macronutrient DRI report (Ref. 49), the IOM reviewed the evidence for *trans* fat and was not able to set a UL for *trans* fat, which indicates that there is insufficient scientific evidence from which to determine a specific level of *trans* fat intake that would likely pose no risk of adverse health effects. We continue to

adhere to the approach of determining DRVs for a nutrient based on the nutrient's association with specific health outcomes (e.g., LDL cholesterol levels).

As an additional consideration, even if we were to use the menu modeling approach, it would be difficult to apply such an approach for *trans* fat. Current estimates of *trans* fat content in food composition databases are not comprehensive and do not include *trans* fat content for all foods. The levels of *trans* fat in foods have changed since the publication of the 2003 *trans* fat final rule, in part due to reformulation of foods (Ref. 58). The numerous and rapid changes to food formulations can make it difficult for food composition databases to provide current and accurate estimates of the usual intake of *trans* fat.

Therefore, we tentatively conclude that the menu modeling approach, as recommended in the IOM Labeling Report, is an unsuitable method for determining an appropriate DRV for *trans* fat.

ii. Determining a DRV. The IOM did not set a UL for *trans* fat in the DRI macronutrient report. The IOM noted that any increase in *trans* fat intake increases CHD risk but because *trans* fats are unavoidable in ordinary diets, consuming zero percent of calories would require significant changes in dietary intake patterns that may introduce undesirable effects and unknown and unquantifiable health risks (Ref. 49). The 2005 and 2010 DGA and the FDA Food Advisory Committee (Refs. 6 and 36) likewise could not set a definitive quantitative intake recommendation for *trans* fat. Comments generally supported a single *trans* fat DRV and a single percent DV, but noted that such levels are not possible based on existing science. Although some comments supported a joint percent DV declaration for saturated and *trans* fat combined, the majority of comments opposed it due in large part to the chemical and physiological differences between these fats. We will consider determining a DRV for *trans* fat, if and when scientific evidence and relevant dietary recommendations become available. At that time, we will also consider whether a single DRV specific to *trans* fat or a provision for joint DV declaration for trans fat and saturated fat are appropriate. Thus, we tentatively conclude that there is no basis for setting a DRV for *trans* fat and, accordingly, we are not proposing a DRV for *trans* fat, a joint DRV declaration or joint percent DV declaration.

4. Polyunsaturated Fat

Polyunsaturated fats represent two general categories: *n*-6 and *n*-3 polyunsaturated fatty acids. The most common *n*-6 and *n*-3 polyunsaturated fatty acid in food is linoleic acid and α-linolenic acid, respectively. Other *n*-3 fatty acids found in foods, particularly in fish, are the long chain fatty acids, eicosapentaeneoic acid (EPA) and docosahexaenoic acid (DHA).

a. Voluntary Declaration—FDA regulations permit, but do not require, the declaration of polyunsaturated fat (defined as *cis, cis*-methylene-interrupted polyunsaturated fatty acids) on the Nutrition Facts label (§ 101.9(c)(2)(iii)).

To determine whether any changes are needed to the current provision for voluntary declaration, we considered recommendations of current U.S. consensus reports as well as comments received (Ref. 47) in response to the 2007 ANPRM, in which we requested comment on whether declaration of polyunsaturated fat should continue to be voluntary or made mandatory. Current dietary recommendations advise consumers to increase intakes of polyunsaturated fatty acids to replace saturated fatty acids in their diets (Ref. 6). The 2010 DGA recommends limiting the consumption of saturated fatty acids accompanied with replacing them with polyunsaturated and monounsaturated fatty acids (Ref. 6). However, as discussed in this document, the IOM did not set DRIs for total polyunsaturated fatty acids, but rather provided AIs and AMDRs each for two specific fatty acids, linoleic acid (an *n*-6 polyunsaturated fatty acid) and α-linolenic acid (an *n*-3 polyunsaturated fatty acid) based on median intakes of each fatty acid using NHANES data (Ref. 49).

We acknowledge that certain polyunsaturated fatty acids are essential and understand the interest expressed by some comments that there is a need to provide information on beneficial fats. However, the essentiality of a nutrient is not a factor considered for the mandatory or voluntary labeling of non-statutory nutrients, other than essential vitamins and minerals (see section I.C). Although certain polyunsaturated fatty acids are essential, an essential fatty acid deficiency is basically nonexistent in the United States and, therefore, is not of public health significance (Ref. 49).

A quantitative intake recommendation is not available from relevant U.S. consensus reports (see discussion in this document), but there is well-established evidence to indicate that replacing saturated fatty acids with polyunsaturated and monounsaturated fatty acids reduces blood LDL cholesterol levels and, therefore, the risk of CVD (Ref. 30). The prevalence of CVD in the U.S. population is substantial (Ref. 30). We are not proposing any changes to the requirement for mandatory declaration of saturated fat (see section II.B.2.). Because polyunsaturated fat has public health significance when it replaces saturated fat, consistent with the factors for voluntary declaration discussed in section I.C., we are proposing to continue to permit voluntary declaration of polyunsaturated fat, as provided in § 101.9(c)(2)(iii). We request comment about whether there is an appropriate alternative analysis to the application of the factors in section I.C. regarding the voluntary declaration of polyunsaturated fat.

b. DRV—FDA regulations do not provide a DRV for polyunsaturated fat. The IOM did not set a DRI or AMDR for polyunsaturated fat, but provided AIs and AMDRs for two specific essential fatty acids, linoleic acid (an *n*-6 polyunsaturated fatty acid) and α-linolenic acid (an *n*-3 polyunsaturated fatty acid) based on median intakes of each fatty acid using NHANES data (Ref. 49). The AIs for linoleic acid and α-linolenic acid are 17 and 1.6 micrograms (mcg)/d, respectively. The AMDRs for linoleic acid and α-linoleic acid are 5 to 10 percent of calories and 0.6 to 1.2 percent of calories, respectively. In the 2007 ANPRM, we asked: (1) Whether a DRV for total polyunsaturated fat should be derived based upon AIs for linoleic acid plus α-linolenic acid; and (2) whether a DRV for total polyunsaturated fat should be established using the AMDRs for *n*-6 and *n*-3 polyunsaturated fatty acids and, if so, should a midpoint be used. We received comments in response to these questions (Ref. 47).

We are not able to set an appropriate DRV for polyunsaturated fat at this time given the lack of established DRIs for total polyunsaturated fatty acids. We do not consider that the AMDRs or AIs for linoleic acid and α-linolenic acid provide a sufficient basis on which a DRV for polyunsaturated fat could be derived. The AIs for linoleic and α-linolenic acid were set based on U.S. median intake levels because there were insufficient experimental data to set an RDA (Ref. 49). Similarly, the AMDRs for linoleic acid and α-linolenic acid were based on the percent of calories needed to meet the AI for each fatty acid (lower range) and the percent of calories representing the highest intake level of each fatty acid (upper range). As such,

neither of these values provides an adequate basis on which to determine a DRV. For these reasons, we disagree with comments that supported using the sum of AIs or AMDRs to establish a DRV for total polyunsaturated fat.

Therefore, we tentatively conclude that there is no appropriate quantitative intake recommendation to form a basis for setting a DRV for polyunsaturated fat. Accordingly, we are not proposing a DRV for polyunsaturated fat.

c. Declaration of Individual Polyunsaturated Fatty Acids—The declaration of individual polyunsaturated fatty acids on the Nutrition Facts label is not permitted. The IOM did not set DRIs for total *n*-6 and *n*-3 polyunsaturated fatty acids, but established AIs and AMDRs for two specific fatty acids, linoleic acid (an *n*-6 polyunsaturated fatty acid) and α-linolenic acid (an *n*-3 polyunsaturated fatty acid) (Ref. 49). The 2007 ANPRM asked for public comment on whether separate DRVs for linoleic acid and α-linolenic acid should be established and, if so, whether the declaration of these nutrients should be voluntary or made mandatory. We received comments in response to these questions (Ref. 47).

Linoleic and α-linolenic acids are essential fatty acids that differ physiologically and compete metabolically. Based on a review of relevant scientific research, in 2004, FDA concluded in its qualified health claim review that there is supportive, but not conclusive, research to suggest that *n*-3 polyunsaturated fatty acids (EPA and DHA) reduce the risk of CHD (Ref. 59). Results of one clinical trial on the effects of EPA published since 2004 fail to demonstrate a significant reduction in the hazard ratio for the primary prevention of major coronary events (Ref. 60).

More recently, the 2010 DGAC concluded that moderate evidence shows that the consumption of two servings of seafood per week, which provides an average of 250 mg/d of long-chain *n*-3 polyunsaturated fatty acids (i.e., EPA and DHA), is associated with reduced cardiac mortality from CHD or sudden deaths, both in persons with and without CVD (Ref. 30). The DGAC also concluded that the evidence for plant-derived *n*-3 polyunsaturated fatty acids (i.e., α-linolenic acid) in reducing mortality among persons with existing CVD is limited (Ref. 30). Similarly, there is no conclusive evidence for an independent role of *n*-6 polyunsaturated fatty acids in reducing blood cholesterol levels and, consequently, the risk of CHD. Evidence suggests that the benefit of *n*-6 polyunsaturated fatty acids is observed only as a result of a reduction in saturated fatty acid intake (Refs. 6 and 59). The IOM noted that the evidence for a role of EPA and DHA in CHD risk is growing (Ref. 49), but set AIs and AMDRs for α-linolenic acid, not for EPA or DHA.

While a ''healthy'' *n*-6:*n*-3 ratio may be important in human health, such a ratio has not been defined and much of the available evidence is based on studies conducted in animals, infants, and patients on total parenteral nutrition and much of the evidence in adults has come from observational studies (Ref. 49).

Because of the lack of well-established evidence for a role of *n*-3 or *n*-6 polyunsaturated fatty acids in chronic disease risk and the lack of a quantitative intake recommendation, and consistent with the factors discussed in section I.C., we tentatively conclude that the declarations of *n*-3 and *n*-6 polyunsaturated fatty acids are not necessary to assist consumers to maintain healthy dietary practices. Accordingly, we are not proposing to provide for the individual declaration of either *n*-3 or *n*-6 polyunsaturated fatty acids on the Nutrition Facts label. Similarly, because of the lack of well-established evidence for a role of EPA and DHA in chronic disease risk and the lack of a quantitative intake recommendation, consistent with the factors discussed in section I.C., we tentatively conclude that the declarations of EPA and DHA are not necessary to assist consumers to maintain healthy dietary practices. Accordingly, we are not proposing to provide for the mandatory or voluntary declaration of EPA or DHA on the Nutrition Facts label. We request comment about whether there is an appropriate alternative analysis to the application of the factors in section I.C. regarding the individual declaration of *n*-3 or *n*-6 polyunsaturated fatty acids, as well as EPA or DHA.

5. Monounsaturated Fat

a. Voluntary Declaration—FDA regulations currently permit, but do not require, the declaration of monounsaturated fat (defined as *cis*-monounsaturated fatty acids (e.g., oleic acid)) on the Nutrition Facts label (§ 101.9(c)(2)(iii)). To determine whether any changes are needed to the provision for voluntary declaration, we considered recommendations in current consensus reports as well as comments received in response to the 2007 ANPRM (Ref. 47), in which we requested comment on whether declaration of monounsaturated fat should remain voluntary or be made mandatory.

In 2002, the IOM noted that there was no known independent role of monounsaturated fatty acids in preventing chronic disease (Ref. 49). The lack of an independent effect of monounsaturated fatty acids on heart disease risk was also substantiated in a 2004 FDA review of a qualified health claim regarding monounsaturated fatty acids from olive oil and CHD (Ref. 61). Upon review of data related to this qualified health claim, we concluded that there was no evidence to indicate that monounsaturated fatty acids from olive oil, independent of saturated fatty acid displacement, lower serum total and LDL cholesterol levels. Most recently, the 2010 DGAC (Ref. 30) noted that there was strong evidence indicating that monounsaturated fatty acids are associated with improved blood lipids related to CVD when they replace saturated fatty acids. Consequently, the 2010 DGA recommends that most fats should be consumed as polyunsaturated and monounsaturated fatty acids (Ref. 6). Current dietary recommendations advise consumers to increase intakes of monounsaturated fatty acids to replace saturated fatty acids in their diets.

We acknowledge that monounsaturated fatty acids are not essential in the diet (Ref. 49). However, a lack of essentiality is not a basis for determining whether a nutrient should be required to be declared (see section I.C.). Indeed, nonessential nutrients *trans* fat, saturated fat, and cholesterol are required to be declared on the label because of their public health significance. Scientific evidence points to the positive effects of increased monounsaturated fatty acid intake as a result of reduced intake of saturated fatty acids.

While a quantitative intake recommendation is not available from relevant U.S. consensus reports, there is well-established evidence to indicate that replacing saturated fatty acids with polyunsaturated and monounsaturated fatty acids reduces blood LDL cholesterol levels and, therefore, the risk of CVD, and that the prevalence of CVD is substantial in the United States (Ref. 30). We are not proposing any changes to the current requirement for mandatory declaration of saturated fat (see section II.B.2.). Because monounsaturated fat has public health significance when it replaces saturated fat, consistent with the factors we consider for voluntary declaration discussed in section I.C., we are proposing to continue to allow for voluntary declaration of

monounsaturated fat, as provided in § 101.9(c)(2)(iii). We request comment about whether there is an appropriate alternative analysis to the application of the factors in section I.C. regarding the voluntary declaration of monounsaturated fat.

b. DRV—FDA regulations do not provide a DRV for monounsaturated fat. Current consensus reports do not provide specific quantitative intake recommendations for monounsaturated fatty acids. The IOM did not set a DRI for monounsaturated fatty acids because these fatty acids are not essential in the diet and have no known independent role in preventing chronic diseases (Ref. 49). Therefore, we tentatively conclude that there is no scientific basis on which we can rely to set a DRV for monounsaturated fat and, therefore, we are not proposing to set a DRV for monounsaturated fat.

C. Cholesterol

1. Mandatory Declaration

Section 403(q)(1)(D) of the FD&C Act requires the declaration of the amount of cholesterol on food labels, and cholesterol content must be declared on the Nutrition Facts label in accordance with § 101.9(c)(3). Current dietary recommendations continue to recognize the well-established relationship between consumption of cholesterol and its effect on blood cholesterol levels, which are a surrogate endpoint for CHD risk (Ref. 6). In addition, the 2010 DGA provided a quantitative intake recommendation for cholesterol (Ref. 6) (see discussion in this document). Furthermore, FDA authorized a health claim for dietary saturated fat and cholesterol and risk of CHD, for which we evaluated the scientific evidence on the association between dietary cholesterol and serum cholesterol levels (§ 101.75).

We are unaware of evidence that would support a change to the requirement for mandatory declaration of cholesterol on the Nutrition Facts label in § 101.9(c)(3) and, therefore, we are not proposing any changes to the current requirement for mandatory declaration.

2. DRV

FDA regulations provide a DRV for cholesterol of 300 mg (§ 101.9(c)(9)). The IOM Labeling Committee recommended, based on the IOM DRIs, that the DV for cholesterol (along with saturated fat and *trans* fat) should be set at a level that is as low as possible in keeping with an achievable health-promoting diet (Ref. 25). The IOM Labeling Committee suggested that FDA use food composition data, menu modeling, and data from dietary surveys to estimate minimum intakes that are consistent with nutritionally adequate and health-promoting diets for diverse populations (Ref. 25). Acknowledging these IOM recommendations, in the 2007 ANPRM, we asked for public comment on (1) whether the current DRV for cholesterol of 300 mg should be retained; and (2) whether food composition data, menu modeling, and data from dietary surveys should be used to establish a DRV for cholesterol that is as low as possible while consuming a nutritionally adequate diet. We considered recommendations in current consensus reports as well as comments received (Ref. 47).

The 2010 DGA recommends consuming less than 300 mg/d of cholesterol to help maintain normal blood cholesterol levels and reducing intake to less than 200 mg/d for individuals at high risk of CVD (Ref. 6). The IOM also reported a relationship between increased cholesterol intake and increase in serum cholesterol, a surrogate endpoint for CHD risk (Ref. 62). The IOM macronutrient report recommended that cholesterol intakes should be as low as possible while consuming a nutritionally adequate diet, but did not set ULs for cholesterol (Ref. 62). Based on the reasons set forth previously, we disagree with the comments suggesting that a DRV of 300 mg is too low or that there is no strong association between cholesterol intake and CHD risk, or that current science justifies eliminating the percent DV declaration.

We do not agree with the IOM recommendation that food composition data, menu modeling, and data from dietary surveys offer a suitable approach for determining DRVs. Limitations inherent to menu modeling and food composition and dietary survey data sources are discussed in sections II.B.2.c. and II.B.3.c. We established the current DRV for cholesterol based on quantitative intake recommendations that considered specific effects on health outcomes (e.g., CHD) (58 FR 2206 at 2217). Use of menu modeling to determine a quantitative intake recommendation for cholesterol is inconsistent with this approach and may result in a reference intake level that is not based on scientific evidence related to actual public health outcomes.

Although the 2010 DGA recommends that cholesterol intake levels should be less than 200 mg/d for individuals at high risk of CVD, we consider the DGA recommendation of 300 mg/d for maintaining normal blood cholesterol levels as an appropriate basis for setting a DRV because it represents the maximum intake level that covers the general U.S. population 4 years of age and older. Therefore, we are not proposing any changes to the DRV for cholesterol of 300 mg specified in § 101.9(c)(9).

D. Carbohydrate

In this section, we discuss our consideration of provisions related to definitions, declarations, DRVs, and analytical methods for total carbohydrate, total sugars, added sugars, dietary fiber, soluble and insoluble fiber, sugar alcohols, and other carbohydrates.

1. Total Carbohydrate

a. Calculation of Total Carbohydrate—For the purposes of the Nutrition Facts label, total carbohydrate content is calculated by subtracting the sum of protein, total fat, moisture, and ash from the total weight of the food (§ 101.9(c)(6)). This calculation method is called ''carbohydrate by difference'' and is described in A.L. Merrill and B.K. Watt, ''Energy Value of Foods—Basis and Derivation,'' in the USDA Handbook No. 74 (Ref. 63). Total carbohydrate includes starch, sugars, sugar alcohols, and dietary fiber.

On July 8, 2004, the National Starch and Chemical Company (National Starch) submitted a citizen petition requesting that dietary fiber content be excluded from the calculation of total carbohydrate that is declared on the Nutrition Facts label (Docket No. FDA–2004–P–0094) (*http://www.regulations.gov/#!docketDetail;D=FDA-2004-P-0094*). The petition noted that consumers wishing to reduce their intake of carbohydrate may also be inadvertently decreasing their consumption of high fiber foods, such as whole grains, because dietary fiber is included in the definition of ''Total Carbohydrate.'' National Starch, therefore, requested an amendment to the second sentence in § 101.9(c)(6) to read as follows: ''Total carbohydrate content shall be calculated by subtraction of the sum of the crude protein, total fat, moisture, ash, and dietary fiber from the total weight of the food.'' The petition noted that excluding dietary fiber from the definition would be consistent with the way the IOM DRI report and Codex guidelines refer to carbohydrates and would be a more accurate representation of the amount of calories contributed by carbohydrates. To support this request, the petition presented study findings reported in the *New York Times* in 2004 and from research conducted on the Internet. In

addition, the petition discussed the use of the term ''net carbs'' in labeling and discussed inconsistencies in the way different manufacturers define the term ''net carbs.'' According to the petition, some manufacturers define ''net carbs'' as the amount of total carbohydrate excluding the amount of dietary fiber and sugar alcohols while others exclude sugar alcohols and ''other carbohydrates,'' as specified in § 101.9(c)(6)(iv), or sugar alcohols and ''certain other carbohydrates.'' The petition suggested that the varied approaches to describing carbohydrates have led to consumer confusion.

In the 2007 ANPRM, we asked for comment on whether the approach for calculating total carbohydrate by difference should be retained and, if not, which specific components should be included or excluded from the calculation of total carbohydrate. In addition, acknowledging the 2005 DGA recommendation to consume fiber-rich foods, we asked for comment on whether separating dietary fiber from the amount of total carbohydrate would affect consumer understanding and use of the information, particularly with respect to fiber consumption. We received several comments (Ref. 47).

We reviewed scientific evidence and considered the petition's requests and comments received. As explained in this document, we decline to change to the current method for calculating total carbohydrate by difference.

Under FDA regulations, compliance with certain nutrition labeling requirements may be achieved by the use of an FDA-approved database (§ 101.9(g)(8)). Nutrient databases include carbohydrate values that are determined by difference. Changing the way carbohydrate is calculated would either necessitate an analogous change to the way carbohydrate is calculated in major nutrient databases, such as the USDA National Nutrient Database for Standard Reference, or would substantially decrease the usefulness of these databases in assisting manufacturers in making nutrient content declarations.

We also considered an alternative approach of calculating total carbohydrates by summing individual carbohydrate measurements rather than calculating by difference, as suggested by a comment. There is variability and error that are introduced with each analytical test that is performed (Ref. 64). When summing the values from the various tests, the amount of variability and error would multiply and such an approach is likely to result in greater variability and error. As discussed in the documentation for USDA's National Nutrient Database for Standard Reference, Release 23, when the analyses of starch, sugars, sugar alcohol, and dietary fiber are performed separately, the result reflects the analytical variability inherent to each of those measurement processes (Ref. 65). Thus, such an approach does not provide any distinct advantage over measuring carbohydrate by difference.

With respect to removal of dietary fiber from the calculation of total carbohydrate, we agree that the IOM provided separate DRIs for carbohydrate (i.e., starch and sugars) and dietary fiber. However, the IOM DRI Report does not provide recommendations for nutrition labeling. Furthermore, the report defines dietary fiber as ''non-digestible carbohydrates and lignin that are intrinsic and intact in plants'' (Ref. 66). Thus, the report acknowledges that dietary fibers, with the exception of lignin, are carbohydrates. As discussed in section II.D.5., the definition of dietary fiber adopted by Codex in 2010 specifies that dietary fibers are carbohydrate polymers (Ref. 67). The Codex Guidelines on Nutrition Labeling, however, indicate that the nutrient declaration for carbohydrate should be ''available carbohydrate,'' which is the amount of dietary carbohydrate, excluding dietary fiber (Ref. 67).

The petition states that the inclusion of dietary fibers in the calculation of total carbohydrate is not fully aligned with the Codex Guidelines on Nutrition Labeling. Our rationale for including dietary fiber in the calculation of total carbohydrate is based on what is considered to be a carbohydrate. To the extent the petition is requesting the removal of dietary fiber from the total carbohydrate calculation due to its physiological effects, we consider in greater detail in this document the classification and declaration of carbohydrates based on their chemical definition or their physiological effects. As discussed in greater detail in this document, we find that inclusion of dietary fiber in the determination of the label declaration of total carbohydrate is scientifically sound based on our chemical definition of total carbohydrate and the analytical methods used to determine carbohydrate content, as well as being consistent with the way subcategories of other macronutrients, such as fat, are listed on the Nutrition Facts label. Dietary fiber is a subset of carbohydrates. All dietary fibers, with the exception of lignin, are carbohydrate polymers. Although lignin is not a carbohydrate, it is tightly bound to other dietary fibers and cannot be easily isolated using AOAC or equivalent methods. It is, therefore, included in the calculation of total carbohydrate.

Further, dietary fiber is a mandatory separate listing on the Nutrition Facts label. Therefore, for consumers who wish to know the carbohydrate content of a food that excludes dietary fiber, this information can be deduced by subtracting the declared amount of dietary fiber from the declared amount of total carbohydrate on the Nutrition Facts label.

In addition, a calculation based on eliminating dietary fiber content from the declared value of total carbohydrate would necessitate calculating total carbohydrate by difference using the current method and then subtracting from that number the amount of dietary fiber obtained from separate analysis. This option presents a challenge with respect to the use of existing databases in the United States, which include dietary fiber in the calculation of total carbohydrate.

Moreover, the petition provided no references to (and we could not locate) the studies identified in the petition. We have no data or information at this time to indicate that removal of dietary fiber from the declaration of total carbohydrate would promote consumption of dietary fiber due to lower amounts of carbohydrate contents declared in nutrition labeling. Finally, to the extent that the petition seeks to define the term ''net carbs,'' such a request is outside the scope of this rulemaking. In this proposed rule, we are considering whether to propose a change in how ''total carbohydrate'' is calculated. Therefore, to the extent the petitioner is requesting to remove ''dietary fiber'' from the total carbohydrate calculation to prevent consumer confusion from the term ''net carb,'' we decline to change the calculation of total carbohydrate by difference on that basis. We consider the calculation and declaration of ''net carbs'' and the total carbohydrate calculation and declaration on the label as separate and distinct. The declaration of total carbohydrate is required under section 403(q)(1)(D) of the FD&C Act.

For these reasons, we decline to change the method for calculating total carbohydrate by difference and, therefore, we are not proposing any changes to the method for calculating total carbohydrate by difference specified in § 101.9(c)(6).

b. Classification of Carbohydrates Based on a Chemical Definition or Physiological Effect—In the 2007 ANPRM, we asked for comment on whether carbohydrates should be classified and declared in nutrition labeling based on their chemical

definition (current method) or on their physiological effect (e.g., attenuation of blood sugar or laxation if dietary fiber were to be included in the total carbohydrate declaration), and whether additional types of carbohydrates (e.g., starch) should be listed separately on the Nutrition Facts label. We received several comments (Ref. 47) in response to these questions.

We considered this issue in light of the comments received. We agree with the comments that stated that classification of carbohydrates based on validated analytical techniques, which isolate and measure the individual carbohydrates based on their chemical structure rather than based on their physiological effects, is necessary for determining the accuracy of values declared on the label. Carbohydrates include starch, sugars, sugar alcohols, and dietary fibers. Different types of carbohydrates have different physiological effects. The effects of some carbohydrates are not fully understood and are the subject of debate in the scientific community. Within the different types of carbohydrate (i.e., starch, sugars, sugar alcohols, and dietary fibers), too, specific carbohydrates may have different physiological effects (e.g., different types of dietary fibers) making it difficult to apply a definition that is based on physiological effects across a category of carbohydrates. Furthermore, analytical methods for measuring different types of carbohydrates are based on chemical structure rather than physiological effect. Given the various components of total carbohydrate and different types of physiological effects of each, we disagree that a definition based on ''physiological effects'' would be a better approach than a chemical definition for total carbohydrate declaration. The use of a chemical definition is also consistent with the classification and declaration of fat on the Nutrition Facts label. Different types of fats identified in nutrition labeling are not classified based on their physiological effect but rather on their chemical definition.

Therefore, we are not proposing to use physiological effects of carbohydrates as a basis for classifying or declaring total carbohydrate. Accordingly, we are not proposing to change our provisions for the classification or declaration of carbohydrates specified in § 101.9(c)(6).

c. Separate Declaration of Additional Individual Types of Carbohydrates—In the 2007 ANPRM, we asked whether additional types of carbohydrates (e.g., starch) should be listed separately on the Nutrition Facts label. We considered comments received (Ref. 47), which, taken together, did not support declaration of additional types of carbohydrates. Some comments stated that such additional information could distract consumers from information that is important, such as dietary fiber. A few comments that supported the declaration of starch provided no evidence to support their assertions regarding the benefit of this declaration for diabetics. Moreover, there is no strong scientific evidence for us to consider related to the role of starch in human health. Therefore, we are not proposing to require the separate declaration of additional types of individual carbohydrates such as starch on the Nutrition Facts label.

d. Mandatory Declaration—Section 403(q)(1)(D) of the FD&C Act requires the declaration of total carbohydrate. Correspondingly, regulations require the declaration of the amount of total carbohydrate on the Nutrition Facts label (§ 101.9(c)(6)). Carbohydrates are an essential part of the diet because they provide energy to the cells in the body, especially the brain, which is dependent on carbohydrate for proper functioning (Ref. 68). We have no basis on which to reconsider the requirement for mandatory declaration of the amount of total carbohydrate on the Nutrition Facts label and comments in response to the 2007 ANPRM also supported this mandatory declaration. We tentatively conclude that the declaration of carbohydrates on the Nutrition Facts label continues to be necessary to assist consumers in maintaining healthy dietary practices. Therefore, we are not proposing any changes to the current requirement for mandatory declaration of total carbohydrate, as specified in § 101.9(c)(6).

e. DRV—The DRV for total carbohydrate is 300 g (§ 101.9(c)(9)). The IOM established an AMDR for carbohydrate intake of 45 to 65 percent of energy for adults and an EAR of 100 g/d for adults and children (Ref. 69). In the IOM report, ''carbohydrate'' only included starch and sugars, not sugar alcohols or dietary fiber. The IOM also set the RDA for ''carbohydrate'' (i.e., starch and sugars) at 130 g/d for adults and children based on the average minimum amount of glucose utilized by the brain in adults, which was extrapolated to children ages 1 through 18 years. Subsequently, the IOM Labeling Committee recommended that, as in the case of protein and total fat, the AMDRs should be the basis for DVs for total carbohydrate (Ref. 25). Considering that AMDRs vary with age, the IOM Labeling Committee recommended a population-weighted midpoint of the AMDR. Under this approach, using a population-weighted mid-point of the AMDR for adults and children, i.e., 45 to 65 percent, the DV for total carbohydrate would amount to 55 percent or, based on a 2,000 calorie reference calorie intake, 275 g of carbohydrate.

However, as we noted in the 2007 ANPRM, the IOM's AMDR, EAR, and RDA values for carbohydrate do not include sugar alcohols or dietary fiber. In contrast, our calculation of total carbohydrates for the purposes of nutrition labeling accounts for all types of carbohydrates, including sugar alcohols and dietary fiber. Therefore, applying the IOM Labeling Committee's approach, in which a DV is derived from the AMDR, would result in a reference value based on recommendations specifically for sugars and starches, whereas the absolute gram amount of carbohydrates declared on the label includes all carbohydrates. Consequently, if the midpoint of the AMDR range is used as the basis for the DRV, there would be a discrepancy in what carbohydrates are encompassed in the information provided on the label for the absolute gram amount versus the percent DV. We did not ask any questions about the DRV for total carbohydrate in the 2007 ANPRM nor did we receive any comments on this issue. Consistent with calculating total carbohydrate ''by difference'' (discussed previously), we are proposing no changes to the approach to calculate the percent DV for carbohydrate ''by difference'' as well. In addition, we are not proposing to change the DRVs for fat or protein (see sections II.B. and II.E.), which are used to derive the DRV for total carbohydrate. Therefore, we are not proposing any changes to the DRV for total carbohydrate of 300 g/d. We note that the RDA for carbohydrate for men and women 19 years of age and older is 130 g/d. Therefore, the DRV should not be viewed as an intake requirement, but as a reference amount.

f. Calculation of Calories From Carbohydrate—FDA regulations require that the calories from total carbohydrate be calculated by using the general factor of 4 calories/g of carbohydrate less the amount of insoluble dietary fiber (§ 101.9(c)(1)(i)(C)). We are proposing a new definition of dietary fiber (see section II.D.5.a.i.) that only allows for the declaration of dietary fibers that we have determined to have a physiological effect that is beneficial to human health, as ''dietary fiber'' on the Nutrition Facts label. Therefore, the new definition of dietary fiber would exclude both soluble and insoluble non-digestible carbohydrates that do not meet the proposed definition. For the purposes of

calculating calories from carbohydrate, all soluble and insoluble non-digestible carbohydrates should be excluded from the calculation, not just those known to meet the definition of dietary fiber. To ensure that all soluble and insoluble non-digestible carbohydrates are excluded from the calculation of calories from carbohydrate, we are proposing to amend § 101.9(c)(1)(i)(C) to require that calories from carbohydrate be calculated using a general factor of 4 calories/g of total carbohydrate less the amount of non-digestible carbohydrates. As discussed in section II.D.5.b.v., a value of 2 calories/g of soluble non-digestible carbohydrates is then added to the calculation.

2. Sugars

a. Definition—Sugars are defined in § 101.9(c)(6)(ii) as a statement of the number of g of sugars in a serving. They are the sum of all free mono and disaccharides (e.g., glucose, fructose, lactose, and sucrose). We received a citizen petition on the term ''sugars'' and, as explained in this document, we are not proposing any changes to the term or its definition for the purpose of nutrition labeling.

b. Mandatory Declaration—Section 403(q)(1)(D) of the FD&C Act requires the declaration of sugars. FDA regulations require the declaration of sugars on the Nutrition Facts label (§ 101.9(c)(6)(ii)).

The Sugar Association submitted a citizen petition on August 16, 2005 (Docket No. FDA–2005–P–0373) requesting among other things that we eliminate ''sugars'' as a mandatory nutrient that is declared on the Nutrition Facts label or, alternatively, rename ''sugars'' as ''sugars/syrup'' and require the mandatory declaration of polyol and artificial sweeteners on the Nutrition Facts label, as well as the mandatory labeling of each specific polyol and artificial sweetener ingredient and its amount on the food label (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0373*). The petition asserted that consumers understand ''sugars'' to mean sucrose. The petition stated that an increasing number of manufacturers are using artificially produced (alternative) sweeteners, such as high fructose corn syrup, instead of sucrose products such as table sugar. The petition also asserted that, under current regulations, information on sugar content is presented in a manner that is misleading to consumers because it does not reflect the caloric content of artificially produced sweeteners and does not identify the specific sweeteners used in food products. The petition also expressed concern about the potential caloric and health effects of alternative sweeteners and asserted that the current labeling of sugar and lack of labeling for artificially produced sweeteners on the Nutrition Facts label did not provide consumers with relevant information about alternative sweeteners. However, the petitioner did not include any data to specifically support these assertions and concerns.

In the 2007 ANPRM, we requested comment on whether ''sugars'' should continue to be included on the Nutrition Facts label. We received several comments which were in favor of continuing to require mandatory labeling of sugars on the Nutrition Facts label (Ref. 47).

We considered the petition and comments received in light of scientific evidence. There is strong and consistent evidence based on valid endpoints that consumption of sugars is associated with an increased risk of dental caries (Refs. 6 and 68). We authorized a health claim for dietary non-cariogenic carbohydrate sweeteners and dental caries (§ 101.80). The IOM macronutrient report noted that dental caries is a condition of public health concern that is associated with consumption of sugars (Ref. 68). Therefore, we tentatively conclude that the declaration of sugars continues to be necessary to assist consumers in maintaining healthy dietary practices, and we are not proposing to change the current requirement for mandatory declaration of sugars.

Moreover, we decline the petition's request to rename ''sugars'' as ''sugars/syrups'' on the Nutrition Facts label. The petition requested that we rename the ''sugars'' category to prevent consumers from being misled with regard to the ingredients that are permitted to be considered sugars under the current regulation (monosaccharides plus disaccharides such as high fructose corn syrup). The petition, however, did not provide data or information to support the assertion that consumers are misled by the term ''sugars'' on products containing sweeteners that are a combination of mono and disaccharides, as defined in § 101.9(c)(6)(ii). We are considering using the term ''total sugars'' in lieu of ''sugars'' on the Nutrition Facts label if ''added sugars' declaration is finalized, as proposed. FDA plans to conduct consumer testing of the terms ''total sugars'' and ''sugars'' on the Nutrition Facts label (FR 2013–12824) to determine if use of the term ''total sugars'' aids consumers in understanding that added sugars are part of the total amount of sugars in product.

We also decline the petition's request to require manufacturers to declare the specific type of artificial sweetener used on the Nutrition Facts label so that consumers can be made aware of the degree of substitution, when artificial sweeteners are substituted for sugars, and the overall level of the artificial sweeteners in the food. Under FDA regulations, artificial sweeteners that are added to a food are required to be declared in the ingredient statement of the label. The petition did not provide any justification that additional information about artificial sweeteners in nutrition labeling is warranted and we have no data to suggest that a declaration of artificial sweeteners is necessary to assist consumers in maintaining healthy dietary practices.

Therefore, we are not proposing any change to the current requirement for mandatory declaration of sugars on the Nutrition Facts label, as specified in § 101.9(c)(6)(ii). We are also not proposing to rename the ''sugars'' category as ''sugars/syrups'' or require the mandatory declaration of specific sugar alcohols or other artificial sweeteners.

c. DRV—FDA regulations do not specify a DRV for sugars. Current consensus reports have not set dietary reference values based on which we could derive an appropriate DRV for total sugars. While the IOM found an association between sugar consumption and risk of dental caries, due to the various factors that contribute to dental caries, IOM could not determine an intake level of sugars that is associated with increased risk of dental caries and, therefore, did not have sufficient evidence to set a UL for sugars (Ref. 68). We did not ask any questions related to the DRV for sugars in the 2007 ANPRM nor did we receive any comments recommending the establishment of a DRV for total sugars. For these reasons, we are not proposing to establish a DRV for total sugars.

3. Added Sugars

a. Declaration—FDA regulations neither define the term ''added sugars'' nor require or permit its declaration on the Nutrition Facts label. We are reconsidering the declaration of added sugars taking into account new data and information, including U.S. consensus reports and recommendations related to the consumption of added sugars, a citizen petition submitted by the CSPI, and public comments. For the purposes of the discussion in this document, added sugars refer to sugars and syrups that are added to foods during processing or preparation (Ref. 6).

i. Consensus Reports. The IOM DRI Report on Macronutrients stated that ''although added sugars are not chemically different from naturally occurring sugars, many foods and beverages that are major sources of added sugars have lower micronutrient densities compared to foods and beverages that are major sources of naturally occurring sugars'' (Ref. 68). Although an upper level was not set for total or added sugars, a maximal intake level of 25 percent or less of energy from added sugars was suggested based on data that demonstrated decreased intakes of some micronutrients among American subpopulations whose intake of added sugars exceeded this level.

In addition, the 2010 DGA (Ref. 6) noted that the primary prevention of obesity, especially in childhood, is an important strategy for combating and reversing the obesity epidemic. Over the last few decades, the prevalence of overweight and obese individuals in the United States dramatically increased among children, adolescents and adults. Many factors contribute to weight gain and obesity but maintaining an appropriate calorie balance and increasing physical activity and reducing sedentary behaviors are key recommendations to help combat the problem. The 2010 Dietary Guidelines Advisory Committee (DGAC) concluded that strong evidence shows that children who consume more sugar-sweetened beverages have greater adiposity (body fat) compared to those with a lower intake. The sole source of calories in many sugar-sweetened beverages (e.g., soda) is added sugars. The 2010 DGA specifically suggest that reducing the intake of sugar-sweetened beverages may help individuals control their total calorie intake and manage their body weight. The report stated that Americans consume too many calories from solid fats (fats containing a high percentage of saturated and *trans* fatty acids and are solid at room temperature) and added sugars and these foods replace nutrient-dense foods and beverages and make it difficult for people to achieve the recommended nutrient intake while controlling their calorie intake. Together, solid fats and added sugars contribute a substantial portion of Americans' calories, 35 percent on average (16 percent total on average from added sugar) without contributing to the overall nutrient adequacy of the diet and thus have implications for weight management. Thus, to meet nutrient needs within an individual's calorie limits, a key recommendation of the 2010 DGA is to reduce the intake of calories from solid fats and added sugars.

The report recognized that foods containing solid fats and added sugars are no more likely to contribute to weight gain than any other source of calories in an eating pattern that is within calorie limits. However, reducing the consumption of calories from solid fats and added sugars allows for increased intake of nutrient-dense foods without exceeding overall calorie needs. The report recommended several ways to reduce the consumption of solid fats and added sugars including eating the most nutrient-dense forms of foods from all food groups, limiting the amount of solid fats and added sugars when cooking or eating, and consuming fewer and smaller portions of foods and beverages that contain solid fats and added sugars. Specifically, the 2010 DGA noted that, for most people, no more than about 5 to 15 percent of calories from solid fats and added sugars can be reasonably accommodated in the USDA Food Patterns, which are designed to meet nutrient needs within calorie limits. The 2010 DGA also outlined common elements of healthy eating patterns and stated that reducing the intake of added sugars is one component.

Although the subject of front-of-package labeling (FOP) is outside the scope of this proposed rule, we reviewed the IOM Front-of-package Nutrition Rating Systems and Symbols Committee's final report for their conclusions on scientific evidence related to the effect of added sugars on human health. This Committee cited the 2010 DGA recommendations related to added sugars and noted that while there is a lack of scientific agreement on the effects of added sugars on health outcomes independent of the effects of total sugar, there is adequate evidence that added sugars (whether a solid or liquid) contribute extra calories to a diet, which could in turn lead to weight gain and obesity (Ref. 28).

ii. CSPI Petitions. We received a petition from CSPI on August 3, 1999 (hereafter referred to as ''the 1999 CSPI petition'') requesting that we require the Nutrition Facts label to disclose the quantity of added sugars present in packaged foods and to set a DRV for refined sugars added to foods (Docket No. FDA–1999–P–0158) (*http://www.regulations.gov/#!docketDetail;D=FDA-1999-P-0158*). The petition stated that the DRV for added sugars should be 40 g based on USDA's ''Food Guide Pyramid'' recommendations that Americans should limit their daily intake of added sugars to about ten teaspoons (40 g) for a 2,000 calorie healthful diet. The petition cited USDA Economic Research Service's data that show that the *per capita* consumption of added sugars rose by 28 percent from 1983 to 1999 (Ref. 70). The petition also referred to evidence that added sugars may contribute to obesity and heart disease, and argued that it is impossible for consumers to determine how much sugar has been added to foods or how much added sugars are reasonable to consume because the Nutrition Facts label does not currently provide this information. Although the petition also requested that we amend our regulations to prescribe nutrient content claims and health claims related to ''added sugars,'' those requests are not considered within the scope of this proposed rule. We received another petition from CSPI on February 13, 2013 (hereafter referred to as ''the 2013 CSPI petition''), requesting that we revise the ''sugars'' line of the Nutrition Facts label to address ''added sugars.'' (Docket No. FDA–2013–P–0217) (*http://www.regulations.gov/#!docketDetail;D=FDA-2013-P-0217*). CSPI described ''added sugars'' as ''various caloric sweeteners,'' including sucrose, high-fructose corn syrup, corn sugar, invert sugar, corn syrup ''and others.'' We address CSPI's request for an ''added sugar'' declaration in this proposed rulemaking. The data and information provided by the 2013 CSPI petition in regards to added sugar declaration does not change our current considerations or rationale for mandating added sugars on the label that are addressed in this document. Although CSPI included other requests in its petition, which generally relate to lowering levels of added sugars in foods, we do not address those requests in the context of this proposed rule because they are outside the scope of this proposed rule.

iii. Public Comments. On June 26, 2000, we published a notice of availability of the 1999 CSPI petition in the **Federal Register** and requested comment (65 FR 39414). We received more than 2,700 comments from individuals, industry, academic institutions, advocacy groups, and health care groups. Several comments stated that added sugar declaration should be voluntary and not mandatory (Ref. 47). We did not ask any questions on added sugars in the 2007 ANPRM. However, we received comments that supported and others that opposed the declaration of added sugars on the Nutrition Facts label (Ref. 47).

iv. FDA's Considerations and Proposal. A key recommendation of the 2010 DGA is to reduce the intake of

calories from solid fats and added sugars. A high intake of calories from excess solid fat and added sugars can decrease the intake of nutrient-rich foods in the diet and can increase the overall caloric intake which could lead to weight management issues. As such, this key recommendation feeds into two overarching concepts of the intent of the Dietary Guidelines of maintaining calorie balance over time to achieve and sustain a healthy weight as well as supporting consumption of nutrient-dense foods (Ref. 6). As discussed in this document, a declaration of added sugars on the Nutrition Facts label would assist consumers in maintaining healthy dietary practices by providing them with information necessary to meet the key recommendations to construct diets containing nutrient-dense foods and reduce calorie intake from added sugars by reducing consumption of added sugars.

The Nutrition Facts label includes the mandatory declaration of the fatty acids that are contained in solid fats from the DGA recommendation, in that saturated fatty acids and *trans* fatty acids are required to be declared on the Nutrition Facts label. Solid fats are solid at room temperature and contain a mixture of saturated and unsaturated fatty acids but tend to contain a high percentage of saturated or *trans* fatty acids. The disclosure of saturated fat and *trans* fat on the label not only provides information to consumers for managing their effects on CVD (see sections II.B. and II.C.) but also could provide a marker for foods that contain solid fats that are abundant in the diets of Americans and contribute significantly to excess calorie intake (Ref. 6). However, similar information about added sugars is not currently available on the Nutrition Facts label. Thus, we are proposing to require the declaration of added sugars on the Nutrition Facts label to provide consumers with information that is necessary to meet the dietary recommendation to reduce caloric intake from solid fats and added sugars.

Added sugars contribute an average of 16 percent of the total calories in American diets (Ref. 6). According to NHANES, the major sources of added sugars in the diet in descending order are soda, energy and sports drinks, grain based desserts, sugar-sweetened fruit drinks, dairy-based desserts and candy. Most of these foods are not nutrient-dense and may add calories to the diet without providing dietary fiber or essential vitamins and minerals (Ref. 6). The consumption levels of added sugars alone exceed the discretionary calorie recommendations of 5 to 15 percent of calories from both solid fats and added sugars discussed in the 2010 DGA. Although foods containing solid fats and added sugars do not contribute to weight gain any more than another calorie source, they make up a significant percentage of the American diet and are a source of excess calories. The 2010 DGAC concluded that strong evidence shows that children who consume sugar-sweetened beverages have increased adiposity (increased body fat). The 2010 DGAC also concluded that there is a moderate body of evidence suggesting that greater consumption of sugar-sweetened beverages is associated with increased body weight in adults and that under isocaloric controlled conditions, added sugars, including sugar-sweetened beverages, are no more likely to cause weight gain in adults than any other source of energy. While the IOM FOP report did not review scientific data on added sugars, based on the 2010 DGA recommendation to reduce intake of calories from added sugars, it concluded that added sugars should be included in an FOP labeling system. In addition the IOM FOP committee recommended that the FOP symbol system should be integrated with the Nutrition Facts label so that the two are mutually reinforcing. The IOM DRI Macronutrient Report noted the difficulty, among some populations, of consuming adequate amounts of certain micronutrients when excessive amounts of added sugars are consumed.

As the CSPI petition pointed out, other groups such as the American Heart Association (AHA), American Academy of Pediatrics, and World Health Organization (WHO) have recommended limiting added sugars consumption. None of these recommendations was based on an increased risk of obesity or heart disease. Both the AHA and American Academy of Pediatrics recommendations point out that added sugars intake is associated with a greater intake of calories and a lower intake of essential nutrients, whereas the 1990 WHO recommendation for decreasing added sugars is based on dental caries and that excessive consumption of these sugars can displace nutrient-containing foods in the diet (Refs. 71 to 73). While these groups are not recognized as U.S. consensus groups by FDA, these recommendations support our proposal to require the mandatory declaration of added sugars so that consumers can achieve a dietary pattern that is nutrient-dense and that does not exceed caloric needs from added sugars, consistent with the 2010 DGA recommendations.

Further, we consider it necessary to require a declaration of added sugars for all foods for which a Nutrition Facts label is required. Using the current label, consumers cannot identify or compare the amounts of added sugars to enable them to follow the recommendation of the 2010 DGA. We are proposing mandatory declaration of added sugars on all foods because of (1) the variability in ingredients used, (2) the need for consumers to have a consistent basis on which to compare products, (3) the need for consumers to identify the presence or absence of added sugars, and (4) when added sugars are present, the need for consumers to identify the amount of added sugars added to the food. The mandatory declaration of added sugars may also prompt product reformulation of foods high in added sugars like what was seen when *trans* fat labeling was mandated (Ref. 58).

We understand that our rationale to support an added sugars mandatory declaration in labeling is different from our rationale to support other mandatory nutrients to date which, consistent with the factors we describe in section I.C., generally relate to the intake of a nutrient and risk of chronic disease, a health-related condition, or a physiological endpoint. U.S. consensus reports have determined that inadequate evidence exists to support the direct contribution of added sugars to obesity or heart disease. Specifically, although it is recognized that sugar-sweetened beverages increase adiposity (body fat) in children (Ref. 30), neither the 2010 DGA nor the IOM macronutrient report concluded that added sugars consumption from all dietary sources, in itself, increases obesity. In fact, the 2010 DGA states that added sugars do not contribute to weight gain more than any other source of calories. The evidence submitted by CSPI supporting the contribution of added sugars to heart disease failed to show a direct association between added sugars consumption and heart disease risk. Rather, the evidence shows that the consumption of total carbohydrates (not added sugars, per se) is associated with an increase in serum triglyceride levels. Moreover, serum triglyceride level is not an endpoint that we recognize as a validated surrogate marker for CHD risk in our evidence-based review system for health claims (Ref. 74). Nevertheless, for the reasons explained previously that include providing consumers with the information necessary to follow the 2010 DGA recommendations to reduce the intake of calories from added sugars,

we tentatively conclude that the declaration of added sugars is required to assist consumers in maintaining healthy dietary practices.

Additionally, in the absence of uniform added sugars declaration on the Nutrition Facts label, consumers would not be able to compare the added sugars content of foods, particularly those that contain both naturally occurring sugars and added sugars (e.g., yogurt and dairy-based desserts). Contrary to what one comment stated, the added sugars declaration in the ingredient statement of a food label may not provide sufficient or quantitative information for consumers to be able to formulate diets consistent with the dietary recommendations. Sugars may be added to foods in the form of various ingredients, such as fruit juice concentrates, fructose, maltose, sucrose, and honey, and consumers may not realize that these ingredients are, in fact, forms of added sugars and would not be able to determine the quantities added. Thus, as pointed out in some comments, calorie declaration and ingredient listing do not provide enough information for consumers to determine the amount of calories derived from added sugars in the food. We acknowledge that some products may contain only added sugars and no naturally occurring sugars (e.g., soda) and that the amount shown in the total ''sugars'' declaration on the Nutrition Facts label for such products would be the amount of added sugars. In this case, however, some consumers may still not be able to determine the amount of added sugars because the term would not appear on the label at all. At this point in time, we cannot be certain that most consumers would understand that, in the absence of added sugars declaration, all sugars in these products are added sugars. Therefore, without the added sugars declaration, some consumers may perceive the amount of added sugars in the product differently and some perceived amounts may differ from the actual amount in the product. Food formulations may vary and consistency in the mandatory declaration of added sugars is important so that consumers are not confused.

We recognize that small amounts of added sugars can increase the palatability of nutrient-dense foods, as suggested by a comment. The disclosure of added sugars on the label may allow consumers to plan and construct their diets to include small amounts of added sugars and still consume adequate amounts of necessary nutrients. Consumers may select from a variety of such nutrient-dense foods as part of their overall dietary pattern in a way to reduce or minimize the caloric contribution of added sugars from such sources. The IOM FOP report noted that small amounts of added sugars would be appropriate for foods to earn FOP points in their recommended labeling scheme, which suggests that small amounts would be appropriate in a balanced diet (Ref. 29).

We acknowledge that, if finalized, a requirement for declaration of added sugars on the Nutrition Facts label will need to be accompanied by consumer education on the role of added sugars, along with solid fats, and the use of the new information on the label in overall dietary planning. We will be conducting consumer studies that include questions regarding including added sugars on the Nutrition Facts label. We plan to use the results of these studies to help inform our future actions on this issue.

We understand that there are currently no analytical methods that are able to distinguish between naturally occurring sugars and those sugars added to a food. However, we do not agree with comments that analytical limitations should preclude mandatory declaration of added sugars because there is an alternative method to assess compliance. The amount of added sugars declared on the label could be verified through means other than chemical analysis, such as through maintenance and review of records. The reliance on records for compliance purposes is not unique to added sugars as we have previously required that manufacturers provide records under certain circumstances to support statements made on food labels (for example, with respect to aeration to reduce fat and caloric content of foods (58 FR 2229 at 2271) and caloric content of new products with reduced digestibility (58 FR 2079 at 2111)). In addition, in sections II.D.5., II.J.2., and II.J.3., we are proposing to use records to determine compliance with declared values of dietary fiber, folate, and vitamin E, under certain specified circumstances.

We continue to recognize the lack of a physiological distinction between added and naturally occurring sugars. While comments expressed concerns that declaration of added sugars could significantly under-represent the sugars content of many foods with a large quantity of naturally occurring sugars, we are not proposing to remove the total sugars declaration (see section II.D.2.) because there continues to be strong scientific evidence linking total sugars intake with dental caries. Therefore, the sugar content of foods with naturally occurring sugars would not be under-reported.

We also considered the appropriateness of voluntary declaration of added sugars, an approach supported by several comments. However, we are concerned that voluntary declaration of added sugars may not ensure that consumers have the information that will allow them to follow the current dietary recommendations. Added sugars declared voluntarily by manufacturers on some products, but not on others, either within a given product category or across different product categories, could be confusing to consumers, and would not provide consumers with the information they need to plan their dietary pattern to reduce consumption of calories from added sugars.

In light of current dietary recommendations that advise Americans to reduce their intake of calories from added sugars, we consider that an added sugars declaration will help individuals identify foods that are nutrient-dense within calorie limits and aid in reducing excess discretionary calorie intake from added sugars. We tentatively conclude that the declaration of added sugars on the Nutrition Facts label is necessary to assist consumers to formulate diets consistent with current dietary recommendations and, thus, maintain healthy dietary practices. Therefore, proposed § 101.9(c)(6)(iii) would require the mandatory declaration of added sugars as an indented line item underneath the declaration of total sugars on the Nutrition Facts label. We invite comment on this issue. We also invite comment, including the submission of research on whether calories from added sugars should be declared on the Nutrition Facts label in lieu of a gram declaration of added sugars to aid consumers in maintaining healthy dietary practices.

FDA regulations require that the statement ''Not a significant source of ____'' for calories from fat, saturated fat, *trans* fat, cholesterol, dietary fiber, sugars, and protein must be placed at the bottom of the table of nutrient values in the same type size, under the specific circumstances described for each nutrient in § 101.9(c). For sugars, the phrase ''Not a significant source of sugars'' must be placed at the bottom of the table of nutrient values if a statement of the sugars content is not required and, as a result, not declared. A statement of sugars content is not required for products that contain less than 1 gram of sugars in a serving if no claims are made about sweeteners, sugars, or sugar alcohol content (§ 101.9(c)(6)(ii)). Similar information on added sugars could also be useful to consumers who are trying to limit their

intake of added sugars. Therefore, proposed § 101.9(c)(6)(iii) would require that the phrase ''Not a significant source of added sugars'' be placed at the bottom of the table of nutrient values if a statement of the added sugars content is not required and, as a result, is not declared. We are also proposing that a statement of added sugars content would not be required for products that contain less than 1 gram of added sugars in a serving if no claims are made about sweeteners, sugars, or sugar alcohol content (proposed § 101.9(c)(6)(iii)).

In addition, for total carbohydrate, dietary fiber, soluble fiber, insoluble fiber, sugars, and sugar alcohol, when a serving of the food contains less than 1 gram of the nutrient, FDA regulations in § 101.9 permit the use the alternative statements ''Contains less than 1 gram'' or ''less than 1 gram,'' and if a serving of the food contains less than 0.5 grams of the nutrient, the content may be expressed as zero. Proposed § 101.9(c)(6)(iii) would provide for similar use of alternative statements, ''Contains less than 1 gram'' and ''less than 1 gram'' for added sugars. In addition, if the serving contains less than 0.5 g of added sugars, we are proposing to permit the content to be expressed as zero (proposed § 101.9(c)(6)(iii)).

b. Proposed Definition—The term ''added sugars'' is not defined in FDA regulations. Given our tentative conclusion to require mandatory declaration of ''added sugars'' on the Nutrition Facts label, we are proposing to define added sugars. In proposed § 101.9(c)(6)(iii), we are proposing to define ''added sugars'' as sugars that are either added during the processing of foods, or are packaged as such, and include sugars (free, mono- and disaccharides), syrups, naturally occurring sugars that are isolated from a whole food and concentrated so that sugar is the primary component (e.g., fruit juice concentrates), and other caloric sweeteners. This would include single ingredient foods such as individually packaged table sugar. Sugar alcohols are not considered to be added sugars. Names for added sugars include: Brown sugar, corn sweetener, corn syrup, dextrose, fructose, fruit juice concentrates, glucose, high-fructose corn syrup, honey, invert sugar, lactose, maltose, malt sugar, molasses, raw sugar, turbinado, sugar, trehalose, and sucrose. This proposed definition of added sugars includes what CSPI described as ''added sugars'' in the 2013 CSPI petition.

c. Daily Value—Given our proposal to require the declaration of added sugars, we also considered establishing a DRV for added sugars. In its 1999 petition as well as in a published report (Ref. 75), CSPI recommended that FDA base a DV for ''added sugars'' on suggested limits of added sugars published in the 1992 USDA's Food Guide Pyramid (Ref. 76). CSPI determined that a DRV for added sugars based on a 2,000 calorie diet would be 10 teaspoons or 40 g of added sugars. Overall, comments submitted in response to CSPI's 1999 petition were in favor of this approach to setting a DRV for added sugars. Comments in response to the 2007 ANPRM also recommended establishing a DV for added sugars (Ref. 47).

We reviewed scientific evidence and recommendations of consensus reports, and disagree with the petitioner and comments that there is currently a sound scientific basis for the establishment of a quantitative intake recommendation upon which a DRV could be derived. The IOM did not set a DRI, such as a UL, for added sugars (Ref. 68). The IOM suggested that no more than 25 percent of energy should be consumed from added sugars, but noted that a defined intake level at which inadequate micronutrient intakes occur could not be identified. The 2010 DGA did not provide a quantitative intake recommendation for added sugars intake but did provide a maximum intake level for solid fats and added sugars at 13 percent of calories for a 2,000 calorie diet based on food pattern modeling of the USDA Food Patterns and also described the ''DASH'' (Dietary Approaches to Stop Hypertension) eating plan which recommends 5 servings or less per week of sweets and added sugars for a 2,000 calorie diet (Ref. 6). The USDA Food Patterns, which provide recommended amounts of foods from each food group that individuals should consume in order to meet their nutrient needs within a specific calorie level, specify that the maximum amount of calories from solid fats and added sugars that can be consumed at the 2,000 calorie level while staying within calorie limits is 258 calories (Ref. 6). The solid fats and added sugars limit at each calorie level in the USDA Food Patterns is determined by calculation through food pattern modeling rather than on any biomarker of risk of disease or other public health endpoint. However, an exact amount of calories for added sugars is not detailed in either the USDA Food Patterns or ''DASH'' eating plans, as they represent templates that translate and integrate dietary recommendations, rather than specific quantitative intake recommendations (Ref. 6). Thus, we have no scientifically supported quantitative intake recommendation for added sugars on which a DRV for added sugars can be derived. Therefore, we are not proposing a DRV for added sugars. Accordingly, the proposed rule, if finalized, would declare added sugars on the Nutrition Facts label only in absolute amounts (in g), similar to the declaration of total sugars.

d. Compliance—As expressed in the preamble to the 1993 RDI/DRV final rule, we are not aware of an analytical method that is capable of distinguishing between added and intrinsically occurring sugars in a food product (58 FR 2206 at 2222). Thus, it is not technologically feasible for us to rely on an analytical method to determine compliance with the declaration of added sugars in foods that contain both added sugars and naturally occurring sugars. We recognize that enforcement of the mandatory declaration of added sugars content will require an alternative means of verifying compliance and are proposing in § 101.9(g)(10) to include records requirements related to the added sugars declaration in food. Similarly, in the other cases where there are not reliable and appropriate analytical methods that will allow us to verify the amount of a given nutrient in a food (dietary fiber, vitamin E (tocopherol), and folate), we are also proposing to require manufacturers make and keep certain records necessary to verify the amount of these nutrients present in a food (see proposed § 101.9(g)(10)). In the case of added sugars that are not subject to fermentation, when a mixture of naturally occurring and added sugars is present in the food, we are proposing that a manufacturer must make and keep written records of the amount of added sugars added to the food during the processing of the food, and if packaged as a separate ingredient, as packaged (whether as part of a package containing one or more ingredients or packaged as a single ingredient) to verify the amount of added sugars present in the food (§ 101.9(g)(10)(iv)). (See section II.N for more details about this requirement.)

i. Reactions during processing. Sugars in some foods may undergo chemical changes mediated by chemical reactions from non-enzymatic browning (i.e., Maillard reactions and caramelization) and fermentation during food processing. During these reactions, some sugars are metabolized or otherwise transformed and converted into compounds that are no longer recognizable or detectable as sugars through conventional analytical methods (Ref. 77). We expect that the

amount of added sugars transformed during non-enzymatic browning reactions is insignificant relative to the initial levels of sugars (Ref. 78).

Unlike browning reactions, fermentation is a process that typically involves the action of desirable microorganisms (e.g., yeasts and lactic acid bacteria) and enzymes to convert organic compounds, especially sugars and other carbohydrates, to simpler compounds such as carbon dioxide, lactic acid, and ethyl alcohol (Refs. 52 and 79). Typical foods that are subject to fermentation during manufacturing are breads, cheese, yogurt, vinegar, vegetables, meats, beer and wine. Some foods, such as sweetened, yeast-leavened breads and wines that are processed through a fermentation step contain added sugars which will likely be consumed by the microorganisms during fermentation; other foods processed through a fermentation step contain added sugars that will likely not be consumed to a large extent, if at all, during fermentation, for example, yogurt sweetened with sucrose. In addition, many products processed through a fermentation step, such as cheese, do not contain added sugars to aid in fermentation or improve taste (Ref. 78). Therefore, we tentatively conclude that the amount of added sugars present in foods prior to undergoing fermentation, with the exception of yeast-leavened bakery products, wines with less than 7 percent alcohol by volume, and beers that do not meet the definition of a ''malt beverage'' as defined by the Federal Alcohol Administration Act (27 U.S.C. 211(a)(7)) with sugars added during the fermentation process, will not be significantly affected by virtue of the food having undergone fermentation. We do not have adequate information to assess the degradation of added sugars during fermentation for yeast-leavened bakery products, wine with less than 7 percent alcohol by volume, and beers that do not meet the definition of a malt beverage with sugars added before or during the fermentation process. (Ref. 78).

We request comments, including available data and information, on our tentative conclusions with respect to added sugars in products that are subjected to non-enzymatic browning reactions and fermentation. We specifically request data on the amount of variability that occurs among various types of products where added sugars are transformed into other compounds as a result of chemical reactions during food processing.

ii. Records required to assess compliance. For yeast-leavened bakery products, wines with less than 7 percent alcohol by volume, and beers that do not meet the definition of a malt beverage with sugars added before and during the fermentation process, it is unclear to us whether, as with most fermented foods, the reduction in the amount of added sugars would be insignificant. In addition to the records we propose to require for added sugars in foods generally, under proposed § 101.9(g)(10), we recognize that there is a need to consider other types of records related to added sugars content for a yeast-leavened bakery product, wine with less than 7 percent alcohol by volume, or a beer that does not meet the definition of a malt beverage when sugars are added to the food before or during the fermentation process (e.g. the added sugars are present during fermentation and the amount may be reduced by the fermentation process). Because of the unique issues that may be associated with a yeast-leavened bakery product, wine with less than 7 percent alcohol by volume, or a beer that does not meet the definition of a malt beverage when added sugars are present during the fermentation process (Ref. 78), we are proposing a new subparagraph (§ 101.9(g)(10)(v)) to specifically address records requirements for these products.

Some manufacturers of yeast-leavened bakery products, wine with less than 7 percent alcohol by volume, and beers that do not meet the definition of a malt beverage where sugar is added before or during the fermentation process would likely have more detailed information about the reduction in added sugars from the process for the products they manufacture. Thus, we anticipate that manufacturers of some of these foods that undergo fermentation would be able to determine the amount of added sugars in the finished food product. For example, manufacturers could choose to determine through laboratory analysis the amount of added sugars as well as naturally occurring sugars consumed in their product during the fermentation process. Other manufacturers that are unable to conduct additional laboratory analyses of their product may rely on a scientific document (e.g., journal article or reference book) showing the amount of added sugars typically consumed during fermentation in a specific food product (see proposed § 101.9(g)(10)(v)(A)). Manufacturers may use information gathered through additional analyses or from scientific references to adjust the amount of sugars added in processing to achieve the desired taste and organoleptic properties in the finished food product.

We also recognize that some manufacturers of these foods may not be able to use scientific data and information to verify the amount of added sugars in the finished food product. We tentatively conclude that it is appropriate to include, as an alternative to the use of scientific data and information for such verification, proposed record requirements for the amount of added sugars added to these products before and during fermentation for the verification of the declaration of added sugars content (see proposed § 101.9(g)(10)(v)(B)). As with other products containing added sugars, the amount of sugars added before or during fermentation could be determined through information such as databases, recipes, formulations, or batch records.

Therefore, we are proposing, in § 101.9(g)(10)(v), to require a manufacturer of yeast-leavened bakery products, wines with less than 7 percent alcohol by volume, and beers that do not meet the definition of a malt beverage with sugars added before and during the fermentation process to make and keep records of added sugars necessary to determine the amount of added sugars present in the finished food in one of two ways. The first would require the manufacturer to make and keep records of all relevant scientific data and information relied upon by the manufacturer that demonstrates the amount of added sugars in the food after fermentation and a narrative explaining why the data and information are sufficient to demonstrate the amount of added sugars declared in the finished food. When the manufacturer is relying upon scientific data and information from reference documents to determine the amount of added sugars in these finished food products, the information used must be specific to the type of fermented food manufactured. For example, if a manufacturer produces raisin bread, the reference that the manufacturer is relying upon would need to show the amount of sugars typically consumed in raisin bread that undergoes fermentation. The second would require the manufacturer to make and keep records of the amount of added sugars added to the food before and during the processing of the food, and, if packaged as a separate ingredient, as packaged (whether as part of a package containing one or more ingredients or packaged as a single ingredient). The records would need to be made available to FDA consistent with the proposed requirements in § 101.9(g)(11).

It is likely that the actual amount of added sugars remaining in yeast-leavened breads, wines with less than 7

percent alcohol by volume, and beers that do not meet the definition of a malt beverage after they undergo fermentation will be less than the amount added before processing. We are proposing in section II.N to allow for reasonable deficiencies of added sugars under labeled amounts that are acceptable within current good manufacturing practice in § 101.9(g)(6). Because the consumer is not generally harmed if the amount declared on the nutrition label is a reasonable overage of the actual amount as indicated by § 101.9(g)(6), when the manufacturer chooses, as the declaration, the amount of sugars added to these specific foods before fermentation, the we consider the actual amount of added sugars in the finished food product to be a reasonable deficiency under § 101.9(g)(6). In some cases of these specific fermented foods, when the amount of sugar added to a product before fermentation is declared, it will exceed the amount of total sugars in the finished food product determined through laboratory analysis. This is due to the fact that the amount of added sugars consumed during the fermentation process is not reflected in the declared amount. In such cases, the we tentatively conclude that it may be confusing to the consumer if the amount of added sugars declared exceeds the amount of total sugars declared on the Nutrition Facts label. Therefore, we are proposing in § 101.9(g)(10)(v)(B) that the amount of added sugars declared shall not exceed the amount of total sugars declared on the label.

4. Sugar Alcohols

FDA regulations define sugar alcohols, in part, as the sum of saccharide derivatives in which a hydroxyl group replaces a ketone or aldehyde group (e.g., mannitol or sorbitol) (§ 101.9(c)(6)(iii)).

a. Voluntary Declaration—FDA regulations permit the voluntary declaration of sugar alcohols on the Nutrition Facts label (§ 101.9(c)(6)(iii)). In 2005, we received a citizen petition from the Sugar Association (Docket No. 2005–P–0373) requesting, among other requests, mandatory declaration of sugar alcohols on the Nutrition Facts label (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0373*). The petition stated that, without this information, consumers would be misinformed about important modifications to foods and cannot make informed decisions about their particular sensitivity to the potential effects of sugar alcohols on the body. In the 2007 ANPRM, we asked whether the declaration of sugar alcohols should continue to be voluntary or made mandatory. We considered comments received (Ref. 47) as well as arguments presented by the petition.

We tentatively conclude that declaration of sugar alcohols should continue to be voluntary. Although a quantitative intake recommendation for sugar alcohols is not available from relevant U.S. consensus reports, sugar alcohols have positive health effects when they replace sugars in the diet. For example, there is well-established evidence to indicate that replacing sugars in the diet with sugar alcohols reduces the risk of dental caries, including the evidence used to support the health claims authorized by FDA on sugar alcohols and dental caries (72 FR 52783 at 52785; § 101.80). Therefore, we tentatively conclude that sugar alcohols have public health significance and, in the absence of a quantitative intake recommendation, voluntary declaration is consistent with the factors we consider for when voluntary declaration is appropriate (section I.C.). Accordingly, we are proposing to continue to provide for the voluntary declaration of sugar alcohols (in § 101.9(c)(6)(iii) redesignated as § 101.9(c)(6)(iv)).

We disagree with the petition that mandatory declaration of sugar alcohols is necessary to ensure that consumers are not misinformed about modifications to foods. Sugar alcohols that are added to food must be listed in the ingredients list on food labels and, therefore, consumers will be informed of their use in a product. We also disagree with the comment that supported mandatory declaration when there is at least 1 gram of sugar alcohols per serving due to gastrointestinal problems at such a level. As warranted, FDA regulations require specific labeling statements to accompany the use of certain sugar alcohols to provide information to consumers about any gastrointestinal effects. For example, in the case of mannitol and sorbitol, the statement ''Excessive consumption may have a laxative effect,'' is required on the label and labeling of a food whose reasonably foreseeable consumption may result in a daily ingestion of 20 g for mannitol (21 CFR 180.25) and 50 g for sorbitol (§ 184.1835 (21 CFR 184.1835)).

b. Use of the Term ''Sugar Alcohol''—In 1995, we received a citizen petition submitted by the Calorie Control Council requesting the use of the term ''polyols'' in lieu of ''sugar alcohols'' (Docket No. FDA-1995-P-0142) (*http://www.regulations.gov/#!docketDetail;D=FDA-1995-P-0142*). The petition stated that ''polyol'' is a regulatory term used in other countries, such as Canada and New Zealand. In addition, the petition cited a survey that showed that 78 percent of consumers surveyed thought that products with sugar alcohol contained some sugar even when labeled ''sugar free'' and 69 percent thought that the product contained some alcohol. We considered the petition as well as comments in response to the 2007 ANPRM (Ref. 80).

We previously considered the use of ''polyol'' (a contraction of ''polyalcohol'') and determined that it could be potentially more confusing to consumers than the term ''sugar alcohol.'' However, we acknowledge that consumers also may not be familiar with the term ''sugar alcohol.'' Therefore, in § 101.9(c)(6)(iii), we allow for the use of the name of the specific sugar alcohol in lieu of ''sugar alcohols,'' provided that only one sugar alcohol is present in the food, since many of the sugar alcohols are listed as ingredients (e.g., sorbitol, mannitol, xylitol) and hence may be more recognizable for consumers (58 FR 2079 at 2100).

We continue to support the term ''sugar alcohols'' rather than ''polyols,'' because ''sugar alcohols'' more accurately describes the group of substances encompassed in the definition in § 101.9(c)(6)(iii). ''Polyols'' includes non-carbohydrate polyalcohols, such as polyesters, whereas ''sugar alcohols,'' as defined by FDA, includes only carbohydrates. Accordingly, we are not proposing to change the term ''sugar alcohols'' when used on the Nutrition Facts label, as specified in § 101.9(c)(6)(iii) redesignated as § 101.9(c)(6)(iv).

c. DRV—FDA regulations do not provide a DRV for total sugar alcohols or for individual sugar alcohols. A quantitative reference intake recommendation for sugar alcohols is not available from current consensus reports and we have no basis on which to consider setting an appropriate DRV. Therefore, we are not proposing to set a DRV for sugar alcohols.

d. Caloric Value—The caloric value for carbohydrates, other than insoluble fiber, is 4 kcal/g (§ 101.9(c)(1)(i)(C)). Sugar alcohols have been shown to have a caloric value lower than 4 kcal/g (Refs. 81 and 82). The 2007 ANPRM asked for comment on (1) how the energy contribution of sugar alcohols should be represented on the label since energy values vary, and (2) what analytical methods could be used to determine the energy contribution of sugar alcohols. We considered comments received (Ref. 47). We also considered relevant caloric values recommended by the Life Sciences Research Office (LSRO) that

were determined by various methods, including studies conducted in animals and human subjects, and based on the amount of energy metabolized or net energy values (Refs. 81 and 82). LSRO expert panel reports provided the following caloric values for individual sugar alcohols: Isomalt (2.0 kcal/g), lactitol (2.0 kcal/g), xylitol (2.4 kcal/g), maltitol (2.1 kcal/g), sorbitol (2.6 kcal/g), hydrogenated starch hydrolysates (3.0 kcal/g), and mannitol (1.6 kcal/g).

We support the use of the LSRO caloric values for individual sugar alcohols. The LSRO reports used appropriate methods and study design criteria for measuring caloric value, and noted that human data were preferred and that animal data should be viewed as supplemental information. We do not have any data that would question the caloric values determined by the LSRO reports for the specified sugar alcohols. We did not identify any human studies published since the release of the LSRO reports that demonstrate that a different caloric value for any of these sugar alcohols would be more appropriate. Therefore, we are proposing to amend § 101.9(c)(1)(i)(F) to establish the following general factors for caloric values of sugar alcohols, using the values recommended by LSRO: Isomalt—2.0 kcal/g, lactitol—2.0 kcal/g, xylitol—2.4 kcal/g, maltitol—2.1 kcal/g, sorbitol—2.6 kcal/g, hydrogenated starch hydrolysates—3.0 kcal/g, and mannitol—1.6 kcal/g. Accordingly, we are also proposing to amend § 101.9(c)(1)(i)(C) such that the 4 kcal/g is not applied to sugar alcohols.

5. Dietary Fiber

a. Dietary Fiber

i. Definition. FDA regulations do not establish a definition for dietary fiber. There is no specific chemical definition for dietary fiber. Because of the difficulties in accurately isolating the set of fibers relevant to health, in 2001, the IOM established a panel to develop a new definition of dietary fiber (IOM Panel on the Definition of Dietary Fiber or IOM Panel). Subsequently, the IOM then issued a report defining ''total fiber'' as the sum of ''dietary fiber'' and ''added fiber,'' where ''dietary fiber'' consists of non-digestible carbohydrates and lignin that are intrinsic and intact in plants, and ''added fiber'' (referred to as ''functional fiber'' in the IOM Macronutrient Report) consists of isolated, non-digestible carbohydrates that have beneficial physiological effects in humans (Ref. 24). The IOM's definitions of ''dietary fiber'' and ''total fiber'' only include those fibers that are considered to have health benefits. The 2007 ANPRM asked for public comment on whether the IOM dietary or functional fiber definitions should become the FDA definition for dietary fiber. We also asked whether it should develop criteria for identifying fibers that demonstrate a physiological benefit, and, if so, what those criteria should be. We received several comments (Ref. 47).

We considered IOM recommendations, comments received, and relevant international guidelines. The Codex Alimentarius Commission adopted the following definition of dietary fiber in 2010 (Ref. 67):

''Dietary fibre means carbohydrate polymers [1] with ten or more monomeric units,[2] which are not hydrolysed by the endogenous enzymes in the small intestine of humans and belong to the following categories:

- Edible carbohydrate polymers naturally occurring in the food as consumed,
- Carbohydrate polymers, which have been obtained from food raw material by physical, enzymatic or chemical means and which have been shown to have a physiological effect of benefit to health as demonstrated by generally accepted scientific evidence to competent authorities, and
- Synthetic carbohydrate polymers which have been shown to have a physiological effect of benefit to health as demonstrated by generally accepted scientific evidence to competent authorities.

As with the IOM definition of ''total fiber,'' the 2010 Codex definition for ''dietary fiber'' includes naturally occurring fibers and only those non-digestible carbohydrates added to food that have a physiological effect that is beneficial to human health.

Dietary fiber represents a heterogeneous group of compounds that vary in their carbohydrate composition, linkages between carbohydrates, and molecular weight. As stated previously, there is no specific chemical definition for dietary fiber. Therefore, considering the IOM and Codex definitions and comments received, as well as the role of the dietary fiber declaration on the Nutrition Facts label, we tentatively conclude that a regulatory definition for dietary fiber should be one that emphasizes its physiological effect that is beneficial to human health. The declaration of dietary fiber that accurately reflects the amount of fiber that provides a physiological effect that is beneficial to human health would assist consumers in maintaining healthy dietary practices.

We are proposing a single definition for dietary fiber that is equivalent to the IOM's definition for ''total fiber,'' rather than IOM's separate definitions of ''dietary fiber'' and ''functional fiber.'' Because both ''dietary fiber'' and ''functional fiber'' as defined by IOM are considered to have beneficial health effects, we tentatively conclude that there is little benefit for consumers in distinguishing between these two types of fiber on the Nutrition Facts label. In addition, the IOM itself recognized analytical limitations in distinguishing between ''dietary fiber'' and ''functional fiber'' and noted that the labeling of ''total fiber'' would be more practical than labeling ''dietary fiber'' and ''functional fiber'' separately (Ref. 24).

The Codex definition includes a minimum degree of polymerization (DP) for a carbohydrate of 10, and it also provides that the inclusion of non-digestible carbohydrates with 3 to 9 monomeric units should be left to national authorities. The IOM's definition for ''total fiber'' includes those non-digestible carbohydrates of 3 to 9 DP (Ref. 24).

Because we seek to include in our definition non-digestible carbohydrates with physiological effects that are beneficial to human health, regardless of size, we are proposing to adopt a definition for total fiber that includes a DP of ≥ 3, consistent with the IOM's definition.

Therefore, we are proposing to amend § 101.9(c)(6)(i) to include the following definition for dietary fiber: (1) Non-digestible soluble and insoluble carbohydrates (with 3 or more monomeric units) and lignin that are intrinsic and intact in plants; (2) isolated and synthetic non-digestible carbohydrates (with 3 or more monomeric units) that FDA has granted be included in the definition of dietary fiber, in response to a petition submitted to FDA under § 10.30 (21 CFR 10.30) demonstrating that such carbohydrates have a physiological effect(s) that is beneficial to human health; or (3) isolated and synthetic non-digestible carbohydrates (with 3 or more monomeric units) that are the subject of an authorized health claim. We invite comment on the proposed definition of dietary fiber.

As proposed, under provisions 2 and 3, manufacturers would be required to provide evidence to FDA to demonstrate

[1] ''When derived from a plant origin, dietary fibre may include fractions of lignin and/or other compounds associated with polysaccharides in the plant cell walls. These compounds also may be measured by certain analytical method(s) for dietary fibre. However, such compounds are not included in the definition of dietary fibre if extracted and re-introduced into a food.'' (Ref. 67).

[2] ''Decision on whether to include carbohydrates from 3 to 9 monomeric units should be left to national authorities.'' (Ref. 67).

the physiological effects that are beneficial to human health, of isolated and synthetic non-digestible carbohydrates added to food, and FDA would have to grant a petition or authorize a health claim before they can be considered as ''dietary fiber'' for declaration on the Nutrition Facts label. Manufacturers would use the citizen petition process in § 10.30 or, in case of a related health claim, the health claims petition process in § 101.70. We intend to issue guidance to industry on submissions to demonstrate physiological effects that are beneficial to human health.

Under these proposed provisions, both β-glucan soluble fiber (§ 101.81(c)(2)(ii)(A)) and barley β-fiber (§ 101.81(c)(2)(ii)(A)(*6*)) that are added to foods would meet the definition of dietary fiber and, therefore, would be included in the amount of dietary fiber declared on the Nutrition Facts label. We are proposing to list isolated and synthetic non-digestible carbohydrates that have been determined by FDA to have a physiological effect that is beneficial to human health, in § 101.9(c)(6)(i). Accordingly, we are proposing to amend § 101.9(c)(6)(i) to list β-glucan soluble fiber and barley β-fiber (as these substances are described in § 101.81(c)(2)(ii)(A) and (c)(2)(ii)(A)(*6*), respectively) as isolated and synthetic non-digestible carbohydrates that have been determined by FDA to have a physiological effect that is beneficial to human health and, therefore, must be included in the declaration of dietary fiber. Under this process, we would amend § 101.9(c)(6)(i) to list any additional isolated and synthetic non-digestible carbohydrates that FDA determines have a physiological effect that is beneficial to human health, through either the citizen petition process or the health claims petition process.

ii. Mandatory declaration. Section 403(q)(1)(D) of the FD&C Act specifies, in part, that for each serving size or other unit of measure of a food, the amount of dietary fiber must be provided. Accordingly, FDA regulations require the declaration of dietary fiber on the Nutrition Facts label, as provided in § 101.9(c)(6)(i).

We did not ask any questions about the mandatory labeling of dietary fiber in the 2007 ANPRM, and we received no comments on this subject. Dietary fiber is not an essential nutrient. However, it has physiological effects that are beneficial to human health, such as attenuation of postprandial blood glucose concentrations, attenuation of blood cholesterol concentrations, and improved laxation (Ref. 66). The IOM DRI report noted that consumption of certain dietary fibers, particularly those that are poorly fermented (i.e., insoluble fiber), improve fecal bulk and laxation and ameliorate constipation (Ref. 66). In addition, soluble fiber plays a beneficial role in reducing the risk of heart disease (Ref. 66). ''Dietary fiber'' is identified as a nutrient of public health concern in the 2010 DGA. The 2010 DGA also emphasized the consumption of whole grains, in part, because they are a source of dietary fiber, noting that choosing whole grains that are higher in dietary fiber has health benefits in addition to meeting nutrient needs (Ref. 6).

Given the health benefits of dietary fiber, we have no basis to conclude that the declaration of dietary fiber is no longer necessary to assist consumers in maintaining healthy dietary practices. Therefore, we are not proposing to change our current requirement for the mandatory declaration of dietary fiber in § 101.9(6)(i).

With respect to the term used to declare dietary fiber content on the Nutrition Facts label, we considered comments received in response to the 2007 ANPRM (Ref. 47). The term ''dietary fiber'' has been listed on the Nutrition Facts label since 1993. One survey pointed out by comments suggests that both ''fiber'' and ''dietary fiber'' are similarly acceptable by consumers (Ref. 47). Alternative terms such as ''natural fiber'' or ''isolated fiber'' would not be appropriate to declare all dietary fiber given that we are proposing a definition of dietary fiber that includes both natural fiber and fiber that is added to food. Although the IOM used the term ''total fiber,'' there is no evidence to suggest that this term is preferable to the term ''dietary fiber.'' Therefore, we are not proposing to change the current requirement to declare dietary fiber using the term ''dietary fiber,'' as specified in § 101.9(f). However, we request comment on this issue, including consumer understanding of the term ''dietary fiber'' relative to other relevant terms.

iii. Analytical methods. Per FDA regulations, compliance with the requirement for declaration of dietary fiber is determined using appropriate AOAC analytical methods (58 FR 2079 at 2113; § 101.9(g)(2)). In the 2007 ANPRM, we noted the IOM Panel's consideration of analytical issues related to dietary fiber, and asked whether we should continue to use the AOAC International methods to determine the amount of dietary fiber and, if not, what other or additional methods should be used.

We reviewed comments (Ref. 47) received as well as current AOAC methods for dietary fiber and the various analytes measured by these methods in light of our proposed definition for dietary fiber. AOAC methods, such as AOAC 985.29, 991.43 and 994.13, measure soluble and insoluble polysaccharides, lignin, higher molecular weight non-digestible oligosaccharides (DP > 12), and some resistant starch, inulin and low molecular weight non-digestible oligosaccharides (DP < 10). These methods do not measure all non-digestible carbohydrates with a DP < 10. In contrast, newer methods (AOAC 2009.01 and AOAC 2011.25) measure all low molecular weight non-digestible carbohydrates (i.e., non-digestible oligosaccharides) in addition to the higher molecular weight non-digestible carbohydrates (Ref. 83). Thus, these newer, more inclusive AOAC methods would be more consistent with our proposed definition. However, there is no analytical method that can distinguish non-digestible carbohydrates that have a beneficial physiological effect from those that do not.

We are proposing to amend § 101.9(c)(6)(i) to indicate that dietary fiber content may be determined by subtracting the amount of non-digestible carbohydrates added during processing that do not meet the definition of dietary fiber (in proposed § 101.9(c)(6)(i)) from the value obtained using AOAC 2009.01, AOAC 2011.25 or an equivalent AOAC method of analysis as given in the ''Official Methods of Analysis of the AOAC International'' 19th Edition. If a product contains only non-digestible carbohydrates that meet the proposed definition of dietary fiber, using AOAC 2009.01, AOAC 2011.25, or an equivalent method would be sufficient to quantify the dietary fiber content of a food. However, if the product contains both dietary fiber that is included in the proposed definition (e.g., naturally occurring fibers) and non-digestible carbohydrates not included in the definition (e.g., synthetic fibers without a physiological effect that is beneficial to human health), neither AOAC 2009.01 or AOAC 2011.25 nor an equivalent AOAC method would accurately quantify the dietary fiber that could be declared on the Nutrition Facts label, because the determination of fiber by these methods would include the non-digestible carbohydrates that do not meet the proposed definition of dietary fiber.

To verify that the quantity of dietary fiber declared on the Nutrition Facts label includes only those fibers that

meet the regulatory definition of dietary fiber, when a food contains a mixture of non-digestible carbohydrates that meet the proposed dietary fiber definition and those that do not, we are proposing in § 101.9(c)(6) and (g)(10) to require manufacturers to make and keep written records to verify the amount of added non-digestible carbohydrates that do not meet the proposed definition of dietary fiber. See discussion in section II.N. Such records would provide information to verify that the amount of dietary fiber declared meets the proposed definition. The amount of non-digestible carbohydrate measured by AOAC 2009.01 or AOAC 2011.25 (or an equivalent AOAC method) minus the amount of added non-digestible carbohydrate that has not been determined by FDA to have a physiological effect that is beneficial to human health would reflect the amount of dietary fiber lawfully declared on the label.

iv. DRV. The DRV for dietary fiber is 25g (§ 101.9(c)(9)). We did not ask specific questions in the 2007 ANPRM and received no comments on the DRV for dietary fiber. In 2002, the IOM set an AI of 14 g/1,000 kcal for ''total fiber'' (Ref. 66). The AI was primarily based on the intake level that was associated with the greatest reduction in the risk of CHD. We are proposing to define dietary fiber to include those fibers that have a physiological effect that is beneficial to human health (see section II.D.5.) and, as such, the AI for ''total fiber'' provides an appropriate basis for setting a DRV for dietary fiber declared on the Nutrition Facts label.

Therefore, we are proposing to use 14 g/1,000 kcal as the basis for a DRV for dietary fiber. Using a reference calorie intake of 2,000 calories (see section II.A.3.), we are proposing to amend § 101.9(c)(9) to set a DRV of 28 g (14g/1,000 kcal × 2,000 kcal/d) for dietary fiber.

b. Soluble and Insoluble Fiber—Dietary fibers can be classified as being soluble or insoluble. Soluble fibers, such as pectin and gums, dissolve in water and are digested by the bacteria in the large intestine. Insoluble fibers, such as cellulose and lignin, do not dissolve in water and are not digested by bacteria in the large intestine, adding bulk to the stool for improved laxation.

i. Definition. Like dietary fiber, FDA regulations do not establish definitions for soluble or insoluble fiber. The 2007 ANPRM did not ask questions about definitions for soluble and insoluble fiber and we did not receive any comments about them. Because soluble and insoluble fibers are components of dietary fiber, we tentatively conclude that soluble and insoluble fibers must meet the proposed definition of dietary fiber. Therefore, we are proposing in § 101.9(c)(6)(i)(A) and (c)(6)(i)(B) that soluble fiber and insoluble fiber, respectively, must meet the definition of dietary fiber in paragraph 101.9(c)(6)(i).

ii. Voluntary declaration. FDA regulations permit, but do not require, the declaration of soluble fiber (§ 101.9(c)(6)(i)(A)) and insoluble fiber (§ 101.9(c)(6)(i)(B)) on the Nutrition Facts label. In the 2007 ANPRM, FDA asked whether the declaration of soluble and insoluble fiber should continue to be voluntary or made mandatory. We considered comments received (Ref. 47).

While a quantitative intake recommendation is not available from relevant U.S. consensus reports, there is well-established evidence showing that soluble and insoluble fibers have distinct physiological effects that are beneficial to human health. For example, the IOM noted that the body of evidence indicates that non-fermentable fiber sources (often isolated as insoluble fiber) promote laxation, and improved laxation is an established physiological effect that is beneficial to human health (Ref. 66). Therefore, we tentatively conclude that soluble and insoluble fibers that meet the definition of dietary fiber have public health significance and, in the absence of quantitative intake recommendations, are consistent with the considerations for voluntary declaration explained in section I.C. Accordingly, we are proposing to continue to provide for the voluntary declaration of soluble and insoluble fibers, as specified in § 101.9(c)(6)(i)(A) and (B).

With respect to the term used to declare dietary fiber content on the Nutrition Facts label, in 2001, the IOM Panel recommended that the terms ''soluble'' and ''insoluble'' fiber be phased out and replaced with relevant descriptors of the physicochemical properties of particular fibers (e.g., ''viscous'' or ''fermentable'' fiber to replace ''soluble'' fiber), as the characterization of the properties of various fibers becomes standardized (Ref. 24). In the 2007 ANPRM, we noted this recommendation and asked for public comment on whether the terms ''soluble fiber'' and ''insoluble fiber'' should be changed to ''viscous'' and ''nonviscous'' fiber.

We considered the IOM recommendations as well as comments received (Ref. 47), and tentatively conclude that the terms ''soluble fiber'' and ''insoluble fiber'' are most appropriate for reasons discussed in this document. While the IOM recommended replacing ''soluble fiber'' and ''insoluble fiber'' with appropriate physicochemical terms as the characterization of the properties of various fibers becomes standardized, such standardization has not yet occurred. In addition, as the comments stated, viscosity does not predict fermentability (Ref. 47), which the IOM recognized is a physicochemical property that is linked to health benefits, and it is not known at what level of viscosity a fiber begins to have a physiological effect (Ref. 66). Moreover, there are no currently available scientifically valid methods that FDA could use to measure the amount of various fibers defined by their physicochemical properties in various food matrices, whereas scientifically valid methods to measure soluble and insoluble fiber are currently available. Therefore, we are not proposing any changes to the use of terms ''soluble fiber'' and ''insoluble fiber'' in the Nutrition Facts label.

iii. Analytical methods. Per FDA regulations, compliance with any declaration of soluble or insoluble fibers is determined using appropriate AOAC analytical methods (§ 101.9(g)(2)). While there are a number of traditional AOAC methods available for measuring soluble fiber (e.g., AOAC 991.43 and 993.19) and insoluble fiber (e.g., AOAC 991.42 and 991.43), as is the case with dietary fiber, these methods cannot measure all non-digestible carbohydrates with a DP < 10. A newer method, AOAC 2011.25 (Ref. 83), can measure low molecular weight non-digestible carbohydrates, as well as separately measure soluble and insoluble non-digestible carbohydrates. However, as in the case of AOAC 2009.01, AOAC 2011.25 (Ref. 83) cannot distinguish soluble and insoluble non-digestible carbohydrates that have a physiological effect that is beneficial to human health from those that do not.

We are proposing to amend § 101.9(c)(6)(i)(A) and (c)(6)(i)(B) to indicate that the soluble and insoluble non-digestible carbohydrate content may be calculated by first using AOAC 2011.25, or an equivalent AOAC method of analysis. If a food contains only non-digestible carbohydrates that meet the proposed definition of dietary fiber (e.g., contains naturally occurring fiber only), then AOAC 2011.25 or an equivalent AOAC method would measure the amount of soluble or insoluble fiber that can be declared on the Nutrition Facts label. If a food contains a mixture of non-digestible carbohydrates that do and do not meet the proposed dietary fiber definition, and the label of the food declares soluble or insoluble fiber content, we are proposing to amend § 101.9(c)(6)(i)(A) and (c)(6)(i)(B) to

require manufacturers to make and keep records to verify the amount of soluble or insoluble non-digestible carbohydrates that do not meet the proposed definition of dietary fiber that have been added to the food product during processing. (See discussion in section II.N.)

iv. DRV. FDA regulations do not establish DRVs for soluble fiber or insoluble fiber. No DRIs were established for soluble or insoluble fiber during the IOM's evaluation of a DRI for dietary fiber (Ref. 66), and we have no basis on which to derive an appropriate DRV. Therefore, we are not proposing to set a DRV for either soluble fiber or insoluble fiber.

v. Caloric value. Per FDA regulations, the caloric content of a food may be calculated by, among other methods, using the general factors of 4, 4, and 9 kcal/g for protein, total carbohydrate less the amount of insoluble dietary fiber, and total fat, respectively (§ 101.9(c)(1)(i)(C)). Accordingly, soluble fiber, which is encompassed within ''total carbohydrate,'' is assigned a general factor of 4 kcal/g. We did not ask questions about the caloric value of dietary fibers in the 2007 ANPRM, but received a few comments on the caloric value of soluble fiber, including that 4 kcal/g for soluble fiber was too high and that we should consider 2 kcal/g, which is the caloric value identified by the United Nations Food and Agriculture Organization. We also received a citizen petition from the Calorie Control Council requesting that the caloric value of soluble fiber be no more than 2 kcal/g (Docket No. FDA–1997–P–0232), based on the caloric contribution of energy yielding short chain fatty acids that are produced as a result of colonic fermentation of soluble fiber (*http://www.regulations.gov/#!docketDetail;D=FDA-1997-P-0232*).

We agree with the comments and the petition supporting a caloric value of 2 kcal/g for soluble fiber. The anaerobic fermentation of soluble fibers in the colon has been shown to yield less energy than the 4 kcal/g obtained from aerobic metabolism of carbohydrates (Ref. 66). In addition, the absorption of energy yielding short chain fatty acids that are produced as a result of colonic fermentation of soluble fiber can vary, and data indicate that the average energy yield from soluble fibers is 1.5 to 2.5 kcal/g (Ref. 66). Therefore, we tentatively conclude that 2 kcal/g is a reasonable estimate of the caloric value of soluble non-digestible carbohydrates. Accordingly, we are proposing to amend § 101.9(c)(1)(i)(C) to establish a general factor of 2 kcal/g as the caloric value of soluble non-digestible carbohydrates. Insoluble non-digestible carbohydrates are not included in the caloric calculation.

We are also proposing a corresponding change to the introductory text in § 101.9(c)(1)(i)(C) to exclude non-digestible carbohydrate from total carbohydrate. FDA regulations require that the calories from total carbohydrate be calculated by using the general factor of 4 kcal/g of carbohydrate less the amount of insoluble dietary fiber (§ 101.9(c)(1)(i)(C)). We are proposing a new definition of dietary fiber (see section II.D.5.a.i.) that only allows for the declaration of dietary fibers that are added to foods that we have determined to have a physiological effect that is beneficial to human health, as ''dietary fiber'' on the Nutrition Facts label. Therefore, the proposed new definition of dietary fiber would exclude soluble and insoluble non-digestible carbohydrates that do not meet the proposed definition of dietary fiber. For the purposes of calculating calories from soluble non-digestible carbohydrate, the proposed factor of 2 kcal/g should apply to those soluble non-digestible carbohydrates that both do and do not meet the proposed definition of dietary fiber. To ensure that soluble non-digestible carbohydrates that do and do not meet the proposed definition of dietary fiber are excluded from total carbohydrate, such that a general factor of 2 kcal/g is applied to these non-digestible carbohydrates, we are proposing to amend § 101.9(c)(1)(i)(C) to require that calories from carbohydrate be calculated using a general factor of 4 kcal/g of total carbohydrate less the amount of non-digestible carbohydrates, which includes soluble and insoluble non-digestible carbohydrates that do and do not meet the definition of dietary fiber (see also section II.D.1.f.).

6. Other Carbohydrate

FDA regulations define ''other carbohydrate'' as the difference between total carbohydrate and the sum of dietary fiber, sugars, and sugar alcohol, except that if sugar alcohol is not declared, ''other carbohydrate'' is defined as the difference between total carbohydrate and the sum of dietary fiber and sugars (§ 101.9(c)(6)(iv)). Examples of ''other carbohydrate'' include starch and oligosaccharides. A statement of the amount of ''other carbohydrate'' may be voluntarily declared on the Nutrition Facts label (§ 101.9(c)(6)(iv)). We did not ask questions about the labeling of ''other carbohydrate'' in the 2007 ANPRM, and we received no comments on this issue. However, we reconsidered the provision for voluntary declaration of ''Other carbohydrate'' on the Nutrition Facts label based on the factors we consider for the mandatory and voluntary declaration discussed in section I.C.

''Other carbohydrate'' represents different types of carbohydrate, and, unlike sugars and dietary fiber, carbohydrates covered under this heterogeneous category have no shared physiological effects. Moreover, there is no well-established evidence to support the role of particular types of carbohydrate that fall within the ''other carbohydrate'' category, such as starch and oligosaccharides, in human health that is based on reliable and valid physiological or clinical endpoints. In addition, a quantitative intake recommendation for ''Other carbohydrate'' is not available from relevant consensus reports. Given the lack of public health significance or a quantitative intake recommendation for ''other carbohydrate'' as a category, consistent with the factors discussed in section I.C., we tentatively conclude that ''Other carbohydrate'' should no longer be permitted to be declared on the Nutrition Facts label.

Therefore, we are proposing to remove current § 101.9(c)(6)(iv) to remove the provision that allows for the voluntary declaration of ''Other carbohydrate'' on the Nutrition Facts label. We are also proposing to make a corresponding revision to § 101.9(g)(4) and (g)(6) to remove references to ''Other carbohydrates.'' We invite comment on this issue, including any other data or factual information that we should consider in making a final determination.

E. Protein

1. Mandatory and Voluntary Declaration

Section 403(q)(1)(D) of the FD&C Act requires food labeling to bear nutrition information about protein. FDA regulations require the declaration of the amount of protein by weight, and provide for voluntary declaration of the percent DV for protein on the Nutrition Facts label (§ 101.9(c)(7)(i)). In response to the 2007 ANPRM, one comment supported the current approach, whereas another comment recommended that FDA require the labeling of the percent DV for protein.

We considered current scientific evidence and comments received (Ref. 47). There is strong evidence based on valid physiological and clinical endpoints that protein is an essential nutrient that is necessary for human health and growth (Refs. 6 and 84). Therefore, we tentatively conclude that the declaration of protein content

remains necessary to assist consumers in maintaining healthy dietary practices. In addition, because protein intake in the U.S. population continues to be adequate when compared to the EAR absent a mandatory percent DV declaration (Ref. 85), we tentatively conclude that the declaration of protein as a percent DV should remain voluntary. Accordingly, we are not proposing any changes to the requirement for declaration of the quantitative amount of protein and the voluntary declaration of this amount as a percent DV on the Nutrition Facts label.

2. Analytical Methods

Under § 101.9(c)(7), protein may be calculated on the basis of 6.25 times the nitrogen content of the food determined by the appropriate method of analysis as given in the *Official Methods of Analysis of AOAC International,* 15th ed. (1990), except when the official procedure for a specific food requires another factor. On December 21, 2000, we received a citizen petition from Protein Technologies International, Inc. (FDA–2000–P–0569), requesting that FDA amend the reference to the method used to calculate protein content found in § 101.9(c)(7) to read ''the appropriate method of analysis as given in the *Official Methods of Analysis of the AOAC International,* 17th ed. (2000)'' (*http://www.regulations.gov/#!docketDetail;D=FDA-2000-P-0569*). The petition explained that the only approved method for use in human food in the 15th edition of the *AOAC Official Methods of Analysis* was the Kjeldahl method, which the petition stated involves the use of a mercury catalyst and, therefore, can be potentially harmful to humans and the environment. The petition asserted that the 17th edition of the *AOAC Official Methods of Analysis* recognized an alternative method, the Combustion method, also known as the Dumas method, to measure protein levels in some human foods and that we should permit its use for measuring protein content.

We note that not all Kjeldahl methods included in the *Official Methods of Analysis of the AOAC* contain a mercury catalyst. Furthermore, the Kjeldahl method is a well-recognized, standard method for determination of protein content. In fact, it is the method cited for use in determination of protein digestibility in the ''Protein Quality Evaluation, Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation'' (Ref. 86) that is incorporated by reference in § 101.9(c)(7)(ii).

As discussed in section II.N.2., we see a need to update the version of the *Official Methods of Analysis of the AOAC International* that we use for compliance purposes because newer, and sometimes better, analytical methods for many nutrients are included in versions of the methods that have been published since the 15th edition. We are, therefore, proposing to amend § 101.9(c)(7) to incorporate by reference the *Official Methods of Analysis of the AOAC International,* 19th ed. (2012) by removing ''15th Ed. (1990)'' and adding in its place ''19th Ed. (2012).'' The 19th edition is the most recent edition of the published AOAC methods, and includes both the Kjeldahl and the Combustion/Dumas methods. While the petition requested that the Agency amend § 101.9(c)(7) to incorporate the 17th edition of the AOAC methods, the 19th edition includes all of the methods for protein that were available in the 17th edition. Thus, the proposed action is consistent with the petition's request. If a newer version of the *Official Methods of Analysis of the AOAC International* is published before publication of the final rule (assuming that this rulemaking does result in a final rule), we will consider, as appropriate, using the most recent version of the official AOAC methods in the final rule. To the extent that the methods for protein determination in the newer version differ from those provided in the 19th edition of the *Official Methods of Analysis of the AOAC International,* we will consider the need to seek additional public comment on the version of the AOAC Methods of Analysis of the AOAC International that is incorporated by reference in § 101.9(c)(7).

3. DRV

The DRV for protein is 50 g (§ 101.9(c)(9)) and represents 10 percent of the 2,000 reference calorie intake level. The IOM Labeling Committee considered the IOM's AMDR for protein (10 to 35 percent of energy intake for adults) and the AMDRs for fat and carbohydrates, and recommended setting the DV for protein based on the difference between total energy intake and the combined DVs for fat and carbohydrate (i.e., 100 percent of energy − (DV_{fat} + $DV_{carbohydrate}$). The 2007 ANPRM requested comment on whether the DV for protein should be based on (1) the approach recommended in the IOM Labeling Report; (2) the midpoint of the AMDR for protein (i.e., 22.5 percent); or (3) the EAR or RDA for protein. We received comments on each of these approaches (Ref. 47). Overall, comments supported the approach recommended in the IOM Labeling Report and maintaining the DV of 50 g/d.

We considered current scientific recommendations and agree with the comments that supported the continued use of the current approach. First, as explained in sections II.B. and II.D., we are not proposing to change the DRVs for fat (30 percent of calories from fat or 65 g) or carbohydrate (60 percent of calories from carbohydrate or 300 g). Applying the IOM Labeling Committee's recommended approach, given our tentative conclusions on DRVs for fat and carbohydrates, that approach would result in no change to the DRV for protein, i.e., 10 percent (100 − (60 + 30)) of calories from protein.

Second, at 10 percent of caloric intake and using a reference energy intake of 2,000 calories, the DRV for protein is set at 50 g, which is relatively close to the IOM's RDAs for men and women. The RDAs, which represent values that meet the needs of almost all (97 to 98 percent) individuals in a group, are set at 0.80 g/kg for men and women who are 19 years and older, 0.85 g/kg for boys and girls 14 to 18 years of age, and 0.95 g/kg for boys and girls 4 to 13 years of age. Using reference weights established for age and gender groups, the resulting values are 56 g/d for males and 46 g/d for females who are 19 years of age or older (not including pregnant and lactating women), 52 g/d for males and 46 g/d for females between the ages of 14 through 18 years of age, 34 g/d for males and females between the ages of 9 and 13 years, and 19 g/d for males and females between the ages of 4 through 8 years. Thus, the DRV of 50 g for protein falls within the range of the RDAs calculated using reference weights.

We do not consider the midpoint of the AMDR of 22.5 percent of energy intake to provide the most appropriate basis for a DRV for protein. We have no data to show that protein intakes are inadequate or that setting a higher DRV that is based on the midpoint of the AMDR is needed to prevent chronic diseases such as cardiovascular disease, obesity, and sarcopenia, as asserted by some comments (Ref. 47). The AMDR is a range of intakes for a particular energy source that is associated with reduced risk of chronic diseases while providing adequate intakes of essential nutrients (Ref. 20). The DRV of 10 percent of calories from protein falls within the AMDR. Thus, the DRV for protein falls within a range of protein consumption that is associated with a reduced risk of chronic disease while providing essential nutrients.

Finally, we consider the use of the population-weighted EAR to be inappropriate. First, as the comments pointed out (Ref. 47), using the population-weighted EAR could lead to inadequate consumption in some subpopulations, such as males 19 years and older. In addition, the EARs for protein are expressed in terms of g/kg of body weight and based on consumption of good quality or ''complete'' protein. In order to calculate a DRV from the population-weighted EAR for the purposes of nutrition labeling, a reference body weight would have to be selected. Although we could use the EER predictive equations included in the IOM's DRI macronutrient report (Ref. 50) to determine a reference body weight, these values may be inappropriate for the general U.S. population, which has a high percentage of overweight individuals. The IOM Labeling Report stated that deriving a label reference value for protein based on values from the EER predictive equations may not be appropriate for large segments of the North American population for the same reason (Ref. 25).

Therefore, we tentatively conclude that the DRV for protein should continue to be based on 10 percent of calories. Accordingly, we are not proposing to change the DRV of 50 g for protein.

F. Sodium

1. Mandatory Declaration

FDA regulations require the declaration of sodium content on the Nutrition Facts label (§ 101.9(c)(4)). The 2007 ANPRM did not ask any questions about the mandatory declaration of sodium, but one comment that recommended the declaration of sodium should remain mandatory because the information can help consumers who are concerned about sodium and salt make appropriate food choices.

Americans 4 years and older consume an average of approximately 3,650 mg sodium/d (NHANES 2003–2006), which is more than twice the amount required to meet their adequate intake (1,500 mg/day for individuals 9 to 50 years old). Evidence continues to support the association between increased sodium consumption and increased blood pressure. In 2005, the IOM noted the direct relationship between sodium intake and increased blood pressure (Ref. 10). The 2010 DGAC and the 2013 IOM committee on Sodium Intake in Populations (Ref. 87) concluded that a strong body of evidence has been documented in adults that as sodium intake decreases, so does blood pressure (Ref. 30). We agree with the comment that information about sodium content on the food label can help consumers make appropriate food choices.

Therefore, we tentatively conclude that declaration of sodium should remain mandatory so consumers are provided information necessary to assist them in maintaining healthy dietary practices. Accordingly, we are not proposing to amend the current requirement for declaration of sodium in § 101.9(c)(4).

2. DRV

a. Need to update the DRV—The DRV for sodium is 2,400 mg (§ 101.9(c)(9)). New scientific data and consensus reports on sodium published since the 1993 final rule (58 FR 2206 at 2224) highlight the need to reconsider the DRV. Recent key consensus reports and recommendations that FDA reviewed in reconsidering the DRV are as follows:

i. IOM DRI Electrolytes Report. In 2005, the IOM established AIs and ULs for sodium (Ref. 10). The IOM found that data from dose-response trials for determining the daily requirement for sodium were insufficient to establish an EAR for sodium and, thus, an RDA could not be determined and an AI was set. The AIs for sodium are intake levels that meet or exceed the daily nutrient requirement, i.e., the recommended daily average intake levels that are needed to meet the sodium needs of most healthy and moderately active individuals, are 1,500 mg/d for individuals 9 to 50 years, 1,300 mg/d for individuals 51 to 70 years, and 1,200 mg/d for individuals older than 70 years and for children 4 to 8 years of age. AIs meet or exceed the intake levels required to meet nutrient needs and there is no benefit in consuming a nutrient in excess of its AI.

Data available to the IOM showed that; (1) a carefully planned diet that provided an average of approximately 1,500 mg/d of sodium can meet recommended intakes of other nutrients; (2) 1,500 mg/d exceeds the levels of sodium intake that have been associated with effects of inadequacy, such as adverse effects on blood lipid concentrations and insulin resistance; and (3) 1,500 mg/d allows for sodium sweat losses in acclimatized individuals who are exposed to high temperatures or who become physically active. The AI does not apply to individuals who are highly active and workers who are exposed to heat stress that lose large volumes of sodium in sweat (Ref. 10).

ULs are the highest level of daily nutrient intake that is likely to pose no risk of adverse health effects to almost all individuals in the general population (Ref. 10). The major adverse and dose-dependent effect of increased sodium intake is elevated blood pressure and the IOM noted that the relationship between sodium intake and blood pressure is continuous, making it difficult to set a precise UL because other environmental factors (weight, exercise, potassium intake, dietary pattern, and alcohol intake) and genetic factors also affect blood pressure. The ULs for sodium are 2,300 mg/d for all individuals ages 14 years and older, 1,900 mg/d for children 4 to 8 years old, and 2,200 mg/d for adolescents 9 to 13 years old. The UL is not intended to be a recommended intake level to encourage, but rather a level not to exceed.

The IOM stated that the UL may be lower than 2,300 mg/d among certain groups who are at increased risk of the blood pressure-raising effects of increased sodium intake (e.g., older individuals, African Americans, and individuals with hypertension, chronic kidney disease, or diabetes), but insufficient data prevented IOM from defining a specific UL for these groups. Instead, the IOM set the same UL for these population groups as the one for the general population (i.e., 2,300 mg/d), with the acknowledgment that the actual UL for this group may be lower.

ii. IOM Report on the Strategies to Reduce Sodium Intake in the United States (IOM Sodium Strategies Report). After considering current trends in hypertension, sodium consumption, sodium content of the food supply, and existing strategies for sodium reduction, the IOM developed various strategies for reducing dietary sodium intake to levels recommended by the 2005 DGA. Among various recommendations to Government Agencies, food manufacturers, consumers, and other stakeholders, the IOM recommended that FDA adopt 1,500 mg as the DV for sodium, given that sodium is an essential nutrient and that, unlike in 1993 (58 FR 2206 at 2224), a reference value of adequacy is now available (i.e., the AI of 1,500 mg/d).

iii. 2010 DGA. The 2005 DGA made a key recommendation for the general U.S. population to consume less than 2,300 mg/d of sodium and that individuals with hypertension, African-Americans, and middle-aged and older adults should aim to consume no more than 1,500 mg/d of sodium (Ref. 36). In 2010, the DGAC evaluated evidence considered in the 2005 DGAC report in addition to new research on the relationship between sodium intake and blood pressure, focusing on the strength of the scientific evidence (Ref. 30). The 2010 DGAC report noted that 1,500 mg/d should be the intake goal for the

general U.S. population. Further, the DGAC noted that, given the current U.S. marketplace and the resulting excessively high sodium intake, it will be challenging to achieve the lower level. The 2010 DGA, considering the 2010 DGAC conclusions, recommended a reduction in sodium intake to less than 2,300 mg/d and a further reduction to 1,500 mg/d among African Americans, individuals with hypertension, diabetes, or chronic kidney disease, and individuals ages 51 years or older.

iv. IOM Report on Sodium Intake in Populations, Assessment of Evidence, 2013 (Ref. 87). The charge to the committee focused on literature published since 2003, therefore they reviewed literature between 2003 and 2012. The committee assessed the benefits and adverse outcomes (if any) of reducing sodium intake, particularly in the range of 1,500 to 2,300 mg/d, with an emphasis on the subgroups known to be at increased risk of the blood pressure-raising effects of increased sodium intake. Based on the review of studies that assessed cardiovascular events and mortality, the committee found that evidence from studies on direct health outcomes is inconsistent and insufficient to conclude that lowering sodium intakes below 2,300 mg/d will increase or decrease the risk of CVD outcomes or all-cause mortality in the general U.S. population. The committee also concluded that the evidence from direct health outcomes does not support recommendations for subgroups (people with diabetes, chronic kidney disease and pre-CVD) to lower their sodium intake to or even below 1,500 mg/d. No relevant evidence was found on health outcomes for the other population subgroups considered (i.e., African Americans and persons 51 years of age and older).

b. CSPI petition—In 2005, we received a citizen petition from CSPI (2005 CSPI petition) requesting, among other sodium related issues, that FDA initiate rulemaking to reduce the DRV for sodium from 2,400 to 1,500 mg (Docket No. FDA–2005–P–0196 (formerly Docket No. 2005P–0450)) (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0196*). Citing the 2005 DGA, the petition requested that FDA adopt a DV of 1,500 mg because that is the recommended maximum intake for roughly one-half of the adult population (i.e., people with hypertension, African-Americans, and middle-aged and older people). According to the petition, when recommended intake levels vary among population groups, FDA has typically been conservative, choosing a DV that is most protective. In this proposed rule, we are responding to the petition's request to reduce the DRV for sodium from 2,400 mg to 1,500 mg. The petition's other requests are outside the scope of this rulemaking.

c. Comments to 2007 ANPRM—In the 2007 ANPRM, we asked whether a new DV for sodium should be based on the UL or on the AI. We also asked whether the UL, were it to be used, should reflect the same approach (population-weighted or population-coverage) as the other DRIs. While a few comments supported retaining the current DRV of 2,400 mg, the majority of comments supported using the UL of 2,300 mg/d. Some other comments recommended setting a DV for sodium based on the AI of 1,500 mg/d. One comment urged that we adopt a tiered two-phase, step-down approach establishing an interim DRV of 2,000 mg in 2013 and a final revised DRV of 1,500 mg by 2020. See also (Ref. 47).

d. Options Considered—When the Nutrition Facts label was developed in the early 1990s, no RDA or Estimated Safe and Adequate Daily Dietary Intake (ESADDI) levels were available for consideration. While the National Academy of Sciences established 500 mg/d as an estimated minimum requirement for healthy adults in 1989, the Agency relied on the recommendation from 1989 National Research Council Report Diet and Health: Implications for Reducing Chronic Disease Risk (Ref. 88) that provided a quantitative intake recommendation for salt, based on blood pressure, that was equivalent to 2,400 mg/d as a value that consumers should not exceed (58 FR 2206 at 2223, 2224). There is debate in the scientific community about the appropriate DV for sodium, taking into account its essentiality in relatively small amounts as well as its association with increased blood pressure at greater but varying levels of intake.

Current recommendations recognize the benefits of reduced sodium intake in the general population, despite the heterogeneity among individuals in blood pressure responses to changes in sodium intake. Although several factors influence inter-individual variability in blood pressure responses to changes in dietary sodium, certain population groups have been reported to have a higher prevalence of salt sensitivity and are considered to be most at risk of sodium-related chronic disease. Salt sensitivity is the extent of change in blood pressure in response to a change in salt intake (Ref. 10). Salt sensitivity differs among subgroups of the population as well as among individuals within a subgroup. Subgroups that have been reported to have a high prevalence of salt sensitivity include individuals 51 years of age and older, African Americans, and individuals with hypertension, diabetes or chronic kidney disease. The 2010 DGA recommended that Americans reduce sodium intakes and also noted that these population subgroups, representing nearly half of the U.S. population, would benefit from even greater reductions in sodium intake than the general population. We have considered the challenges related to lowering the DV for sodium. For example, lowering the value on which the percent DV declaration is based would likely require efforts to ensure consumer understanding of the new percent DV declaration of sodium on the Nutrition Facts label. Based on recent dietary recommendations from consensus reports, currently available scientific evidence, comments in response to the 2007 ANPRM, and the 2005 CSPI petition, we considered the following options for updating the DV for sodium:

(1) A DRV of 2,300 mg which reflects the UL for individuals aged 14 years and older;

(2) An RDI of 1,500 mg which reflects the AI for individuals 9 to 50 years of age; and

(3) Alternative approaches such as retaining a DRV of 2,400 mg, using a tiered approach or setting a DRV of 1,900 mg based on the UL for children 4 to 9 years of age.

i. DRV of 2,300 mg/d. A DRV of 2,300 mg, which represents the UL for the majority of the population (persons 14 years of age and older), would be consistent with both the 2005 and 2010 DGA recommendations for sodium intake for the general population, as well as the 2013 IOM report on Sodium Intake in Populations. However, while a DRV of 2,300 mg would reflect the UL that is applicable to 88 percent of the U.S. population, including those who are susceptible to the blood pressure-raising effects of sodium, it would exceed the UL for children 4 to 13 years of age which is 1,900mg/day for children 4–8 years of age and 2,000mg/day for children 9–13 years of age.

Setting the DV at 2,300 mg would classify the level as a DRV (rather than an RDI) and represent a reference intake level not to exceed. As such, it would be consistent with our current and proposed approach to using DRVs for other nutrients that should be limited in the diet and for which there are concerns of excess intake and risk of chronic disease or health-related conditions, for example, saturated fat

and cholesterol. The current and proposed DRVs for saturated fat and cholesterol are based on quantitative intake recommendations and underlying science that links the excess intake of these nutrients to specific adverse health effects (Ref. 6) (see sections II.B.2 and II.C.). We do note, however, that unlike saturated fat and cholesterol, sodium is an essential nutrient and, in the DRI Electrolytes report, the IOM established an AI for sodium.

Results from the FDA Health and Diet Surveys have shown that consumers are aware that too much sodium is unhealthy (Refs. 39 to 41) and this awareness would suggest consumer acceptance of a DV based on a level not to exceed would be consistent with a DRV of 2,300 mg. Changing the DRV from 2,400 mg to 2,300 mg would likely result in less consumer confusion than changing the DRV to an RDI (a level to achieve) of 1,500 mg. Moreover, we have no data to suggest that lowering the reference value for the percent DV could result in consumer confusion, as claimed by a commenter (Ref. 47).

ii. RDI of 1,500 mg. An RDI of 1,500 mg, based on the highest AI (i.e., among adults aged 19 to 50 years), would provide a daily average intake level that would reflect a low prevalence of inadequate sodium intakes of healthy and moderately active individuals while allowing for adequate intakes of other essential nutrients. As opposed to 2,300 mg, a DV of 1,500 mg would classify the level as an RDI representing a reference intake level to achieve. The 2005 IOM electrolytes report reviewed the evidence on low sodium intake and blood lipid concentrations and insulin resistance and noted that the AI of 1,500 mg/d exceeds the levels of sodium intake (typically less than 700 mg/d) that have been associated in some studies with adverse effects of blood lipid concentrations and insulin resistance (Ref. 10). The 2005 IOM electrolytes report reviewed the evidence for plasma renin and concluded that, in contrast to blood pressure, there is no consensus on the interpretation of plasma renin activity and its role in guiding therapy for high blood pressure (Ref. 10). Similar to plasma renin activity, the evidence for the role of sympathetic nerve activity and aldosterone is limited, and therefore neither is recognized as surrogate endpoints for CVD risk. Therefore, the AI of 1,500 mg/d exceeds the levels associated with low sodium intake and the previously discussed adverse effects.

Using the population-coverage AI to set the RDI for sodium would be consistent with the proposed RDIs for other essential vitamins and minerals for which AIs are established (e.g., vitamin K and choline) (see section II.I.). AIs are similar to RDAs in that they meet the needs of essentially all members of the population. Thus, using an AI as a quantitative intake recommendation for setting an RDI would be consistent with the proposed RDIs for other essential minerals that have AIs or RDAs, such as potassium and calcium. Traditionally, we have based the RDI for essential nutrients on quantitative intake recommendations that reflect the intake level necessary to meet the daily physiological needs for that nutrient. However, unlike the consumption of other vitamins and minerals, the majority of the population consumes sodium at levels that exceed the AI and the UL. This makes sodium unique in comparison to other vitamins and minerals for which people generally must strive to meet their daily needs.

In addition, an RDI of 1,500 mg would be consistent with the 2010 IOM Sodium Strategies Report (Ref. 89). The IOM recommended that FDA base the DV for sodium on the AI of 1,500 mg/d. First, the IOM stated that using the AI is consistent with the approach used for all other essential nutrients, where the DV is based on a reference value of adequacy rather than a reference value of safety. Second, although consumer data were not provided, the IOM strategies report argued that the use of the AI could better inform consumers of the actual contribution of sodium content to total sodium needs as an essential nutrient. Third, the IOM stated that adopting the AI would avoid misleading consumers into thinking that the sodium content of foods is more favorable than is actually the case. As such, from a public health perspective, the AI would provide a truer picture for the consumer of the contribution of the particular foods in assembling a healthful diet and is preferable for this purpose over the UL. Finally, the IOM opined that lowering the DV might act as an incentive for companies to reduce the sodium content of their foods because reducing the DV would result in a higher value of percent DV declared on the label if sodium content remained unchanged.

The 2013 IOM Sodium Intake in Populations Committee concluded that the evidence was insufficient and inconsistent to recommend sodium intake levels below 2,300 mg/d for the general U.S. population based on the direct outcomes of CVD or all-cause mortality. While this recommendation does not address blood pressure or essentiality, it provides a level that the general population should seek to reduce their consumption to and therefore is a consideration in our proposal.

ANPRM comments pointed out challenges related to the feasibility of achieving a DV of 1,500 mg given the current marketplace and patterns of sodium consumption as well as changes in our nutrient content claims. If we were to adopt a DV of 1,500 mg, we anticipate that consumer education efforts would be needed to help consumers understand that the updated DV for sodium is a level to achieve rather than a level to consume less than and also that consuming in excess of this level would not be helpful. Additionally, the IOM set the AI, in part, at a level that would allow individuals to meet the recommended intakes of other nutrients if they adopted a carefully planned diet (Ref. 10) and consumer education efforts would need to communicate that 1,500 mg/d is a level that consumers should achieve rather than not exceed. While the Agency is considering ways to support the reduction of sodium in the food supply (76 FR 57050), significant changes in the food supply would be needed to achieve this goal.

An updated DV for sodium based on 1,500 mg/d would perhaps necessitate revising other relevant regulatory requirements such as nutrient content claims, however such revisions would be less likely if the DV was updated to 2,300 mg. Previously, our decision to retain the sodium level for a ''healthy'' claim (§ 101.65) at 480 mg/reference amount customarily consumed (RACC) was based, in part, on technological barriers and product acceptance issues by consumers with the more restrictive level of 360 mg/RACC (70 FR 56828; September 29, 2005). We acknowledge concerns from comments that consumers may find it difficult to reduce dietary sodium levels to 1,500 mg/d.

iii. Alternative approaches.

A few comments suggested retaining 2,400 mg as the DRV for sodium. Retaining the DRV of 2,400 mg would exceed the UL for sodium for the entire population and there is no scientific evidence to support this level. Therefore, we do not consider 2,400 mg an appropriate DRV for sodium going forward. Also, based on ANPRM comments, we considered setting an interim DRV of 2,300 mg that would be further lowered to an RDI of 1,500 mg over time, providing companies a longer time to manufacture new foods or reformulate existing products to lower the sodium content. This approach would address concerns regarding the feasibility of individuals being able to meet an RDI of 1,500 mg given taste

preferences and sodium content of foods in the current marketplace. A tiered approach would help to gradually achieve the adequate intake level of 1,500 mg/d and would give manufacturers time to develop lower sodium products and for consumers to adjust their taste preferences. In addition, this approach would be consistent with the 2010 DGAC recommendations which suggested that reduction in sodium intakes to 1,500 mg/d among Americans should occur gradually over time to allow for adjustments in taste perceptions and to accompany changes in the sodium content of foods in the marketplace.

We tentatively conclude that there is inadequate justification in consensus reports or arguments presented by comments (Ref. 47) to propose a tiered option. While levels of sodium intake may need to decrease gradually due to time needed for modifications to the sodium content of the food supply and consumer taste preferences, the DV for sodium should reflect an amount that will assist consumers in maintaining healthy dietary practices and in understanding the relative significance of the percent DV for a particular food in the context of the total daily diet. Moreover, DVs are based on scientific data supporting healthy dietary practices, not on the levels of a nutrient present in the food supply.

We also considered using 1,900 mg/d, the UL for children 4 to 8 years of age, to set the DRV for sodium. Using the lowest UL for a population above 4 years of age is consistent with the population-coverage approach discussed in section II.1.5. In this case, it is a population-coverage approach that is protective for the age and gender subpopulation with the lowest relative UL, providing an intake level that is likely to pose no risk for any age or gender subpopulations. This is in contrast to the population-coverage approach, using the RDA or AI for other essential vitamins and minerals, to ensure that all age and gender subpopulations consume adequate amounts. However, a DRV of 1,900 mg is not aligned with any recommendations from consensus reports including the 2010 IOM Sodium Intake in Populations and was not suggested by any comments.

e. Proposed DV—After considering the options discussed previously, we are proposing to set a DRV of 2,300 mg for sodium based on the UL for individuals ages 4 years of age and older (proposed § 101.9(c)(8)(iv)). First, a DRV of 2,300 mg would be consistent with the current sodium intake recommendations from consensus reports. Second, a DRV of 2,300 mg would be consistent with our current and proposed approach for other nutrients that should be limited in the diet and for which there are concerns of excess intake and risk of chronic disease and health-related conditions. Third, consumers are generally aware that too much sodium is not healthy and therefore the current consumer education messaging is consistent with a DRV of 2,300 mg.

For the reasons explained previously, we tentatively conclude that a DRV of 2,300 mg for sodium is the most appropriate DV to assist consumers in maintaining healthy dietary practices and in understanding the relative significance of the sodium content within the context of a total daily diet. We invite comment on our consideration of various options and tentative conclusions presented in this section. In particular, we invite comment on: (1) The rationale for the proposed DRV of 2,300 mg of sodium; (2) whether an RDI of 1,500 mg would be more appropriate and why; and (3) whether any alternative approaches for selecting a DV for sodium and their public health bases for these approaches could be more appropriate and why. We are also interested in data and factual information on consumer understanding, interpretation, and use of the percent DV of sodium declared on food labels, including the understanding and potential influences of a DV that reflects an RDI based on an AI (an intake level to not consume less of), instead of a DRV based on a UL (an intake level not to exceed).

G. Fluoride

1. Voluntary Declaration

FDA regulations do not require or permit the declaration of fluoride on the Nutrition Facts label. In 1993, no U.S. consensus report had set a quantitative intake recommendation for fluoride. The 2007 ANPRM did not ask questions regarding the declaration of fluoride, but several comments supported the voluntary declaration of fluoride in mg or mcg amounts (Ref. 47). We are considering in this proposed rule whether fluoride should be required or permitted to be declared or whether the lack of provisions should be maintained.

Fluoride is a nonessential nutrient, but there is well established evidence for the role of fluoride in reducing the risk of dental caries (Ref. 90). The IOM set a quantitative intake recommendation for fluoride based on its role in the reduction of risk of dental caries. Additionally, in 2006, a FDAMA notification for a health claim for fluoride in bottled water and dental caries was submitted to us under section 403(r)(2)(G) of the FD&C Act (Ref. 91). We did not object to the notification, indicating that we considered the evidence submitted to be sufficient for bottled water that meets the standards of identity and quality set forth in § 165.110 and the general requirements for health claims in § 101.14 to bear the claim (Ref. 91). Given that the positive health effects of fluoride are well-established, we tentatively conclude that declaration of fluoride content of a food can provide consumers with information to assist them in maintaining healthy dietary practices. However, as discussed in section II.G.2., a DRV cannot be established based on available quantitative intake recommendations. Thus, while fluoride is a nutrient with public health significance, an appropriate quantitative intake recommendation is not available for setting a DRV.

Therefore, consistent with the factors we consider for declaration of non-statutory nutrients discussed in section I.C., we are proposing to amend § 101.9(c)(5) to provide for voluntary declaration of fluoride. In addition, consistent with existing provisions for voluntary declaration of other nutrients, we are proposing that the declaration of fluoride would be mandatory when a claim about fluoride is made on the label or in labeling of foods. We are also proposing that when fluoride content is declared, it must be expressed as zero when a serving contains less than 0.1 mg of fluoride, to the nearest 0.1 mg increment when a serving contains less than or equal to 0.8 mg of fluoride, and the nearest 0.2 mg when a serving contains more than 0.8 mg of fluoride, consistent with how we have approached incremental values for other nutrients that are present in food in small amounts.

2. DRV

FDA regulations do not provide an RDI or DRV for fluoride. The 2007 ANRPM discussed the DRIs for fluoride and asked whether we should establish a DV, given the availability of an AI. We considered current recommendations and scientific evidence as well as comments received (Ref. 47).

In 1997, the IOM established DRIs (AIs and ULs) for fluoride (Ref. 90). The AI was set at 3 mg/d for women 19 years and older and 4 mg/d for men 19 years or older, to represent the intake value that reduces the occurrence of dental caries maximally in a group of individuals without causing unwanted side effects. AIs for children are 0.7 mg/d (1 through 3 years), 1 mg/d (4 through

8 years), and 2 mg/d (9 through 13 years). In addition, the IOM set a UL for fluoride at 10 mg/d (0.1 mg/kg/d) for individuals older than 8 years, based on data that suggest that increased risk of developing early signs of skeletal fluorosis is associated with fluoride intakes greater than 10 mg/d. The UL for children 4 through 8 years is 2.2 mg/d based on risk of developing moderate enamel fluorosis.

A recent report highlighted the potential adverse impact of excess fluoride intake (Ref. 92). These adverse impacts include moderate enamel fluorosis in children up to 8 years and skeletal fluorosis for individuals older than 8 years. In 2010, the Environmental Protection Agency (EPA) published a report on exposure of fluoride from various sources. This report provided a benchmark of no more than 0.08 mg/kg/d of total fluoride intake to protect 99.5 percent of the population from severe dental fluorosis (Ref. 92). These benchmark levels (e.g., 1.68 mg/d for 4 to 7 years; 2.56 mg/d for 7 to 11 years; 4.08 mg/d for 11 to 14 years of age; and 5.6 mg/d for adults) are considerably lower than the ULs set by IOM in 1997.

Thus, although the IOM set AIs for fluoride based on its role in reducing the risk of dental caries, more recent conclusions have highlighted concern about dental fluorosis associated with excess intakes. Because an RDI of 4 mg, using the population-coverage AI of 4 mg/d, exceeds or is equivalent to EPA's benchmark values for children 4 to 14 years of age (1.68 to 4.08 mg/d), we are not proposing to set a DRV for fluoride.

We considered concerns expressed by comments that a DRV should not be established because fluoride is not an essential nutrient. That fluoride is not essential is not, in itself, a justification for not establishing a DV for fluoride, because there is evidence demonstrating that dietary fluoride exposure is beneficial to public health owing to its ability to inhibit the development of dental caries in both children and adults (Ref. 90). However, we are not proposing to set a DRV for fluoride for other reasons as explained previously. We also do not consider that the DRV for fluoride should be set at zero because of concerns with adverse health effects and toxicity, as suggested by a comment. The IOM established an AI for fluoride based on risk reduction of dental caries. In addition, the ULs for children and adults that are set based on dental and skeletal fluorosis are greater than zero. Moreover, FDA regulations other than those related to nutrition labeling are intended to prevent excessive addition of fluoride in foods (§§ 165.110 and 170.45).

H. Essential Vitamins and Minerals of Public Health Significance

In addition to sodium, a statutorily required nutrient, FDA regulations require the declaration of four essential vitamins and minerals, namely, vitamin A, vitamin C, calcium, and iron (§ 101.9(c)(8)(ii)). Vitamins and minerals that may be declared voluntarily are vitamin D, vitamin E, vitamin K, vitamin B_6, vitamin B_{12}, thiamin, riboflavin, niacin, folate, biotin, pantothenic acid, phosphorus, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, and potassium. In 1993, we identified vitamins A and C, calcium, and iron for mandatory declaration because we considered them to be nutrients of public health significance based on their inadequate dietary intakes among specific segments of the U.S. population and because they were identified as nutrients of potential public health significance in consensus reports (Refs. 88, 93 to 95) (58 FR 2079 at 2106). We continue to consider, consistent with the rationale put forth in 1993, that a vitamin or mineral's public health significance should be the key factor in mandatory labeling (58 FR 2079 at 2106).

In this section of the proposed rule, we discuss essential vitamins and minerals that are not expressly required to be declared by statute (referred to as ''non-statutory''). We are using our discretion, as described in this document, to propose mandatory declaration of certain non-statutory essential vitamins and minerals and voluntary declaration of others. Our tentative conclusions are based on an assessment of scientific data available for these nutrients, and consideration of the factors discussed in section I.C. (explained in this document). The RDIs that we are proposing for the declaration of vitamins and minerals are discussed in section II.I.

We conducted an analysis of available data to determine the public health significance of non-statutory essential vitamins and minerals. The 2010 DGA identified nutrients of public health concern for the general U.S. population using criteria that are similar to factors that FDA considered in its own analysis (Ref. 6). The factors and the evaluation process used in our analysis, discussed in greater detail in Ref. 48, incorporate whether a DRI (i.e., RDA or AI) is based on a chronic disease risk (e.g., osteoporosis), a health-related condition (e.g., high blood pressure), or a nutrient deficiency with clinical significance (e.g., low iron storage leading to iron deficiency anemia) and whether national survey data on nutrient intake, and/or, when available, biomarkers of nutrient status, provide evidence of inadequate intakes in the general healthy U.S. population (4 years of age and older). Furthermore, we consider whether a substantial prevalence exists in the general population of a chronic disease, health-related condition, or nutrient deficiency with clinical significance that was linked to the particular nutrient (e.g., potassium and risk of high blood pressure).

To estimate the prevalence of nutrient adequacy or inadequacy in the U.S. population, we compared dietary intake data with the EAR or AI (whichever is established by the IOM for a particular nutrient) (Ref. 96) and, when reliable biomarkers of nutritional status were available, we compared the biomarker survey data with the data on adequacy of nutrient intake. The use of reliable status biomarker data provides assessments of nutrient status, independent of subjective factors associated with assessing nutrient intake, such as underreporting of food intake (Ref. 97 pp. 373, 513, 534, 602, and 606). In the 2007 ANPRM, we sought input on whether vitamin A, vitamin C, calcium, and iron are still considered to be of public health significance; and (2) whether there are other micronutrients of public health significance. We received several comments in response to these questions (Ref. 47).

Based on our analysis of data, and considering the factors for mandatory and voluntary declaration discussed in section I.C. and the comments received, as discussed in this document, we are proposing to: (1) With respect to essential vitamins and minerals that are currently required to be declared, retain mandatory declaration of calcium and iron and provide for voluntary declaration of vitamins A and C; and (2) with respect to essential vitamins and minerals that are permitted to be declared, require the declaration of potassium and vitamin D and retain voluntary declaration of others. We discuss these proposed changes in this document.

1. Essential Vitamins and Minerals That Are Mandatory

a. Calcium—Calcium content must be declared as a percent DV on the Nutrition Facts label (§ 101.9(c)(8)(ii)). In 1993, we required the declaration of calcium in nutrition labeling because: (1) There were a limited number of calcium-rich foods in the food supply; (2) calcium intakes in the United States were generally marginal; (3) adequate calcium intakes are needed to allow for

optimal bone mass development during childhood and young adulthood (55 FR 29487 at 29501); and (4) calcium was identified as a nutrient of public health significance in the 1990 IOM report (Ref. 95) and in other consensus reports (Refs. 88,93,94) (58 FR 2079 at 2106). In response to the 2007 ANPRM, many comments maintained that calcium is still considered a nutrient of public health significance, especially in bone development, and therefore should be retained as a mandatory nutrient on the Nutrition Facts label.

Our analysis of NHANES (2003–2006) data shows that usual calcium intakes among the U.S. population continue to be low. About 49 percent of individuals ages 4 years and older have usual calcium intakes from conventional foods below the EAR, and 37 percent have intakes from both conventional foods plus supplements below the EAR (table 1). The 2010 DGA, too, recognized that low intakes of calcium are a public health concern for the general U.S. population (Ref. 6). We are unable to consider biomarker data because sensitive biochemical indicators reflecting calcium nutritional status are lacking.

In setting DRIs for calcium, the IOM reviewed various endpoints (e.g., bone health, cancer, cardiovascular disease and diabetes), and bone health was the only endpoint with sufficient evidence to set a DRI (Ref. 22). Therefore, the IOM set age- and gender-specific DRIs based on the level of calcium intake consistent with bone accretion, achieving and maintaining bone calcium balance, minimizing the degree of bone loss, and reducing the risk of fracture in later stages of life (Ref. 22). The DRIs for calcium assume adequate intakes of vitamin D, a nutrient which is essential for promoting calcium absorption in the gut and for maintaining adequate calcium levels in the blood (Ref. 22). Building strong bones during childhood and adolescence can help prevent osteoporosis (the most common bone disease) later in life. Adequate calcium intakes are needed to allow for optimal bone mass development during childhood and young adulthood and to decrease rate of bone loss in adults (Ref. 22). An estimated 10 million Americans over 50 years of age have osteoporosis, while another 34 million are at risk and an estimated 1.5 million people suffer an osteoporotic-related fracture each year (Ref. 98). Furthermore, based on 2005–2006 NHANES data, about 5.3 million older men and women in the United States have osteoporosis at the femur neck, and 34.5 million more have osteopenia (low bone mass) in the femur neck (Ref. 99).

In addition, we independently reviewed data related to calcium intake and risk reduction of osteoporosis (§ 101.72) and authorized two health claims for this association, signifying calcium's critical role in the reduction of risk of this chronic disease in the general healthy population.

In view of the benefits of adequate calcium intake on bone health, reflected in the IOM's DRIs, relatively low intakes of calcium, and the high prevalence of osteoporosis and osteopenia among the U.S. population, we tentatively conclude that calcium is a nutrient of public health significance and its declaration continues to be necessary to assist consumers in maintaining healthy dietary practices. Therefore, consistent with the factors we consider for mandatory declaration of non-statutory nutrients (see section I.C.), we are not proposing any changes to the current requirement for declaration of calcium on the Nutrition Facts label, as specified in § 101.9(c)(8)(ii).

b. Iron—Iron must be declared as a percent DV on the Nutrition Facts label (§ 101.9(c)(8)(ii)). In 1993, we required the declaration of iron because (1) iron was identified as a nutrient of public health significance in a 1990 IOM report (Ref. 95) and in other consensus reports (Refs. 88,93,94); and (2) iron deficiency was a risk for certain segments of the U.S. population (i.e., young children, adolescents and women of childbearing age and pregnant women, especially those with low incomes) (58 FR 2079 at 2106). In response to the 2007 ANPRM, comments suggested retaining the mandatory declaration of iron because it is a nutrient of concern for women of childbearing age identified by the 2005 DGA (Ref. 36) and substantial numbers of adolescent females and women of childbearing age are iron deficient.

Our analysis of NHANES (2003–2006) intake data shows that about 3.5 percent of the population ages 4 years and older (excluding pregnant and lactating women) have inadequate iron intakes from conventional foods (i.e., an intake below the EAR), and about 3.3 percent have inadequate iron intakes from conventional foods and dietary supplements (table 1). Subpopulation analyses of these NHANES 2003–2006 data shows that about 11.2 percent of women of childbearing age (12 to 49 years of age) continue to have intakes below the EAR, from conventional foods only and 10.4 percent continue to have intakes below the EAR from conventional foods plus dietary supplements (table 1).

We also considered data for several status biomarkers related to iron nutrition, in addition to intake data. Serum ferritin is the major iron-storage compound and its concentration declines in the early stages of the development of iron deficiency (Refs. 100 and 101). Although low serum ferritin concentration is an indicator of early iron deficiency, it does not necessarily reflect the severity of iron depletion as it progresses (Ref. 101). In addition to determining serum ferritin, when relevant NHANES data were available, we also considered iron deficiency based on estimating stored body iron using the ferritin model and the body iron model (Ref. 102). Compared to the ferritin model, the body iron model is reported to produce lower estimates of prevalence of iron deficiency, better predict anemia, and be less affected by inflammation, although this model has some limitations (Ref. 103). Data from NHANES 1999–2002 for the general U.S. population showed a prevalence of iron deficiency, based on serum ferritin concentration (less than 15 nanograms (ng)/mL), body iron stores (based on the ferritin model), and iron deficiency anemia (defined as having iron deficiency and a low hemoglobin value) of 8.3, 6.5 and 1.9 percent, respectively (table 1). The IOM set age and gender specific DRIs (EARs and RDAs) based on factorial modeling, which included basal iron losses, menstrual losses, fetal requirements in pregnancy, increased requirements during growth for the expansion of blood volume, and/or increased tissue and storage iron (Ref. 100). Although the DRIs were not based directly on a chronic disease risk, iron deficiency and low iron stores over time will lead to iron deficiency anemia, an advanced stage of iron deficiency (Ref. 100). Anemia is associated with poor cognitive function, lower work performance, and low endurance in the general population; delayed psychomotor development in infants; and adverse pregnancy outcome (Ref. 100).

Relevant biomarker data were available from NHANES 2003–2006 for certain subpopulations such as women of childbearing age (12 to 49 years old). Analyses of these data showed that about 14 percent of women of childbearing age (12 to 49 years) had serum ferritin concentration less than 15 ng/mL, while 10 and 14.5 percent of women had inadequate stores of body iron based on the body iron model or ferritin model, respectively (table 1). In addition, about 4.7 percent of these women had iron deficiency anemia. Based on these prevalence rates, the absolute numbers of individuals with iron deficiency in women of

childbearing age using 2010 projected U.S. Census data translate into 7.2 or 11.6 million women of childbearing age (12 to 49 years of age) with inadequate iron stores based on body iron model or ferritin model, respectively. About 3.76 million of these women are considered to have iron deficiency anemia. Thus, iron continues to be of public health significance among women of childbearing age and pregnant women, who account for 26 percent of the general U.S. population.

Iron is also identified as a nutrient of public health significance in consensus reports. For example, Healthy People 2020 identified iron as a nutrient of public health significance among young children (1 to 4 years of age), women of childbearing age (12 to 49 years of age), and pregnant women, and announced an objective of a ten percent reduction in iron deficiency (using the body iron model) by the year 2020 (Ref. 104). Similarly, the 2010 DGA identified iron as a nutrient of concern among women capable of becoming pregnant and recommends choosing foods that supply heme iron, which is more readily absorbed by the body, additional iron sources, and enhancers of iron absorption such as vitamin C-rich foods (Ref. 6).

Given the importance of the role of iron in public health and continued significance of inadequate intakes and deficiency among women of childbearing age, a significant portion of the general healthy population, we tentatively conclude that iron is a nutrient of public health significance and its declaration continues to be necessary to assist consumers in maintaining healthy dietary practices. Therefore, consistent with the factors used for mandatory declaration of non-statutory nutrients (see section I.C.), we are not proposing any changes to the current requirement for declaration of iron on the Nutrition Facts label, as specified in § 101.9(c)(8)(ii).

c. Vitamin A—Vitamin A must be declared as a percent DV on the Nutrition Facts label (§ 101.9(c)(8)(ii)). In 1993, we required the declaration of vitamin A in nutrition labeling because (1) it was found in a limited number of foods within the food supply, and (2) a 1990 IOM labeling report (Ref. 95) identified vitamin A as a nutrient of potential public health significance and stated that certain subpopulations (children under 5 years of age) were still at risk of deficiency for this vitamin (58 FR 2079 at 2106). In response to the 2007 ANPRM, several comments recommended retaining the mandatory declaration of vitamin A, with some noting that the 2005 DGA identified it as a nutrient of concern (Ref. 36). Our analysis of intake data from NHANES 2003–2006 estimated that about 45 percent of the general U.S. population has usual vitamin A intakes from conventional foods below the EAR, and 34 percent have intakes from conventional foods plus dietary supplements below the EAR (table 1). However, the prevalence of vitamin A deficiency is not apparent. Only about 0.3 percent of those ages 6 years and older (excluding pregnant and lactating women) have a serum retinol concentration (a biomarker of vitamin A status) below 20 mcg/dL, a cutoff level that is used as an indicator of vitamin A deficiency (table 1) (Refs. 6 and 105). Because serum retinol levels are tightly regulated (homeostatically controlled) and do not always reflect total body status, using serum vitamin A for assessment of vitamin A status of individuals may not be useful (Ref. 101). However, the distribution of serum retinol levels in a population plus the prevalence of individuals with serum retinol levels below a given cutoff point may offer a better picture of the vitamin A status of a population (Ref. 101). Based on the analysis of distribution of serum retinol (NHANES 2003–2006), and the prevalence of those below the cutoff of 20 mcg/dL (0.3 percent), we estimated that the prevalence of vitamin A deficiency in the general U.S. population is not apparent.

The IOM recognized that vitamin A deficiency is rarely seen in the healthy U.S. population (Ref. 105). Furthermore, the specific age and gender DRIs (EAR and RDA) set by the IOM were based on the amount of dietary vitamin A required to maintain adequate liver stores in well-nourished subjects, rather than on a specific adverse public health endpoint (Ref. 105). The DRIs represent an amount that will assure vitamin A reserves to cover periods of increased needs such as stress and low vitamin A intake (Ref. 105). In addition, the 2010 DGA does not include vitamin A among the list of nutrients of public health concern for the general U.S. population (Ref. 6).

We also considered whether any changes are necessary to the provision for voluntary declaration of the portion of vitamin A activity derived from β-carotene, including whether its mandatory declaration is appropriate, as suggested by a comment. One comment noted that β-carotene intake, in particular, needs to be increased, but the comment provided no further explanation. The IOM did not set DRIs for β-carotene and other carotenoids due to limited scientific data (Ref. 18). The only known function of provitamin A carotenoids (i.e., α-carotene, β-carotene, and β-cryptoxanthin, which can be converted into vitamin A (retinol) in the body) in humans is to act as a source of vitamin A in the diet (Ref. 18). Furthermore, there is no clear evidence that suggests a protective association between dietary vitamin A or β-carotene and risk reduction of chronic diseases, such as cardiovascular disease and cancers (Ref. 105). In addition, evidence from large clinical trials suggests that β-carotene supplementation increases the incidence of lung cancer in a high-risk population (e.g., current or former smokers, asbestos workers) (Refs. 106 and 107). Further, the IOM introduced mcg of RAEs (retinol activity equivalents) as a new unit for expressing vitamin A activity to account for the reduced absorption for provitamin A carotenoids, including β-carotene (Ref. 105). This new unit, which would be the appropriate unit for declaring vitamin A on the Nutrition Facts label, takes into consideration vitamin A from all sources as well as the bioavailability of β-carotene and other provitamin A carotenoids (see section II.J.3.).

Our analysis demonstrates that, even though vitamin A intakes appear to be low, vitamin A deficiency based on an assessment of vitamin A status is rare in the U.S. population. The IOM did not set a quantitative intake recommendation for vitamin A based on a public health endpoint. Thus, we tentatively conclude that vitamin A is no longer a nutrient of public health significance for the general U.S. population. Therefore, consistent with the factors for declaration of non-statutory nutrients (see section I.C.), we are proposing to amend 101.9(c)(8)(ii) to no longer require, but to permit voluntary declaration of vitamin A on the Nutrition Facts label. However, vitamin A declaration would remain mandatory when vitamin A is added as a nutrient supplement or claims are made about it on the label or in labeling of foods. We are also not proposing to change the current provision for voluntary declaration of the percent of vitamin A that is present as β-carotene, as specified in § 101.9(c)(8)(vi). We request comment about whether there is an appropriate alternative analysis to application of the factors in section I.C. regarding the mandatory declaration of vitamin A.

d. Vitamin C—Vitamin C must be declared as a percent DV on the Nutrition Facts label (§ 101.9(c)(8)(ii)). In 1993, we required the declaration of vitamin C because (1) a 1990 IOM labeling report (Ref. 95) identified vitamin C as a nutrient of potential

public health significance and stated that certain subpopulations were considered at risk of deficiency (such as elderly individuals on inadequate diets and infants fed cow's milk exclusively) (58 FR 2079 at 2106), and (2) vitamin C was thought to play a role in promoting the intestinal absorption of non-heme iron, meaning that vitamin C in the same food as iron was considered to help prevent iron deficiency anemia, while excess vitamin C was considered to increase the risk of excessive iron absorption (55 FR 29487 at 29501, July 19, 1990). In response to the 2007 ANPRM about whether vitamin C is still a nutrient of public health significance, several comments recommended retaining the mandatory declaration of vitamin C, with some stating that vitamin C should be retained because it is a nutrient of concern identified by the 2005 DGA (Ref. 36), and is an enhancer of iron absorption for women of childbearing age.

Our analysis of NHANES 2003–2006 estimated that about 35 percent of the general U.S. population has usual vitamin C intakes below the EAR, from conventional foods only and 27.5 percent have intakes below the EAR from conventional foods and supplements (table 1). While the prevalence of inadequate intake is high, prevalence of vitamin C deficiency is not apparent in the U.S. population. Only about 6 percent of the general population had serum vitamin C concentrations below 11.4 micromoles (µmol)/L, a cutoff level that is used as an indicator of vitamin C deficiency (Ref. 97 p.534; Ref. 101). The EAR for vitamin C is based on estimates of body pool or tissue levels of vitamin C that are required for antioxidant protection with minimal urinary loss, not on a public health endpoint (Ref. 18).

The effects of vitamin C on risk of chronic diseases, such as cardiovascular disease or cancer, are not conclusive at this time (Ref. 18). We issued a letter of enforcement discretion on qualified health claims for vitamin C supplement intake and reduced risk of cancers, in which we concluded that there was no credible evidence on the risk reduction from vitamin C for most cancers (squamous cell cancer of the esophagus, colorectal, laryngeal, lung, oral cavity, pancreatic, pharyngeal, renal cell, and salivary gland cancers), and very limited evidence for an association between vitamin C supplement intake and gastric cancer (Ref. 108).

The 2010 DGA does not include vitamin C among the list of nutrients of public health concern for the general U.S. population (Ref. 6). However, the 2010 DGA recommends that women capable of becoming pregnant choose foods that are enhancers of iron absorption, such as vitamin C-rich foods (Ref. 6). While we agree that vitamin C enhances iron absorption, the prevalence of vitamin C deficiency in this subpopulation is not apparent. Only about 6 percent of this subgroup had serum vitamin C concentrations below 11.4 µmol/L (table 1).

Based on the previous analysis and information, we tentatively conclude that while vitamin C intakes are low, vitamin C deficiency is uncommon and vitamin C is no longer a nutrient of public health significance for the general U.S. population. Therefore, consistent with the factors we consider for declaration of non-statutory nutrients (see section I.C.), we are proposing to amend § 101.9(c)(8)(ii) to no longer require, but to permit voluntary declaration of vitamin C on the Nutrition Facts label. However, vitamin C declaration would remain mandatory when vitamin C is added as a nutrient supplement or claims are made about it on the label or in labeling of foods. We request comment about whether there is an appropriate alternative analysis to the application of the factors in section I.C. regarding the mandatory declaration of vitamin C.

2. Essential Vitamins and Minerals That Are Voluntary

a. Vitamin D—The declaration of vitamin D content in nutrition labeling is voluntary, unless vitamin D is added as a nutrient supplement or claims are made about it (§ 101.9(c)(8)(ii)). In 1993, we determined that vitamin D is not of particular public health significance in the United States because the human requirement for vitamin D could be met with sufficient exposure to sunlight and milk and other foods that were fortified with vitamin D. As a result, deficiencies in this vitamin were very rare (58 FR 2079 at 2107). In response to the 2007 ANPRM about what, if any, other micronutrients are of public health significance, several comments recommended vitamin D for mandatory declaration citing vitamin D inadequacy; relationship of vitamin D to chronic disease risk (e.g., rheumatoid arthritis, multiple sclerosis, and cancers, such as prostate, breast, lung, colon, and colorectal cancers); and the 2005 DGA, which identified vitamin D as a nutrient of concern for certain subpopulations (e.g., older adults, people with dark skin, and those exposed to insufficient ultraviolet band radiation) (Ref. 36).

The IOM set age and gender specific DRIs (EAR and RDA) for vitamin D at a level that would achieve and maintain serum 25-hydroxy vitamin D (25(OH)D) concentrations above a defined level (40 to 50 nanomoles (nmol)/L) in order to maintain bone health (Ref. 22). Vitamin D has a role in bone health through calcium absorption and uptake by bones (Ref. 22). In addition, in 2008, we authorized a health claim for calcium and vitamin D intake and reduced risk of osteoporosis (§ 101.72), signifying vitamin D's critical role in the risk reduction of this chronic disease.

Vitamin D can be obtained through dietary sources, such as fish (e.g., salmon, rockfish, and tuna) and shellfish, which are the primary natural food sources of vitamin D. FDA affirmed certain uses of vitamin D food ingredients as Generally Recognized as Safe (GRAS) with specific limitations as listed in § 184.1950. Under § 184.1(b)(2), an ingredient affirmed as GRAS with specific limitations may be used in food only within such limitations, including the category of food, functional use, and level of use. Any addition of the ingredient to food beyond the limitations set out in § 184.1950 requires either a food additive regulation or an amendment of § 184.1950. In this way, FDA can ensure that the vitamin D ingredients are added to food at safe levels. For detail on estimating dietary intake of substances in food, see FDA's Guidance for Industry: Estimating Dietary Intake of Substances in Food (Ref. 109). Under FDA regulations (§§ 172.380 (21 CFR 172.380) and 184.1950), vitamin D can be added in specific amounts to foods such as breakfast cereals, grain products and pastas, fluid milks and milk products, and calcium-fortified juices. As for any vitamin or mineral, when vitamin D is added to a food, the total amount per serving must be declared in the Nutrition Facts label. In addition to dietary sources of vitamin D from conventional foods and dietary supplements, vitamin D is synthesized in the skin following direct exposure to the sun. Therefore, sunlight exposure is an important source of vitamin D.

Serum concentration of 25(OH)D is widely considered as a biomarker of total vitamin D nutritional status and is recommended to be used for assessing vitamin D total exposure from all sources, including conventional foods, dietary supplements, synthesis from sun, and conversion of vitamin D from adipose stores in liver (Ref. 22). Our analysis of NHANES 2003–2006 data showed that about 18 percent of the U.S. population 4 years and older (excluding pregnant and lactating women) have serum 25(OH)D levels below the 40 nmol/L (a level set by IOM as equivalent to EAR), which indicates an increased risk of inadequate vitamin D exposure.

NHANES data collection normally does not include serum levels in the northern regions of the United States in the winter months, when one would expect a lower serum vitamin D level. Therefore, analysis of NHANES data may underestimate the prevalence of low serum vitamin D levels in the Unites States population. Analysis of NHANES 2005–2008 dietary data showed that, about 94 percent of the U.S. population have usual vitamin D intakes below the EAR from conventional foods only and 62 percent have intakes below the EAR from conventional foods and supplements (table 1). The IOM set the DRIs (e.g., EAR) assuming minimal sun exposure (Ref. 22).

Furthermore, approximately 24 percent of the U.S. population ages 4 years and older have serum 25(OH)D concentrations between 30 and 50 nmol/L, levels that indicate risk for inadequacy according to the IOM and CDC (Refs. 22 and 101). Approximately 32 percent of the U.S. population have serum 25(OH)D levels below 50 nmol/L (a level set by IOM as equivalent to RDA and associated with optimal benefit for nearly all the population) (Ref. 22). Also, about 8 percent have serum 25(OH)D levels below IOM's cutoff of 30 nmol/L and may be at increased risk of vitamin D deficiency. Vitamin D deficiency results in inadequate bone mineralization or demineralization of the skeleton including rickets, osteomalacia, and osteoporosis (Ref. 22). The 2010 DGA, too, highlighted vitamin D as a nutrient of concern for the U.S. population, in general, rather than for specific population groups alone (Ref. 6).

We do not agree with some comments that suggested that vitamin D intake should be mandatory on the label because of its relationship to disease risk reduction, generally. The IOM did not set DRIs for vitamin D based on its protective effect against diseases, such as cancers, cardiovascular disease, and diabetes, because the scientific evidence does not support a role other than that associated with bone health (Ref. 22).

In view of the benefits of adequate vitamin D intakes on bone health, reflected in the IOM's DRIs, data indicating inadequate intakes, poor vitamin D status, and high prevalence of osteoporosis and osteopenia (discussed previously in the calcium section, (Refs. 98 and 99) among the general U.S. population, we tentatively conclude that vitamin D is a nutrient of ''public health significance,'' as described in section I.C., and its mandatory declaration is necessary to assist consumers in maintaining healthy dietary practices. Therefore, consistent with the factors we consider for mandatory declaration of non-statutory nutrients (see section I.C.), we are proposing to amend § 101.9(c)(8)(ii) to require the mandatory declaration of vitamin D on the Nutrition Facts label. We request comment about whether there is an appropriate alternative analysis to the application of the factors in section I.C. regarding the mandatory declaration of vitamin D.

b. Potassium—The declaration of potassium content is voluntary, except when a claim is made about it (§ 101.9(c)(5)). In 1993, potassium did not meet our considerations for inclusion as a mandatory element of nutrition labeling because no quantitative intake recommendations were available in national consensus reports (58 FR 2079 at 2095). In response to our question in the 2007 ANPRM about what, if any, other micronutrients are of public health significance, several comments supported mandatory declaration of potassium on the Nutrition Facts label because the 2005 DGA identified it as a nutrient of concern (Ref. 36). One comment also pointed out that scientific evidence from three meta-analyses of over 30 clinical trials shows that high potassium intake is associated with reduced blood pressure in non-hypertensive and hypertensive individuals (Refs. 110 to 112).

Our analysis of data from NHANES 2003–2006 shows that the usual mean intakes of potassium from conventional foods only (2,644 mg/d) and from conventional foods plus dietary supplements (2,651 mg/d) are below the population-weighted AI of 4,622 mg/d. Where the mean usual intake is at or above the AI, we consider that there is probably a low prevalence of nutrient inadequacy in the population assessed. However, where the mean usual intake is below the AI, the population's prevalence of inadequacy cannot be estimated (Ref. 96). Therefore, the likelihood of nutrient inadequacy cannot be estimated. Only about 1.9 percent of the general population has usual potassium intakes above the AI from conventional foods only and 2.4 percent has intakes above the AI from conventional foods plus dietary supplements (table 1), indicating that the adequacy of intakes is very low. In the absence of a sensitive biochemical indicator of potassium nutritional status, we could not consider biomarker data to inform the determination of prevalence of potassium deficiency. However, the IOM set age- and gender-specific AIs for potassium based on risk of chronic disease. The AI was set at a level that would maintain blood pressure, reduce the adverse effects of sodium chloride intake on blood pressure, and reduce the risk of recurrent kidney stones (Ref. 21). According to the CDC, about one out of three U.S. adults has high blood pressure (Ref. 113).

In 2000, a FDAMA notification for a health claim about potassium, blood pressure, and stroke was submitted to us under section 403(r)(2)(g) of the FD&C Act (Ref. 114). We did not object to the notification and this meant that manufacturers could include the following claim ''Diets containing foods that are good sources of potassium and low in sodium may reduce the risk of high blood pressure and stroke,'' on the label or labeling of any food that meets the eligibility criteria described in the notification and meets the general requirements for health claims (§ 101.14(e)(6)). Thus, we recognize the importance of potassium in the risk reduction of these chronic diseases. The 2010 DGA also concluded that potassium is a nutrient of concern for the general U.S. population (Ref. 6).

In view of the benefits of adequate potassium intake in lowering blood pressure, reflected in IOM's DRIs, and data indicating low likelihood of potassium adequacy and high prevalence of hypertension among the general population, we tentatively conclude that potassium is a nutrient of public health significance for the general U.S. population and its declaration is necessary to assist consumers in maintaining healthy dietary practices. Therefore, consistent with the factors we consider for mandatory declaration of non-statutory nutrients (see section I.C.), we are proposing to amend § 101.9(c)(8)(ii) to require the mandatory declaration of potassium.

3. Other Essential Vitamins and Minerals

Several other essential vitamins and minerals, in addition to vitamin D and potassium, may be declared on the Nutrition Facts label, i.e., vitamin E, vitamin K, vitamin B_6, vitamin B_{12}, thiamin, riboflavin, niacin, folate, biotin, pantothenic acid, phosphorus, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, and chloride. In response to the 2007 ANPRM about what, if any, other micronutrients are of public health significance, several comments recommended mandatory declaration of these voluntarily declared essential vitamins and minerals: Vitamin E, folate, vitamin B_{12}, magnesium, and phosphorus. The reasons cited in

comments included: (1) The 2005 DGA identification of these nutrients as nutrients of concern (Ref. 36); (2) the need to provide information to patients; (3) the need to heighten consumer awareness; and (4) the intakes of these nutrients are inadequate in the U.S. population or subpopulations (Ref. 47).

Based on FDA's analysis of available data using the factors we consider for mandatory and voluntary declaration of non-statutory nutrients (see section I.C.) and comments received on essential vitamins and minerals that are currently voluntarily declared, we are not proposing any changes to the current provisions for voluntary declaration (for detailed information and the analysis of each of the vitamins and minerals see Ref. 115). We reviewed data related to the intake and status of nutrients where available standards allow for such calculations (table 1). Consistent with the factors (see section I.C.), essential vitamins and minerals (with the exception of potassium and vitamin D discussed previously) that are voluntarily declared should continue to be permitted to be voluntarily declared (Ref. 115). Therefore, we are not proposing any changes to the provisions for voluntary declaration of vitamin E, vitamin K, vitamin B_6, vitamin B_{12}, thiamin, riboflavin, niacin, folate, biotin, pantothenic acid, phosphorus, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, and chloride.

In addition, several comments recommended mandatory declaration of choline, which is currently not permitted to be declared on the Nutrition Facts label. Based on the factors we consider (see section 1.C.) and comments that asked us to provide for its declaration on the Nutrition Facts label (Ref. 115), we tentatively conclude that the voluntary declaration of choline is consistent with the factors we consider for voluntary declaration (table 1) and, therefore, we are proposing to permit the voluntary declaration of choline on the Nutrition Facts label.

4. Summary

In summary, based on an analysis of the factors FDA considered (as described in section I.C.), comments received, and other data and information set forth previously, FDA tentatively concludes that calcium, iron, vitamin D and potassium are nutrients of public health significance and their declarations on the Nutrition Facts label are necessary to assist consumers in maintaining healthy dietary practices. Calcium is considered a nutrient of public health significance due to the benefits of adequate calcium intake on bone health, and the relatively low intakes of calcium and the high prevalence of osteoporosis and osteopenia among the U.S. population. Iron is considered a nutrient of public health significance due to the continued inadequate intakes and deficiency (using relevant biomarker data) among women of childbearing age, who comprise a significant portion of the general healthy U.S. population. Although the DRIs for iron were not based on a chronic disease risk, iron deficiency and low iron stores over time will lead to iron deficiency anemia, an advanced stage of iron deficiency. Anemia is associated with poor cognitive function, lower work performance, and low endurance in the general population; delayed psychomotor development in infants; and adverse pregnancy outcome. Vitamin D is considered a nutrient of public health significance due to the benefits of adequate vitamin D intake on bone health, data indicating inadequate intakes and status (both from total exposure (serum data) and dietary intake data), and the high prevalence of osteoporosis and osteopenia among the U.S. population. Adequate intake of vitamin D is essential for promoting calcium absorption in the gut and for maintaining adequate calcium levels in the blood and thus promoting bone health. Potassium is considered a nutrient of public health significance due to the benefit of adequate intake of potassium in lowering blood pressure, reducing the adverse effects of sodium chloride intake on blood pressure and reducing the risk of recurrent kidney stones, and due to data indicating a low likelihood of potassium adequacy and a high prevalence of hypertension among the general U.S. population.

Although we continue to consider, consistent with our rationale put forth in 1993, that a vitamin or mineral's public health significance should be the key factor in mandatory labeling (58 FR 2079 at 2106), the proposed vitamins and minerals of public health significance (i.e., potassium, calcium, vitamin D, and iron) and dietary fiber (listed on the label as a nutrient to increase) do represent various food groups. For example, potassium is found in most food groups, especially vegetables, fruits, and milk and milk products. Milk and milk products contribute substantially to calcium intake. Sources of heme iron include lean meat, poultry and seafood, while the non-heme sources of iron come from plants foods, such as beans, lentils and spinach. Although vitamin D is mostly found in fortified foods in the United States, such as fluid milk and some milk products (e.g., yogurt), its natural sources include seafood. Dietary fiber is generally found in most fruits and vegetables, whole grains and beans.

The 2010 DGA recommends increasing the amount and variety of seafood in place of some meat and poultry (Ref. 6). As mentioned, fish/seafood is the primary source of naturally occurring vitamin D (Ref. 6). Data shows that fish/seafood only provides 9 percent of the total vitamin D intake in the United States (Ref. 116). Therefore, we tentatively conclude that the proposed mandatory declaration of vitamin D on the label would allow consumers to understand the relative significance of the contribution of vitamin D from natural food sources, in addition to fortified foods, in the context of the total daily diet and also is necessary to assist consumers in maintaining healthy dietary practices.

We are not aware of any unintended consequences of mandatory listing, in general, of vitamins and minerals. We invite comment, including the submission of data and information on whether the mandatory listing of vitamins and minerals somehow impacts food fortification practices. We invite comment on the proposed mandatory declaration of vitamin D, potassium, calcium and iron on the label, including how we consider the public health significance of each. We also invite comment on whether the presence of these nutrients presents concerns related to label space or the need for consumer education.

TABLE 1—PREVALENCE OF ADEQUACY AND INADEQUACY (FROM CONVENTIONAL FOODS AND WATER) AND TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENT) AND STATUS BIOMARKERS FOR ESSENTIAL VITAMINS AND MINERALS AMONG THE U.S. POPULATION, AGES 4 YEARS AND OLDER

[Excluding pregnant and lactating women] [1]

Nutrients	Weighted EAR/AI [3]	Usual nutrient intake [2]				Status biomarkers	
		% Below weighted EAR [4]		% above weighted AI [5] (mean intake)		Biomarker cutoff	% Below cutoff
		Food	Food plus supplement	Food	Food plus supplement		
Vitamins							
Choline (NHANES 2005–2008).	460 mg (AI)			10 (mean = 311 mg).	10 (mean = 312 mg).	NA	NA
Folate	304 mcg DFE	8.7	7.3			Serum folate < 2 ng/mL.	0
						RBC folate < 95 ng/mL	0.26
						Women 12–49 yrs	
						Serum folate < 2 ng/mL	0
						RBC folate < 95 ng/mL	0.36
Niacin [6 7]	11 mg NE	2.1	1.7			NA	NA
Riboflavin [6 7]	0.9 mg	1.5	1.3			NA	NA
Thiamin [6 7]	0.9 mg	5.6	3.8			NA	NA
Vitamin A	531 mcg RAE	45	34			Serum A < 20 mcg/dL	0.3 [8]
Vitamin B_6 [6 7]	1.1 mg	9.4	7.3			NHANES 2005–2006 < 20 nmol/L.	10
Vitamin B_{12}	1.9 mcg	2.3	2.2			Serum B_{12} < 200 picograms (pg)/mL.	2.0
						19–50 yrs	0.7–2.5
	2 mcg (51 yrs and older).	Women 51 yrs and older. 6.4–7.5 Men 51 yrs and older 0.6–0.7				51 yrs and older	3.3–5.2
Vitamin C	61 mg	35	27.5			Serum C < 11.4 μmol/L.	6.1 [8]
		Women 12–49 yrs.	Women 12–49 yrs.			Women 12–49 yrs	6.00
		41	30				
Vitamin D	10 mcg	93.7 (NHANES 2005–2008).	62 (NAHNES 2005–2008).			Serum 25 (OH)D: <40 nmol/L.	17.6
						30–50 nmol/L	24
						< 30 nmol/L	8.3
Vitamin E	11 mg α-tocopherol.	92	64			Serum E < 11.6 μmol/L.	0.9 [8]
Vitamin K [6 7]	95 mcg (AI)			27.2 (mean = 82.9 mcg).	30.9 (mean = 88 mcg).	NA	NA
Minerals							
Calcium	885 mg	49	37			NA	NA
Copper [6 7]	0.7 mg	5.2	4.9			NA	NA
Iron (probability approach method) [9].	See footnote 3	3.5	3.3			NHANES 1999–2002 [10].	
						Serum ferritin < 15 mcg/L.	8.3
						Ferritin model	6.5
						Anemia	1.9
						Women, 12–49 yrs NHANES 2003–2006:	
		Women 12–49 yrs.	Women 12–49 yrs.			Serum Ferritin < 15 mcg/L	14
		11.2	10.4				10
						Body Iron model	14.5
						Ferritin Model Anemia	4.7
Iodine [6 7]	91 mcg	2.3 [11]	2.3			Urinary iodine NHANES 2007–2008:	

TABLE 1—PREVALENCE OF ADEQUACY AND INADEQUACY (FROM CONVENTIONAL FOODS AND WATER) AND TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENT) AND STATUS BIOMARKERS FOR ESSENTIAL VITAMINS AND MINERALS AMONG THE U.S. POPULATION, AGES 4 YEARS AND OLDER—Continued

[Excluding pregnant and lactating women][1]

Nutrients	Weighted EAR/AI[3]	Usual nutrient intake[2]				Status biomarkers	
		% Below weighted EAR[4]		% above weighted AI[5] (mean intake)		Biomarker cutoff	% Below cutoff
		Food	Food plus supplement	Food	Food plus supplement		
						<50 ng/mL[12]	8.7[8].
						<100 ng/mL[13]	Median = 165 ng/mL.
Magnesium	283 mg	56	53	.....	.....	NA	NA.
Phosphorus	640 mg	3	2.6	.....	.....	NA	NA.
Potassium	4,622 mg (AI)	.....	.....	1.9 (mean = 2,644 mg).	2.4 (mean = 2,654 mg).	NA	NA.
Selenium[6 7]	43 mcg	1.4	1.1	.....	.....	NA	NA.
Zinc[6 7]	7.7 mg	13.4	9.1	.....	.....	NA	NA.

NA = Data is not available in NHANES; mg = milligrams; mcg = micrograms; DFE = Dietary folate equivalents; NE = Niacin equivalents; RAE = Retinol activity equivalents.

[1] All prevalence of nutrient adequacy or inadequacy and status biomarker data is based on NHANES 2003–2006 unless otherwise is reported. All data analysis are based on ages 4 years and older (excluding pregnant and lactating women), unless reported otherwise.

[2] Usual nutrient intake distributions from conventional foods or conventional foods plus supplements are determined using the National Cancer Institute statistical method for all nutrients except iron (see footnote 9 to this table and Ref. 48).

[3] Weighted Estimated Average Requirement (EAR) and Adequate Intake (AI) for all nutrients (except iron) are based on the U.S. population ages 4 years and older using U.S. Census Bureau, Population Projection for 2005, Middle Series Data (NP–D1–A) (*Ref. 48,117*). For iron, the published IOM tables (tables I–6 and I–7) of probability of iron requirement distribution were used (Ref. 100).

[4] EAR cut-point method used to compare usual nutrient intakes to the EAR to determine the prevalence of nutrient inadequacy.

[5] For nutrients with an AI, prevalence of nutrient adequacy was determined when mean usual nutrient intakes are at or above the AI or based on the percent of those above the AI.

[6] The Agency did not receive any comments for these nutrients (which voluntary declaration is permitted) in response to the 2007 ANPRM. In addition, dietary intake or status biomarker data were not provided in the NHANES database for chromium, biotin, pantothenic acid, molybdenum, manganese and chloride and, therefore, these nutrients are not listed in this table.

[7] The DRIs for these nutrients were not based on a public health endpoint (e.g., chronic disease).

[8] Ages 6 years and older.

[9] Probability approach method was used to determine the prevalence of nutrient inadequacy for iron. The PC–SIDE software developed by the Iowa State University was used to determine the usual intake distribution for iron.

[10] Iron deficiency based on the ferritin model is calculated using 2 out of 3 cutoffs of iron deficiency variables (transferrin saturation, serum ferritin, and erythrocyte protoporphyrin). Iron deficiency based on the iron body model is calculated from the log ratio of transferrin receptor to ferritin. Anemia was based upon iron deficiency criteria (ferritin model) and a low hemoglobin level. NHANES 1999–2002 did not measure transferrin receptor, therefore body iron model could not be analyzed for the general population (ages 4 years and older). NHANES 2003–2006 did not measure all iron biomarkers for all ages (4 years and older), thus serum ferritin, body iron model or ferritin model could not be analyzed for all ages during this time period.

[11] Iodine nutrient intake data are calculated from the Total Diet Study 2003–2008 and intake data are calculated from NHANES 2003–2008 (*http://www.nutrientdataconf.org/PastConf/NDBC36/7–3_Juan_NNDC2012.pdf*).

[12] One criterion for iodine adequacy is that not more than 20 percent be below the urinary iodine cutoff of 50 ng/mL (indicator of moderate deficiency) (Ref. 118).

[13] WHO categories for median urinary iodine concentrations are widely used to define iodine intake (Ref. 118). Median intake levels below 100 ng/mL may indicate mild iodine deficiency.

I. Reference Daily Intakes for Vitamins and Minerals

1. Need To Update RDIs

RDIs used to calculate the percent DVs for vitamins and minerals that are required or permitted to be declared on the Nutrition Facts label are codified in § 101.9(c)(8)(iv). We established the RDIs in 1993 and in 1995, and explained our rationale and relevant considerations during those rulemakings (58 FR 2079; 60 FR 67164; see also Ref. 1). We noted specifically that the purpose of establishing RDIs for vitamins and minerals was to provide ''label reference values'' intended to help consumers to understand nutrient levels in the context of the total daily diet, to compare foods, and to plan general diets (58 FR 2206 at 2213). We recognized that nutritional needs vary considerably among consumers, but noted that no other viable option existed other than a single reference value (58 FR 2206 at 2213). Thus, RDIs are intended as general food labeling reference values and are not intended to represent dietary allowances for individuals (55 FR 29476 at 29478). While RDIs are not precise values for certain age and sex groups, they function as an overall population reference to help consumers judge a food's usefulness in meeting overall daily nutrient requirements or recommended consumption levels and to compare nutrient contributions of different foods (55 FR 29476).

IOM reports published since 1997 provide new information for our use in reconsidering the RDIs. The DRIs revised many of the previously set RDAs for vitamins and minerals. Four types of DRIs are relevant to the discussion on RDIs for vitamins and minerals: EAR, RDA, AI, and UL. We describe each of these DRIs in section I.B.2. According to the new DRI reports, some nutrients that had RDAs now have an AI because it was determined that data were not sufficient to set a new RDA (e.g., vitamin K), whereas others that had ESADDIs now have either an RDA (copper and molybdenum) or an AI (manganese, fluoride, and chromium).

The IOM Labeling Report (Ref. 25) recommended that FDA use a population-weighted EAR or, in its absence, a population-weighted AI as the basis for establishing DVs for vitamins and minerals. In developing these recommendations, the IOM

indicated that the reference values on food labeling are to enable consumers to compare the nutrient content of different food products and to determine the relative contributions of a food to an overall health promoting diet. The IOM Labeling Committee did not consider that the information in nutrition labeling is used to plan individual diets. The IOM recommended that the DVs should be based on a population-weighted value of the EAR for the different life stage and gender groups so that the DVs are representative of the various population groups in proportion to their contribution to the overall population. A DV defined this way would represent a central value of the requirements of the population, with individual requirements varying around this value. The IOM Labeling Committee further stated that the EAR represents the most accurate representation of the true contribution of food to total nutrient needs of the general population, whereas the RDA provides an exaggerated impression of Americans' daily needs and, thus, would systematically under-represent the true contribution of an individual food to many consumers' needs. The IOM Labeling Committee concluded that the EAR is the best estimate of any given individual's requirements, because the EAR is the median of the estimated distribution of requirements for a particular life stage and gender group. Therefore, the IOM Labeling Committee stated that setting the DV at the EAR is most likely to help individuals understand nutrition information about vitamins and minerals on the Nutrition Facts label in the context of their total daily diet. The IOM Labeling Committee further recommended that, in the absence of an available EAR, a population-weighted AI should be used as the basis for a DV.

The IOM Dietary Planning Report noted that intake goals (i.e., RDAs) should be translated into dietary plans to help individuals choose foods that will make up a healthful diet. The IOM Dietary Planning Report gave several examples of dietary plans such as the Nutrition Facts label, United States Food Guide Pyramid and the *Dietary Guidelines for Americans* that are intended to help consumers choose foods that are part of a healthful diet (Ref. 26). This report noted that when food guides such as those mentioned previously are used, reference standards for nutrients, such as RDAs, are implicitly used in planning individual diets (Ref. 26). The recommendations in the IOM Labeling Report and the IOM Dietary Planning Report have been the subject of much debate in the scientific community, and several review articles about the basis for selecting the DRI values that are most appropriate for setting DVs (i.e., RDIs) have been published in scientific journals (Refs. 119 to 126).

The 2007 ANPRM asked for public comment on whether the DV should be based on an EAR or RDA; how AIs should be used for determining DVs for vitamins and minerals without an EAR or RDA; and whether DVs should be based on a population-coverage or population-weighted approach. We received several comments both on the overall approach for setting the RDIs and on the DRIs for specific vitamins and minerals (Ref. 47).

We tentatively conclude that the existing RDIs for vitamins and minerals should be revised based on the DRIs set by the IOM that reflect the most current science regarding nutrient requirements. Our consideration of the DRIs, relevant recommendations, and comments received in updating the RDIs is presented in this document.

2. Approach to Setting RDIs: EAR Versus RDA

The percent DV advises the consumer how much of the recommended intake of that nutrient is provided by the food (58 FR 2206 at 2213). The DV for the nutrient, on which the percent DV declaration is based, is not to be interpreted as a precise recommended intake level for an individual; it is for use as a general guide or reference value that can help the consumer judge a food's usefulness in meeting overall daily nutrient requirements or recommended consumption levels and to compare nutrient contributions of different foods (55 FR 29476). We established the RDIs for vitamins and minerals based primarily on RDAs, and using other available recommendations for those vitamins and minerals for which an RDA was not established (55 FR 29476; 58 FR 2206; 60 FR 67164). Overall, comments to the 2007 ANPRM supported continuing to use the RDA as the basis for the DVs for vitamins and minerals, whereas some other comments supported using the EAR instead (Ref. 47).

Considering the purpose of the DV, and for the reasons explained in this document, we tentatively conclude that RDAs, when available, continue to provide the most appropriate basis for establishing RDIs. RDAs are available for calcium, copper, folate, iodine, iron, magnesium, molybdenum, niacin, phosphorus, riboflavin, selenium, thiamin, vitamins A B_6, B_{12}, C, D, and E, and zinc (Refs. 16 to 19,22).

The EAR, by definition, is the median requirement that is most likely to be close to an individual's actual needs within a particular life stage and gender group, with the needs of half of the individuals within that group falling above or below the EAR. The EAR is a quantitative intake recommendation that is used to derive target nutrient intake goals for the planning of diets for groups, but is not used as a target intake goal for individuals. Examples of planning for groups include planning diets in an assisted living facility for senior citizens or planning menus for a school nutrition program (Ref. 26). However, the EAR is not intended to be a target intake level for individuals because an individual does not know how their needs relate to the EAR. While the RDA may not be the best estimate of any given individual's nutrient requirement, which is usually unknown, the RDA was developed as a target intake level for individuals and is designed to meet the nutrient needs of practically all (97 to 98 percent) individuals within a life stage and gender group. Therefore, if the RDI were to be based on the EAR, the RDI would not meet the daily nutrient requirements for some consumers and understate target intake levels. In contrast, an RDI that is based on a RDA would meet the daily nutrient requirements for the majority of all individuals 4 years of age and older. As we explained during the NLEA rulemaking, while RDIs are not precise values for specific age and sex groups, they function as an overall population reference to help consumers judge a food's usefulness in meeting overall daily nutrient requirements or recommended consumption levels and to compare nutrient contributions of different foods (55 FR 29476). An RDI based on the RDA would mean that a product with 100 percent of the DV would have a higher probability of meeting an individual's nutrient needs than if the RDI was based on the EAR.

In addition, consumers have indicated that they use the label, among other things, to make dietary judgments about a food and to plan meals. Our 2008 Diet and Health Survey reported that, among consumers who use the label when they buy a product for the first time, 62 percent often or sometimes use the label to help in meal planning; 85 percent often or sometimes use the label to get a general idea of the nutritional content of the food; and 90 percent often or sometimes use the label to see how high or low the food is in things like calories, salt, vitamins, or fat (Ref. 41). A series of surveys conducted by the

International Food Information Council over the past several years also showed that approximately 65 percent of respondents used the Nutrition Facts label to decide whether to purchase or consume a food, and different individuals focus on different aspects of the label (e.g., calories, fat, or sodium) (Refs. 127 to 130).

We recognize that the recommendations of the 2003 IOM Labeling Report (Ref. 25) differ from the conclusions of the 2003 IOM Planning Report (Ref. 26). The IOM Labeling Report recommends using the EAR as the basis for developing DVs, whereas the IOM Planning Report indicated that the RDAs are appropriate targets for nutrient intakes for individuals. Inadequate intakes of some nutrients continue to be of public health significance, as noted by the 2010 DGA, which identified potassium, calcium, and vitamin D as nutrients of public health concern for general U.S. population and iron, folic acid, and vitamin B_{12} for certain segments of the population (Ref. 6). Based on these concerns of inadequate nutrient intakes, we find that the IOM Dietary Planning Report discussion supports the use of RDAs as the basis for establishing reference values for the purposes of food labeling. We continue to believe that given the greater coverage provided by the RDAs compared to the EARs, more individuals who use the percent DV information to select foods, compare foods, or plan diets will have greater assurance that their nutrient needs are being met (58 FR 2206 at 2213). RDAs and AIs, not EARs, are also cited in both the 2010 DGA and the USDA's Food Patterns, which were formerly known as the MyPyramid Food Patterns (Refs. 6 and 131). It is important to reiterate, however, that the RDIs are not the same as RDAs. The RDAs are recommended intake levels set for different age and gender groups, whereas the RDIs are intended to provide an overall population reference value for use in calculating the percent DV for the food label that can help consumers understand the nutritional content of foods in the context of the total daily diet (55 FR 29476 at 29481 and 58 FR 2206 at 2213).

Finally, we considered the potential for the RDIs to influence the vitamin or mineral content of foods, as suggested by several comments (Ref. 47). We are not persuaded that using an EAR will promote rational fortification and that using the RDA as the basis for the RDI will lead to overconsumption of vitamins and minerals, as was suggested by a comment (Ref. 47). FDA's principles of rational fortification are expressed in our fortification policy (§ 104.20). The addition of nutrients to foods is also governed by the requirements established in food standards of identity (21 CFR parts 130 to 169), nutrition quality guidelines (21 CFR part 104), substitute food regulations (§ 101.3(e)), and relevant specifications in food additive and food substance regulations (for example, folic acid (§ 172.345) and vitamin D (§§ 184.1950 and 172.380)). Consistent with our previous position (58 FR 2206 at 2210), we acknowledge that some manufacturers may fortify products to a specific percentage of the DV (e.g., 25 percent) and, to the extent this practice continues, nutrient levels in these foods would be affected by updated RDI values. Changing the basis from the current RDA approach to EARs would lower RDIs for many important nutrients. Regardless of whether the basis for the RDI is the RDA or EAR, manufacturers must comply with relevant regulations, and we urge them to follow the principles stated in our fortification policy. With respect to the concern for risk of excessive intakes of vitamins and minerals, we conducted a thorough analysis of available data to determine whether intakes of vitamins and minerals from both foods and dietary supplements exceed established ULs. An analysis of NHANES (2003–2006) data showed that usual total nutrient intakes (from both conventional foods and dietary supplements) at the 90th percentile do not exceed the ULs for most vitamins and minerals at any age group, except for zinc intake, vitamin A (preformed), iodine intake and folic acid intake among children 4 to 8 years (Ref. 132).

While there were a few exceptions, we have determined that such intakes are not of public health significance, and for some nutrients, are not a result of discretionary fortification. Therefore, we do not consider that the existing approach of using RDAs as the basis for RDIs leads to widespread overconsumption of vitamins and minerals. Moreover, about half of the proposed RDIs decrease when compared to the current RDIs (table 2) because many of the new RDAs and AIs established by the IOM are now lower than previously set RDAs or ESADDIs. Most of the RDIs proposed in this rulemaking that would increase (i.e., calcium, vitamin D, dietary fiber, and potassium) have also been proposed by FDA to be nutrients of public health significance for the general U.S. population (see section II.H.). Furthermore, none of the RDIs proposed in this rulemaking exceed the ULs for children 4 to 8 years of age (see tables 11a and 11b of the 2007 ANPRM).

Therefore, we tentatively conclude that RDAs, when available, provide the most appropriate basis for establishing RDIs. Using corresponding RDAs, proposed § 101.9(c)(8)(iv) would update the RDIs for calcium, copper, folate, iodine, iron, magnesium, molybdenum, niacin, phosphorus, riboflavin, selenium, thiamin, vitamins A, B_6, B_{12}, C, D, and E, and zinc, as shown in table 2. We request comment on our analysis and request data and factual information, including any additional data on what role, if any, the basis of the DV (EAR or RDA) has in consumption of nutrients above the UL and in discretionary fortification of foods.

3. Approach to Setting RDIs: Adequate Intake

We consider that, in the absence of RDAs, AIs represent the best estimate of adequate daily nutrient intake level based on available science and, as such, they provide an appropriate basis for selecting RDIs for those vitamins and minerals where available data are insufficient to determine RDAs. While the prevalence of inadequacy of a nutrient with an AI cannot be determined, AIs, like RDAs, are goals for nutrient intakes and AIs are expected to meet the nutrient needs of most healthy people. The IOM noted that usual individual intakes for a nutrient that are equal to or above the AI can be assumed adequate (Ref. 25). We acknowledge that there is more uncertainty with an AI than an EAR or RDA. However, in the case of nutrients without established RDAs, AIs reflect the most current scientific recommendations for intake (Ref. 25).

Moreover, using the AIs (where RDAs are not available) would ensure consistency in the basis of setting RDIs. We agree with comments to the ANPRM that RDIs for vitamins and minerals and consequently, percent DVs declared on the label, should have comparable meanings in order to enable consistent use. RDIs should not be based on average requirements (i.e., EAR) for some nutrients, but goals for intakes (i.e., RDAs) for others. AIs, in the absence of RDAs, would provide uniformity in setting RDIs for vitamins and minerals based on goals for their intakes. Most of the comments in response to the 2007 ANPRM supported the AI as the basis for the DV for those nutrients for which no EARs or RDAs have been established (i.e., biotin, chloride, choline, chromium, manganese, pantothenic acid, potassium, and vitamin K) (Ref. 47).

Therefore, we tentatively conclude that AIs provide an appropriate basis for selecting RDIs for those vitamins and minerals where available data are insufficient to determine RDAs. Accordingly, we are proposing to use AIs to set the RDIs for biotin, chloride, choline, chromium, manganese, pantothenic acid, potassium, and vitamin K.

4. Approach to Setting RDIs: Tolerable Upper Intake Level

The UL is the highest average daily intake level likely to pose no risk of adverse health effects for nearly all people in a particular group. As intake increases above the UL, potential risk of adverse effects may increase (Ref. 96). The UL can be used to estimate the percentage of the population at potential risk of adverse effects from excess nutrient intake (Ref. 25). However, the UL is not intended to be a recommended level of intake for vitamins and minerals where excess intake is not a concern, as there is generally (with the exception of folate in the prevention of neural tube defects) no established benefit for consuming amounts of nutrients above the RDA or AI (Ref. 96). Therefore, we do not consider the UL to be an appropriate basis for setting RDIs. However, as the IOM noted, ULs can be used to plan diets to ensure usual intakes of vitamins and minerals are below the UL for individuals or to plan diets for groups to minimize the proportion of the population at risk of excess nutrient intake (Ref. 25).

Therefore, we tentatively conclude that the UL does not provide an appropriate basis for establishing RDIs for vitamins and minerals. As noted previously (sections II.I.2. and II.I.3.), we tentatively conclude that the RDAs and, for nutrients where an RDA has not been established, AIs are the most appropriate quantitative intake recommendations for setting RDIs that can help consumers to plan general diets and understand the nutritional content of the foods they buy in the context of the total daily diet.

5. Approach to Setting RDIs: Population-Weighted Versus Population-Coverage

As discussed in the 2007 ANPRM, we set the RDIs based on a population-coverage approach, after concluding that this approach was more appropriate than a population-weighted approach, in part, so that vulnerable or at-risk groups would be sufficiently covered by the DV (72 FR 62149 at 62150). In determining an approach for setting RDIs in this proposed rule, we considered recommendations of current consensus reports, scientific review articles, and comments to the 2007 ANPRM. We presented a comparison of potential RDIs based on the various established DRIs and applying the population-coverage versus population-weighted approaches (see tables 11A and 11B of the 2007 ANPRM). As discussed in this document, we tentatively conclude that RDIs for vitamins and minerals should continue to be based on a population-coverage approach, using the highest RDA and, where an RDA has not been established, the highest AI.

We continue to agree with the rationale we set forth in 1993 that the population-coverage approach would sufficiently cover the vulnerable or at-risk groups (58 FR 2206 at 2211). Using the *highest* age and gender group RDA/AI value (i.e., a population-coverage approach) would avoid a higher risk of nutrient inadequacy among certain segments of the population because such a value is not derived from averaging the requirements for populations with lower needs (children and elderly) and those with greater needs (adolescents or adults). While incidences of deficiency diseases, such as pellagra, are now rare, intakes and status biomarkers of certain nutrients continue to be inadequate and of public health significance (see section II.H.). Although, for some nutrients, the population-coverage RDA approach would result in RDIs that are higher than the nutrient requirements for some consumers, RDA, by definition, is the target intake goal for nutrient intakes for individuals. In addition, as noted by one comment, unlike the population-weighted approach, the population-coverage approach would not be susceptible to changes in age demographics of the population. Therefore, any future revisions to RDIs would be based primarily on new scientific data related to nutrition or new dietary recommendations, and we would not need to revise RDIs solely based on the availability of new census data.

We also considered concerns that the population-coverage approach may lead to excessive intakes of nutrients. As in the case of the RDA approach (discussed previously), we find such concerns unfounded. Intakes of vitamins and minerals generally do not exceed the ULs under current RDIs that are based on a population-coverage RDA approach. In a few instances where total usual intakes of vitamins and minerals by children 4 to 8 years exceed corresponding ULs, we have determined that such intakes are not of public health significance, and for some nutrients, are not as a result of fortification (see accompanying Ref. 115). Furthermore, because many of the new RDAs and AIs established by the IOM are now lower than previously set RDAs or ESADDIs, the RDIs based on a population-coverage RDA for many nutrients will decrease (see table 2). We consider that, from a public health perspective, it is more important for the DV of vitamins and minerals to cover the intake needs of most consumers than it is for certain age and gender groups to be covered by the DV based on their proportion of the overall population. We are also not aware of any data indicating that use of a population-coverage approach versus a population-weighted approach results in increases in nutrient consumption. Therefore, we tentatively conclude that the population-coverage approach using the highest RDA or, in its absence, the highest AI continues to provide an appropriate basis for setting RDIs for vitamins and minerals. We are proposing to amend § 101.9(c)(8)(iv) to update RDIs as presented in table 2.

6. Declaration of Absolute Amounts of Vitamins and Minerals

Currently, mandatory nutrients and, when declared, voluntary nutrients must be declared by their absolute amounts in weight on the Nutrition Facts label, except for vitamins and minerals (other than sodium and potassium) (see § 101.9(d)(7)(i)). Thus, except when the linear label format is used (§ 101.9(j)(13)(ii)(A)(2)), listings for sodium and potassium (when declared) appear above the third bar and include both weight amounts and percent DVs, while vitamins A and C, calcium, and iron appear below the third bar and include percent DVs only. In the case of dietary supplements, both the quantitative amount by weight and percent DV (if available) are required to be declared on the Supplement Facts label (§ 101.36(b)(2)(ii) and (iii)). The 2007 ANPRM invited comment on whether the absolute amounts (e.g., grams or milligrams) of mandatory and voluntary vitamins and minerals should be included on the Nutrition Facts and Supplement Facts labels (72 FR 62149 at 62170). Most comments supported including the absolute amounts of these nutrients in addition to the requirement of listing percent DVs.

Research suggests that consumers, in general, and physicians who prescribe nutrient supplements for specific medical reasons have difficulty understanding how percent DVs relate to the absolute amounts of nutrients listed on the Nutrition Facts label (Ref.

133). More recently, in a report on labeling and fortification, the IOM recommended listing both absolute amounts (e.g., mg/serving) and percent DVs to assist consumers who have difficulty understanding how to interpret the percent DV declaration (Ref. 25). This IOM report also stated that absolute amounts declaration for all micronutrients would maintain consistency in how nutrients are declared on the Nutrition Facts label.

Based on the IOM's recommendation, research findings, and comments received, we are proposing to require that, similar to the requirement for dietary supplements (§ 101.36(b)(2)(i)(A)), all vitamins and minerals declared on the Nutrition Facts label must include their quantitative amounts (in addition to the requirement for corresponding percent DV declaration) (proposed § 101.9(c)(8)). We request comments on this tentative conclusion, and seek input on the appropriate placement of the quantitative amounts of nutrients on the Nutrition Facts label.

Further, with the proposed requirement for declaration of absolute amounts of vitamins and minerals, it is necessary to establish when a vitamin or mineral is present in an insignificant amount as well as increments for declaration of the quantitative amounts of vitamins and minerals on the Nutrition Facts label. In determining requirements for vitamins and minerals present in insignificant quantities, as well as increments for declared vitamins and minerals, we looked to requirements that have already been established for declaration of quantitative amounts of sodium and potassium, vitamins and minerals declared on the Supplement Facts label, and percent DVs.

Quantitative amounts in milligrams may currently be listed on the Nutrition Facts label for only two minerals: Sodium, a mandatory nutrient (§ 101.9(c)(4)) and potassium (§ 101.9(c)(5)), which may be voluntarily declared on the Nutrition Facts label. We require in § 101.9(c)(4) and (c)(5) that when a serving contains less than 5 mg of sodium or potassium, the value shall be declared as zero; when a serving contains 5 to 140 mg of sodium or potassium, the declared value shall be rounded to the nearest 5 milligram increment; and when a serving contains greater than 140 mg of sodium or potassium, the declared value shall be rounded to the nearest 10 mg increment. We are now proposing to establish an RDI for potassium. Since potassium will now have an RDI, rather than a DRV, we are proposing to remove the specific requirements for the declaration of potassium in § 101.9(c)(5), and replace the section with requirements for the declaration of fluoride. Requirements for the declaration of quantitative amounts of other nutrients with an established RDI discussed in this document will apply to potassium, if finalized.

The quantitative amounts by weight per serving of vitamins and minerals are also required to be declared on the Supplement Facts label (§ 101.36(b)(2)(ii)). The amounts of vitamins and minerals, excluding sodium and potassium, that are declared on the Supplement Facts label are the amount of the vitamin or mineral included in one serving of the product, using the units of measurement and levels of significance given in § 101.9(c)(8)(iv). Section 101.36(b)(2)(ii)(B) also specifies that for declaration of vitamins and minerals on the Supplement Facts label, zeros following decimal points may be dropped, and additional levels of significance may be used when the number of decimal places indicated is not sufficient to express lower amounts (e.g., the RDI for zinc is given in whole mg, but the quantitative amount may be declared in tenths of a mg).

For conventional foods, FDA specifies in § 101.9(c)(8)(iii) that the percent DV declaration for vitamins and minerals present at less than 2 percent of the RDI is not required for nutrition labeling, but may be declared as zero or by the use of an asterisk (or other symbol) that refers to another asterisk (or symbol) that is placed at the bottom of the table and that is followed by the statement ''Contains less than 2 percent of the Daily Value of this (these) nutrient (nutrients).'' Alternatively, the statement ''Not a significant source of (listing the vitamins or minerals omitted)'' may be placed at the bottom of the table of nutrient values.

For the purpose of determining when a vitamin or mineral is present in an insignificant amount, we tentatively conclude that the cutoff used for declaration of percent DV of less than 2 percent of the RDI (§ 101.9(c)(8)(iii)) can reasonably be applied to the declaration of quantitative amounts of vitamins and minerals on the Nutrition Facts label. We find that, if a product contains less than 2 percent of the RDI per serving, it is appropriate to express the declared vitamin or mineral quantitative amount as zero. The manufacturer may choose to use an asterisk (or other symbol), instead of a declaration of zero, that refers to another asterisk (or symbol) placed at the bottom of the table and that is followed by the statement ''Contains less than 2 percent of the Daily Value of this (these) nutrient (nutrients).'' Alternatively, the statement ''Not a significant source of (listing the vitamins or minerals omitted)'' (''not a significant source'' statement) may be placed at the bottom of the table of nutrient values.

As previously discussed, manufacturers have the option of using an asterisk (or symbol), instead of a declaration of zero, that directs the consumer to a statement indicating that the product is not a significant source of certain vitamins or minerals found at the bottom of the table of nutrient values when the calculated percent DV is less than 2 percent. We are concerned that it may be confusing to consumers if the manufacturer chooses to declare the quantitative amount of a vitamin or mineral as zero, and also chooses to use an asterisk referring the reader to a statement at the bottom of the label instead of in the percent DV column on the Nutrition Facts label. Therefore, we are proposing to require that, when a product contains less than 2 percent of the RDI for a vitamin or mineral, the manufacturer must declare the quantitative amount of the vitamin or mineral and the percent DV in the same manner. For example, if a serving of the product contains less than 2 percent of the RDI for calcium, both the quantitative amount and the percent DV for calcium may be listed as zero or an asterisk (or symbol) directing the consumer to a statement at the bottom of the label may be used in place of both the quantitative amount and the percent DV declaration for calcium.

We see no reason to provide different declaration increments for the Nutrition Facts label than those that have already been established for the declaration of quantitative amounts of vitamins and minerals on the Supplement Facts label in § 101.36(b)(2)(ii). Therefore, we tentatively conclude that, as with the declaration of quantitative amounts of vitamins and minerals on the Supplement Facts label, the levels of significance given in § 101.9(c)(8)(iv) should be used. Zeros following decimal points may be dropped, and additional levels of significance may be used when the number of decimal places indicated is not sufficient to express lower amounts (e.g., the RDI for zinc is given in whole mg, but the quantitative amount may be declared in tenths of a mg).

We acknowledge that for some vitamins and minerals with RDIs that contain three or four digits (e.g., phosphorous has a proposed RDI of 1,250 mg), a difference of 1 mg per serving may not be meaningful in terms

of health impacts. We request comment on whether quantitative amounts for nutrients with RDI values that contain three or four digits should be rounded, what the rounding increments should be, and data to support suggested rounding increments for such vitamins and minerals.

7. Issues Concerning Specific Vitamins and Minerals

In this section, we address issues related to RDIs for specific vitamins and minerals, including those received in comments to the 2007 ANPRM. We discussed the declaration of these vitamins and minerals in section II.H. (and in accompanying Ref. 115).

a. Vitamin K—There are three general forms of vitamin K: Phylloquinone (vitamin K_1), menaquinone (vitamin K_2), and menadione (vitamin K_3). For labeling purposes, there is no specific definition for vitamin K. The AIs for vitamin K are based on median intakes from NHANES data, which specifically represents the intake of phylloquinone, the major form of vitamin K in the diet (Ref. 134). The AI for vitamin K does not account for the intake of menaquinone or menadione because (1) NHANES data only includes phylloquinone content of foods, (2) the contribution of menaquinones, which can be produced by bacteria in the gut, to the maintenance of vitamin K status has not been established, and (3) menadione is a synthetic form of vitamin K that can be converted to a form of menaquinone in animal tissues. Because the AI for vitamin K is specific to phylloquinone, our proposed RDI for vitamin K, 120 mcg in proposed § 101.9(c)(8)(iv), that is based on the AI pertains only to phylloquinone.

b. Chloride—The RDI for chloride of 3,400 mg/d (§ 101.9(c)(8)(iv)) was established in 1995 and is based on the midpoint of the range (1,700 to 5,100 mg/d) of the ESADDI set in the 1980 RDA report (Ref. 135; 59 FR 427). The RDI for chloride is proportional to the DRV for sodium, considering that chloride losses tend to parallel losses of sodium and almost all dietary chloride comes from sodium chloride (60 FR 67164). The IOM set AIs and ULs for chloride on an equimolar basis to the AI and UL for sodium (Ref. 10). The 2007 ANPRM requested comment on whether (1) the DV for chloride should continue to be an RDI, or should be a DRV like the current DV for sodium and (2) the DV for chloride should be based on the same DRI (AI versus UL) as used to set a DV for sodium.

A few comments supported setting a DRV for chloride on an equimolar basis to the UL for sodium. We disagree because the UL for chloride was not based on adverse effects associated with excess intake of chloride. Furthermore, the UL was not based on a public health endpoint specific to chloride intake, which is a basis for setting a DRV. Because chloride is an essential mineral and has age- and gender-specific AIs, we tentatively conclude that chloride should remain a RDI and be based on population-coverage AI (see section II.I.5.). Therefore, we are proposing to set an RDI for chloride using the population-coverage AI of 2,300 mg/d (proposed § 101.9(c)(8)(iv)).

c. Potassium—The DRV of 3,500 mg/d for potassium was established based on its beneficial health effects (e.g., reduction in blood pressure) (55 FR 29487 at 29500). We established a DRV rather than an RDI because an RDA for specific age and gender groups was not established at that time. In 2005, the IOM established age- and gender-specific AIs for potassium based on data showing that potassium lowers blood pressure, blunts the adverse effects of sodium chloride intake on blood pressure, reduces the risk of recurrent kidney stones, and possibly decreases bone loss (Ref. 136). Because potassium is an essential mineral and age- and gender-specific AIs are available, we tentatively conclude that an RDI should be established in place of the DRV. Therefore, using the population-coverage AI, we are proposing to establish an RDI for potassium of 4,700 mg/d (proposed § 101.9(c)(8)(iv)).

d. Choline—FDA regulations do not establish a reference value for choline. In 1998, the IOM established age- and gender-specific AIs for choline based on intakes necessary to maintain liver function (Ref. 137). In 2001, we received a FDAMA notification under section 403(r)(2)(G) of the FD&C Act for the use of certain nutrient content claims for choline (Ref. 138). The FDAMA notification identified the DV for choline as 550 mg, which was based on the population-coverage AI for choline. Because the IOM established age- and gender-specific AIs for choline, we tentatively conclude that an RDI should be established. Thus, we are proposing in § 101.9(c)(8)(iv) to set an RDI of 550 mg for choline based on the population-coverage AI.

e. Vitamin B_{12}—We are proposing to lower the RDI for Vitamin B_{12} from 6 to 2.4 µg/day which reflects the population-coverage RDA for Vitamin B_{12}. The RDAs for Vitamin B_{12} were established by the IOM in 2000. The IOM noted that 10 to 30 percent of individuals older than 50 years of age are estimated to have atrophic gastritis with low stomach acid secretion which can decrease the bioavailability of naturally occurring vitamin B_{12} in food (Ref. 17). The bioavailability of crystalline vitamin B_{12} that is added to food is not altered in people with this condition. While the IOM set an RDA of 2.4 µg/d that can be met by consuming natural and crystalline forms of vitamin B_{12} and is for all adults, it was noted that it is advisable that individuals older than 50 years of age meet their RDA mainly by consuming foods fortified with crystalline vitamin B_{12} or vitamin B_{12}-containing supplements. If the RDI is lowered from 6 to 2.4 µg, it is possible that the fortification level in foods, such as ready-to-eat breakfast cereals, may be lowered, decreasing the overall amount of crystalline vitamin B_{12} in the food supply. Given the current level of fortification in food, less than 1 percent of men and 6.4 to 7.5 percent of women older than 50 years of age consume below the EAR for vitamin B_{12}, while only 3 to 5 percent of men and women in this age group have serum vitamin B_{12} levels that are considered to be inadequate (2003–2006 NHANES) (table 1). Reflecting the current food supply and regulations, data from NHANES (2003–2006) indicate that ready-to-eat cereal is the primary source of crystalline B_{12} added to food, providing approximately 14.6 percent of the total vitamin B_{12} consumed by individuals 51 years of age and older (Ref. 139). Dietary supplements appear to be an important contributor of vitamin B_{12} for this age group because the mean increase in vitamin B_{12} intake ranged between 2.5 and 4.7 µg/d when comparing intake from food only compared to food plus dietary supplements (NHANES 2003–2006) (table 1). We request comment and data on lowering the RDI for vitamin B_{12} to 2.4 µg.

TABLE 2—CURRENT AND PROPOSED RDIS FOR NUTRITION LABELING

[Based on a 2,000 calorie intake for adults and children 4 or more years of age]

Nutrient	Current RDIs	Proposed RDIs
Vitamins:		
Biotin	300 micrograms	30 micrograms.
Choline	550 [1] milligrams	550 milligrams.
Folate	400 micrograms	400 micrograms DFE.
Niacin	20 milligrams	16 milligrams NE.
Pantothenic acid	10 milligrams	5 milligrams.
Riboflavin	1.7 milligrams	1.3 milligrams.
Thiamin	1.5 milligrams	1.2 milligrams.
Vitamin A	5,000 International Units	900 micrograms RAE.
Vitamin B_6	2.0 milligrams	1.7 milligrams.
Vitamin B_{12}	6 micrograms	2.4 micrograms.
Vitamin C	60 milligrams	90 milligrams.
Vitamin D	400 International Units	20 micrograms.
Vitamin E	30 International Units	15 milligrams.
Vitamin K	80 micrograms	120 micrograms.
Minerals:		
Calcium	1,000 milligrams	1,300 milligrams.
Chloride	3,400 milligrams	2,300 milligrams.
Chromium	120 micrograms	35 micrograms.
Copper	2.0 milligrams	0.9 milligrams.
Iodine	150 micrograms	150 micrograms.
Iron	18 milligrams	18 milligrams.
Magnesium	400 milligrams	420 milligrams.
Manganese	2.0 milligrams	2.3 milligrams.
Molybdenum	75 micrograms	45 micrograms.
Phosphorus	1,000 milligrams	1,250 milligrams.
Potassium [2]	3,500 milligrams	4,700 milligrams.
Selenium	70 micrograms	55 micrograms.
Zinc	15 milligrams	11 milligrams.

RAE = Retinol activity equivalents; 1 RAE = 1 mcg retinol, 12 mcg β-carotene, or 24 mcg α- carotene, or 24 mcg β-cryptoxanthin.

NE = Niacin equivalents, 1 mg niacin = 60 mg of tryptophan.

DFE = Dietary folate equivalents; 1 DFE = 1 mcg food folate = 0.6 mcg of folic acid from fortified food or as a supplement consumed with food.

[1] A notification was submitted under section 403(r)(2)(G) of the FD&C Act in 2001 for the use of certain nutrient content claims for choline. These statements identify the daily value for choline as 550 mg. This value is based on the AI set by the IOM of the NAS in 1998 (Refs. 138 and 137).

[2] These minerals currently have a DRV and we are proposing to establish an RDI.

J. Units of Measure, Analytical Methods, and Terms for Vitamins and Minerals

As discussed in this document, the IOM set DRIs using new units of measure for vitamin A, vitamin E, and folate, as well as provided recommendations on the use of International Units (IUs), and expression of weight amounts for sodium, potassium, copper, and chloride (Refs. 17 to 19,25). The new units of measure for vitamin A, vitamin E, and folate affect how total amount of each nutrient is measured. The 2007 ANPRM asked several questions about these issues. We discuss our reconsideration of the units of measure, analytical methods, and terms used in declaration of specific vitamins and minerals in this section.

1. Sodium, Potassium, Copper, and Chloride

The absolute amount declaration for sodium, potassium, copper, and chloride must be expressed in mg (§ 101.9(c)(8)(iv) and (c)(9)). However, in the DRI reports for these nutrients, these nutrients are expressed as grams (sodium, potassium, chloride) or micrograms (copper) (Refs. 21,140). The IOM Labeling Committee recommended that the current requirement for units of measurement used in the declaration of these nutrients should be changed to be consistent with the units used in the new DRI reports. In response to the 2007 ANPRM that asked about whether the units of measure should be changed for these nutrients, we received comments that generally supported maintaining the current units of measure.

We considered the IOM Labeling Committee recommendations and comments received. When expressed as ''g'' units, rather than in ''mg'' units, significant differences in the amounts of sodium or potassium could appear inconsequential or less significant. For example, amounts declared as 0.2 g and 0.5 g may not seem as significantly different as 200 mg and 500 mg. Furthermore, units of measure for these nutrients have been in use since 1993 and consumers may be already familiar with the units used on the label. In addition, the use of milligrams for sodium and potassium is consistent with the 2010 DGA, which provides recommendations for sodium and potassium in milligram units (Ref. 6). We tentatively conclude that there is no advantage to change the units of measure for sodium, potassium, copper, or chloride from those currently in use. Thus, we are not proposing any changes to the units used for declaring these nutrients on the Nutrition Facts label.

2. Folate and Folic Acid

a. Units of Measure—The RDI for ''folate'' is listed in ''micrograms'' (§ 101.9(c)(8)(iv)). Folate represents the sum of naturally occurring folate and synthetic folic acid that has been added to foods. In 1998, the IOM set the RDA for folate expressed as mcg Dietary Folate Equivalents (DFE) (Ref. 141). The IOM Labeling Committee recommended that the units used for folate (mcg) in nutrition labeling should be consistent with the units in the new DRI report (mcg DFE) (Ref. 25). In response to the 2007 ANPRM, in which we asked for comment on this issue, a few comments supported retaining the current units (mcg) for folate and one comment noted

that the use of the term DFE on the label would be unfamiliar to consumers and could be confusing (Ref. 47). The IOM developed the new term, DFE, to account for the greater bioavailability of synthetic folic acid that is added to fortified foods or dietary supplements than folate that occurs naturally in foods (food folate). As defined by the IOM, mcg DFE is equivalent to mcg food folate + (1.7 × mcg synthetic folic acid) (Ref. 141). The current unit of measure (mcg) does not take into account the difference in the bioavailability of folate and folic acid. In addition, mcg DFE declaration would provide a more accurate representation of the amount of folate in foods that contain both naturally occurring folate and added folic acid. For example, the standards of identity for certain enriched foods require the addition of folic acid (21 CFR parts 136, 137, and 139) and, these foods contain both food folate and synthetic folic acid.

Therefore, we are proposing to amend § 101.9(c)(8)(iv) such that mcg DFE would be used to declare the amount of total folate (food folate and synthetic folic acid) on the Nutrition Facts label. Section 101.36(b)(2)(ii)(B) for the labeling of dietary supplements includes a reference to § 101.9(c)(8)(iv), which, as proposed, designates the units of measure for declaration of folic acid as mcg DFE units (see section II.L.).

We are aware that education efforts should be provided to assist with consumer understanding of the new ''equivalent'' units of measurement for folic acid. For example, using the new units, a dietary supplement that now declares 400 mcg of folic acid would declare the same amount as 680 mcg DFE or 170 percent of the proposed RDI. One option to help ensure consumer understanding would be to allow the declaration of the amount of folic acid in parenthesis similar to that permitted for the percent of vitamin A as β-carotene (§ 101.9(c)(8)(vi)). For example, for a conventional food that contains both folic acid and folate, the total mcg DFE could be declared and in parenthesis indicate how much is from folic acid. We invite comment on this approach.

b. Analytical Methods—Because we are proposing to amend the units used for declaring the sum of folate and folic acid, we considered the availability and limitations of analytical methods necessary to measure each nutrient separately for calculating mcg DFE. Available analytical methods (e.g., AOAC 960.46, 944.12, and 2004.05) cannot distinguish between naturally occurring folate in conventional food and folic acid that is added to conventional food products. There is a difference in folate activity between naturally occurring folate and synthetic folic acid that is added to fortify foods. When a conventional food product contains a mixture of naturally occurring folate and synthetic folic acid that has been added, available analytical methods do not allow for verification of the declared amount of mcg DFEs on the Nutrition Facts label. To calculate DFEs, it is necessary to know both the amount of folate and folic acid in the food product. Therefore, proposed § 101.9(g)(10) would require manufacturers to make and keep records to verify the amount of folic acid added to the food and folate in the finished food, when a mixture of both naturally occurring folate and added folic acid are present in the food. (See section II.N.) We invite comment on available scientifically valid methods that are capable of measuring folic acid and folate separately.

c. Terms to Declare Folate—''Folic acid'' or ''folacin'' are identified as synonyms of folate and can be added in parentheses after folate or can be listed without parentheses in lieu of ''folate'' on the Nutrition Facts label (§ 101.9(c)(8)(v)) or in the Supplement Facts label (§ 101.36(b)(2)(B)(*2*)).

Consistent with the proposed amendments related to the units of measure for folate that take into account the differences between folate and folic acid, we are reconsidering appropriate terms for declaration of folate content in foods and dietary supplements. We are proposing to (1) eliminate the synonym ''folacin'' specified in §§ 101.9(c)(8)(v) and 101.36(b)(2)(B)(*2*); (2) require, in proposed § 101.9(c)(8)(vii), that the term ''folate'' be used in the labeling of conventional foods that contain either folate only or a mixture of folate and folic acid; and (3) require that the term ''folic acid'' be used in the labeling of dietary supplements only. As proposed, conventional foods would not be permitted to use the term ''folic acid.''

3. Vitamins A, D, and E

International Units (IUs) are used for the labeling of vitamins A, D, and E on the Nutrition and Supplements Facts labels (§§ 101.9(c)(8)(iv) and 101.36(b)(2)(ii)(B)). The IOM Labeling Committee recommended that the units for these nutrients should be changed to be consistent with the units in the new DRI reports, i.e., μg Retinol Activity Equivalents for vitamin A, μg for vitamin D, and mg α-tocopherol for vitamin E (Refs. 18,22,25,140). In response to the 2007 ANPRM, several comments supported replacing IUs with mcg RAE for vitamin A, μg for vitamin D, and mg α-tocopherol for vitamin E. We agree that IUs should be replaced with units that are consistent with the DRIs. In addition, because DRIs form the basis for the proposed RDIs for these vitamins (see section II.I.), using the new units would also correspond with the proposed RDIs for vitamins A, D, and E. We discuss issues relevant to vitamin A and vitamin E units of activity in this document.

a. Units of Vitamin A Activity—The RDI for vitamin A is 5,000 IU (§ 101.9(c)(8)(iv)). Because the vitamin A activity of provitamin A carotenoids (e.g., β-carotene) is less than pre-formed vitamin A (retinol), the following conversions were developed: One mcg retinol = 3.33 IU vitamin A activity from retinol (Ref. 105) and 10 IU β-carotene = 3.33 IU retinol (Ref. 105). Because the vitamin A activity of β-carotene in dietary supplements is greater than β-carotene in food, ten IU of β-carotene is based on 3.33 IU of vitamin A activity × 3 (the relative vitamin A activity of β-carotene in supplements versus diets). The RDA in mcg Retinol Equivalents (RE) for vitamin A is equivalent to 1 mcg retinol or 6 mcg of β-carotene (i.e., carotene:retinol equivalency ratio of 6:1) and considers 3 mcg of dietary β-carotene to be equivalent to 1 mcg of purified β-carotene in supplements (i.e., a carotene:retinol equivalency ratio of 3:1).

A comment to the 2007 ANPRM noted that the IU for vitamin A does not take into account the recent information on the bioavailability of dietary provitamin A carotenoids that was used to define retinol activity equivalents (RAEs) for these carotenoids (Ref. 105). The unit of measure associated with the RDA for vitamin A is mcg RE. We agree that the IU for vitamin A does not reflect the carotene:retinol equivalency ratio. RAEs consider 6 mcg of dietary β-carotene to be equivalent to 1 mcg of purified β-carotene in supplements (i.e., a carotene:retinol equivalency ratio of 6:1) because more recent evidence suggests that the bioavailability of β-carotene is approximately half of what was previously considered for setting mcg RE. A change in units does not present any challenges to AOAC methods used for measuring provitamin A carotenoids and vitamin A in foods or dietary supplements.

Therefore, proposed § 101.9(c)(8)(iv) would change the units of measure for vitamin A to replace ''IU'' with ''mcg,'' representing mcg RAE. In addition, because the difference in the bioconversion of β-carotene to vitamin A will be accounted for with the proposed declaration of vitamin A content as ''mcg'' (representing mcg

RAE), we are not proposing to preclude the declaration of β-carotene in conventional foods as vitamin A. A corresponding change for dietary supplements is made in proposed § 101.36(b)(2)(i)(B)(*3*).

b. Units of Vitamin E Activity—The RDI for vitamin E is 30 IU (§ 101.9(c)(8)(iv)). Before 1980, one IU of vitamin E activity was defined as 1 mg of dl-α-tocopherol acetate by the U.S. Pharmacopeia (USP) (Ref. 142). After 1980, the IU was changed to the USP unit where one USP unit of vitamin E was still defined as having 1 mg of *all rac*-α-tocopherol acetate. Therefore there is no longer an IU for vitamin E (Ref. 142). One comment to the 2007 ANPRM said that the current RDI of 30 IU underestimates the amount of vitamin E naturally present in foods. We agree. The RDA for vitamin E is 15 mg/d of α-tocopherol (Ref. 143). α-Tocopherol is the only form of vitamin E that is maintained in blood and has biological activity. There are eight stereoisomers of α-tocopherol (*RRR, RSR, RRS, RSS, SRR, SSR, SRS, SSS*). Of the eight, only *RRR* α-tocopherol occurs naturally in foods. Commercially available vitamin E that is used to fortify foods and used in dietary supplements contains esters of either the natural *RRR*- or, more commonly, mixtures of the 8 stereoisomers (*all rac* α-tocopherol acetate). Four of the eight stereoisomers of α-tocopherol are not maintained in human plasma or tissues (*SRR, SSR, SRS,* and *SSS*). Thus, the new RDA for vitamin E is limited to the four *2R* stereoisomeric forms (*RRR, RSR, RRS* and *RSS*) of α-tocopherol (Ref. 143). These four forms of α-tocopherol are found in nonfortified and fortified conventional foods and dietary supplements. The *all rac*-α-tocopherol acetate in fortified foods or dietary supplements has one-half the activity of *RRR*-α-tocopherol naturally found in foods or the *2R* stereoisomeric forms of α-tocopherol. Unlike the IU, the new IOM measure of vitamin E activity, mg α-tocopherol accounts for this difference in activity between naturally occurring and synthetic vitamin E. Therefore, proposed § 101.9(c)(8)(iv) would change the units of measure for vitamin E to replace ''IU'' with ''mg,'' representing mg of α-tocopherol. Section 101.36(b)(2)(ii)(B) for the labeling of dietary supplements includes a reference to § 101.9(c)(8)(iv), which, as proposed, designates the units of measure for declaration of vitamin E as ''mg.''

Because of the difference in vitamin E activity between *all rac*-α-tocopherol acetate and *RRR*-α-tocopherol, AOAC methods or other validated analytical methods would be needed for individually measuring naturally occurring vitamin E (*RRR*-α-tocopherol) and *all rac*-α-tocopherol acetate in food products. Current AOAC methods cannot individually measure these two forms of vitamin E. In addition, it is necessary to know the amount of both *RRR*-α-tocopherol and *all rac*-α-tocopherol acetate in a food product to calculate vitamin E equivalents for declaration as mg α-tocopherol. It is not possible to determine the amount of *RRR*-α-tocopherol in a food product by subtracting the amount of *all rac*-α-tocopherol acetate from the total amount of vitamin E declared. Therefore, when a conventional food contains a mixture of *all rac*-α-tocopherol acetate and *RRR*-α-tocopherol, we are proposing to require manufacturers to verify the declared amount of both *all rac*-α-tocopherol acetate and *RRR*-α-tocopherol in the finished food product (proposed § 101. 9(g)(10)). (See section II.N.) We invite comment on available validated methods that are capable of individually measuring *all rac*-α-tocopherol acetate and *RRR*-α-tocopherol.

For the reasons stated previously, we are proposing to amend § 101.9(c)(8)(iv) to replace IUs for the RDIs for vitamin A, vitamin D, and vitamin E with mcg RAE for vitamin A, µg for vitamin D, and mg α-tocopherol for vitamin E.

K. Labeling of Foods for Infants, Young Children, and Pregnant or Lactating Women

The general labeling requirements for foods in § 101.9(c) apply to foods for infants, young children, and pregnant and lactating women with certain exceptions. For example, foods, other than infant formula, represented or purported to be specifically for infants and children less than 4 years of age are not permitted to include declarations of percent DV for the following nutrients: Total fat, saturated fat, cholesterol, sodium, potassium, total carbohydrate and dietary fiber (§ 101.9(j)(5)(ii)(A)). There are additional exceptions to labeling for foods, other than infant formula, represented or purported to be specifically for infants and children less than 2 years of age. For example, these foods are also not permitted to declare calories from fat, calories from saturated fat, saturated fat, polyunsaturated fat, monounsaturated fat and cholesterol on the Nutrition Facts label (§ 101.9(j)(5)(i)).

FDA regulations do not include DRVs or RDIs for nutrients, generally, for infants, children under 4 years of age, or pregnant and lactating women. However, there are requirements for a DRV for protein for children 4 or more years of age, and an RDI for protein for each of the following subpopulations: (1) Children less than 4 years of age; (2) infants; (3) pregnant women; and (4) lactating women (§ 101.9(c)(7)(iii)). In the preamble to the 1993 DRV/RDI final rule, we included a table listing RDIs for various nutrients for these subpopulations, based on the 1968 NAS RDAs (58 FR 2206 at 2213). These RDIs also appear in FDA's Food Labeling Guide (Ref. 144) and we are aware that some manufacturers use these RDIs in labeling foods represented or purported to be specifically for these subpopulations.

We are reconsidering the requirements for the labeling of foods, other than infant formula, represented or purported to be specifically for infants, children under 4 years of age, and pregnant and lactating women, in light of current recommendations in consensus reports and proposed changes to the Nutrition Facts label discussed in sections II.A. to II.J., and comments to the 2007 ANPRM. We are proposing various changes, which we discuss in this document.

1. Age Range for Infants and Young Children

FDA regulations use the age ranges ''less than 2 years of age'' and ''less than 4 years of age'' to establish labeling requirements for foods represented or purported to be specifically for infants and young children (§ 101.9(j)(5)). The 2007 ANPRM did not ask for comments on this issue, but several comments (Ref. 47) recommended that we change the current age categories to infants 7 to 12 months and young children 1 through 3 years (13 through 48 months), consistent with the age ranges used in the IOM's age-specific DRI recommendations.

In general, we consider it appropriate to adopt the same age categories as those used in the IOM DRIs for infants and children because our proposed DVs are based on these age-specific DRIs. With respect to the infant category, the nutritional requirements of infants 0 to 6 months should be met almost exclusively by breast milk or infant formula (Refs. 145 and 146). Therefore, regulations for the labeling of foods, other than infant formula, represented or purported to be specifically for infants 0 to 6 months of age are not necessary or appropriate. However, infants are transitioning to eating solid foods by 7 through 12 months. There are a number of foods in the marketplace identified for this age group. Therefore, we are proposing a separate category of foods represented or purported to be

specifically for infants 7 through 12 months.

With respect to children 1 through 3 years of age, using the DRI age range would result in infants no longer being the lower end of the age range in the category of infants and children less than 2 years and less than 4 years of age as specified in § 101.9(j)(5). Young children who are 1 year of age would be the lower end of the age range. Assigning DVs for children 1 through 3 years of age would ensure consistency with the 1 through 3 year toddler age category established for RACCs specified in § 101.12(a)(2). Moreover, because the growth velocity in height is most similar for children 1 through 3 years of age, we consider it appropriate to revise the age range to include children of these ages into a single category for food labeling purposes (Ref. 15).

Therefore, we are proposing to revise the exceptions for requirements for nutrition labeling provided in § 101.9(j)(5)(i) and the exception to the requirement for the format used for nutrient information on food labeling in § 101.9(d)(1) for foods represented or purported to be specifically for infants and children less than 4 years of age. Specifically, we are proposing to replace the current category of infants and children less than 4 years with infants 7 through 12 months and children 1 through 3 years of age.

2. Mandatory Declaration of Calories and Statutorily Required Nutrients

Currently, foods, other than infant formula, represented or purported to be specifically for infants and children less than 4 years must declare statutorily required nutrients, including calories, calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrate, sugars, dietary fiber, and protein. For foods, other than infant formula, represented or purported to be for infants and children less than 2 years, the declaration of certain statutorily required nutrients, which include calories from fat, saturated fat, and cholesterol, is not required or permitted (§ 101.9(j)(5)(i)).

a. Declaration of Saturated Fat and Cholesterol—One comment to the 2007 ANPRM noted that the diet of U.S. infants is nutritionally adequate with negligible risk of nutrient deficiency and recommended continuing to require the declaration of calories and the amount of total fat, total carbohydrate, dietary fiber, sugars, and total protein on the Nutrition Facts label of foods for infants. Another comment supported mandatory declaration of saturated fat on food products for children less than 2 years of age.

As discussed in section II.K.1., we are proposing new categories of infants 7 through 12 months and children 1 through 3 years of age. We are considering, in this proposed rule, whether there is a need to require or permit the declaration of calories from fat, saturated fat, and cholesterol in the labeling for foods represented or purported to be specifically for these subpopulations. In section II.A.1., we discuss our intent to revise § 101.9(c)(1)(ii) to no longer require and not permit the declaration of calories from fat on the Nutrition Fact label. Therefore, if these proposed changes are finalized, the exceptions in § 101.9(j)(5)(i) would no longer be needed.

With respect to saturated fat and cholesterol, we did not require or permit the labeling of any fat or fatty acid on foods represented or purported to be specifically for children less than 2 years because consensus reports noted the need for the higher percentage of calories from fat for this subpopulation and that nutrient guidelines on fats, cholesterol and calories for children less than 2 years of age is inappropriate (58 FR 2079 at 2150). A recent consensus report continues to recommend that fat intake in infants less than 12 months of age should not be restricted; however, there is no discussion or recommendation about not providing nutrient guidelines for fat and cholesterol to children under the age of 2 years (Ref. 146). While fat is still considered to be an important source of calories for infants and young children, recent evidence suggests that a diet with saturated fat less than 10 percent of calories and cholesterol intake less than 300 mg/d can safely and effectively reduce the levels of total and LDL cholesterol in healthy children (Ref. 146). This type of diet may have similar effects when started in infancy and sustained throughout childhood into adolescence (Ref. 146). Furthermore, the 2010 DGA recommended that Americans 2 years of age and older consume less saturated fatty acids and less than 300 mg/d of cholesterol (Ref. 6).

We tentatively conclude that, except for the declaration of calories from fat, the declaration of statutorily required nutrients that include saturated fat and cholesterol on the label of foods represented or purported to be specifically for infants 7 through 12 months and children 1 through 3 years of age should be mandatory because: (1) The declaration of calories and these nutrients is mandated by section 403(q) of the FD&C Act and we have no basis on which to not require or permit their declaration as discussed previously; and (2) these nutrients are essential in fostering growth and maintaining good health during a critical stage of human development and physiology (Ref. 147 p. 71) and, therefore, their mandatory declaration can assist in maintaining healthy dietary practices. Therefore, we are proposing to remove current § 101.9(j)(5)(i) and revise and re-designate current § 101.9(j)(5)(ii) as § 101.9(j)(5)(i).

We request comment on our tentative conclusions and any available relevant empirical research as to whether the proposed declaration of saturated fat and cholesterol for these subpopulations is likely to be confusing to consumers or otherwise result in restriction of fat intakes among infants 7 through 12 months or children 1 through 3 years of age.

Currently, foods consumed by pregnant and lactating women must declare statutorily required nutrients, including calories, calories from fat, total fat, saturated fat, cholesterol, sodium, total carbohydrate, sugars, dietary fiber, and protein. Women of reproductive age consume the same foods as the general population and, in general, continue consuming similar foods during pregnancy and lactation. We tentatively conclude that, except for the declaration of calories from fat, the declaration of statutorily required nutrients should be mandatory because the declaration of calories and these nutrients is mandated by section 403(q) of the FD&C Act and we have no basis on which to not require or permit their declaration as discussed previously.

Accordingly, we are proposing to require the mandatory declaration of calories, and the amount of total fat, saturated fat, *trans* fat, cholesterol, sodium, total carbohydrate, dietary fiber, sugars, and protein on foods represented or purported to be specifically for infants 7 through 12 months of age, children 1 through 3 years of age, and pregnant and lactating women, and permit the declaration of calories from saturated fat such that these nutrients would be subject to the same requirements applicable to foods for the general population.

A comment to the 2007 ANPRM requested that we permit the use of a footnote statement about not limiting fat intake on foods represented or purported to be specifically for infants and children less than 2 years to enable consumers to make informed choices, should the Agency decide to propose the mandatory declaration of saturated fat for infants and children less than 2

years. The comment noted that saturated fat should not be limited in the diets of children less than 2 years of age. The comment provided no consumer data about such a footnote statement. At this time, we are not proposing to require a footnote stating that total fat and other types of fat should not be limited in infants and children less than 2 years in response to this comment. However, we request comments and information on how consumers would understand and use the amount of saturated fat and cholesterol declared on the Nutrition Facts label, as well as on the need for an explanatory footnote to accompany the declaration of saturated fat and cholesterol, on foods represented or purported to be specifically for infants 7 through 12 months or children 1 through 3 years.

b. Percent DV Declaration—Currently, the percent DV declaration is not permitted on the food label for foods, other than infant formula, represented or purported to be specifically for infants and children less than 4 years (which includes infants and children less than 2 years) for total fat, saturated fat, cholesterol, sodium, potassium, total carbohydrate, and dietary fiber (§ 101.9(j)(5)(ii)). Percent DV is required for protein and vitamins and other minerals. We tentatively conclude that it is appropriate to require declarations of percent DV for those nutrients for which we are establishing a DRV or RDI for infants 7 to 12 months, for children 1 through 3 years of age, and for pregnant and lactating women (see the discussion in this document for the nutrients in each subpopulation for which FDA is establishing a DRV or RDI). This change is reflected in re-designated § 101.9(j)(5)(i). The percent DV, as discussed in section II.B.3., provides information in a manner which enables consumers to understand the relative significance of nutrition information in the context of a total daily diet.

One comment to the 2007 ANPRM suggested that the percent DV declaration for protein should be voluntary for all infant products, unless a claim is made for protein because protein intake and quality appear to be adequate for infants (Refs. 148 and 149). As we previously stated, protein is of critical importance in maintaining good health because it supplies essential amino acids and is a principal source of calories along with fat and carbohydrate (55 FR 29487 at 29499). Current evidence suggests that protein intake is adequate in infants and young children and the majority of protein sources in their diets constitute high quality protein sources (Ref. 150). However, the level and quality of protein present in a food remain an important consideration in food selection for infants because infant diets are derived from a limited number of foods (55 FR 29487 at 29499). For example, at 6 to 11 months of age, approximately 46 percent of the total protein intake comes from sources other than breast milk, formula, and cow's milk (e.g., baby foods and meats) (Ref. 149). The percentage increases at ages 12 to 24 months to 63 percent (Ref. 149). Calculating the percent DV for protein incorporates a measure of protein quality (e.g., a corrected protein amount obtained from the protein digestibility-corrected amino acid score) (§ 101.9 (c)(7)(i)). Thus, the percent DV declaration is a useful tool to indicate protein quality to the consumer. As such, we disagree that the percent DV declaration for protein should be voluntary. Because of the importance of adequate high quality protein in the diets of infants and young children, we tentatively conclude that the percent DV declaration for protein is necessary to assist consumers in maintaining healthy dietary practices among infants and young children 1 through 3 years of age.

3. Declaration of Non-Statutory Nutrients Other Than Essential Vitamins and Minerals

Foods, other than infant formula, represented or purported to be specifically for infants and children less than 2 years of age are not permitted to declare calories from saturated fat and the amount of polyunsaturated fat and monounsaturated fat (§ 101.9(j)(5)(i)), whereas soluble fiber, insoluble fiber, and sugar alcohols can be voluntarily declared. Polyunsaturated fat, monounsaturated fat, soluble fiber, insoluble fiber, and sugar alcohols can be voluntarily declared on the label of foods represented or purported to be specifically for children 2 through 4 years of age, and pregnant and lactating women.

Section I.C. includes a discussion of the factors that we consider in proposing the requirements for declaration of non-statutorily required nutrients on the Nutrition Facts label of foods (e.g., polyunsaturated fat, monounsaturated fat, soluble fiber, insoluble fiber, and sugar alcohols). These factors include the availability of information from consensus reports, including evidence for the public health significance of a nutrient. Consensus reports that provide information about the relationship between nutrients and chronic diseases, heath-related conditions, or health-related physiological endpoints are generally not available for infants 7 to 12 months. Therefore, for foods represented or purported to be for these infants, we are not considering consensus reports in the way described in section I.C., but, rather, we are considering other types of information that are available from consensus reports applicable to this subpopulation. With respect to certain nutrition declaration requirements, we determined there was not sufficient evidence to propose a change to the regulations. In addition, we determined that, in some cases, there is not sufficient evidence to propose different requirements for foods represented or purported to be specifically for infants 7 through 12 months than for foods represented or purported to be specifically for children 1 through 3 years of age.

For foods represented or purported to be specifically for children 1 through 3 years of age and pregnant and lactating women, we considered the factors in section I.C. to determine whether to propose the mandatory or voluntary declaration of non-statutory nutrients. Most advisory consensus and policy reports on which we rely for the general population apply to children 2 years of age and older and pregnant and lactating women, unless noted otherwise (e.g., 2010 DGAC and health claims (§ 101.14(e)(5)). While the recommendations in these reports are for 2 years of age and older, we are using the information in these consensus reports for considering the factors in section I.C. for children 1 through 3 years of age because it is not expected that the role of these nutrients in health would be markedly different between 1 and 2 year olds. Moreover, the IOM has established the DRI ranges for 1 to 3 year olds.

a. Voluntary Declaration of Calories From Saturated Fat, and the Amount of Polyunsaturated and Monounsaturated Fat—For infants 7 to 12 months, there are no specific recommendations provided about calories from saturated or polyunsaturated or monounsaturated fat. However, as discussed previously, there is some evidence to suggest that reduction of total and LDL cholesterol levels can occur with reducing saturated fat intake to less than 10 percent of calories, beginning in infancy and sustained throughout childhood into adolescence (Ref. 146). Furthermore, consensus reports provide no discussion or recommendation about not providing nutrient guidelines for fatty acids to children under the age of 2 years and there is no evidence to suggest that infants 7 through 12 months of age would be different than children 1

through 3 years of age. Therefore, we tentatively conclude that there is no basis to continue to provide an exception that does not permit the declaration of calories from saturated fat, or polyunsaturated and monounsaturated fats on foods represented or purported to be specifically for infants and children less than 2 years of age.

Quantitative intake recommendations are not available from relevant U.S. consensus reports for monounsaturated and polyunsaturated fats for children 1 through 3 years of age or pregnant and lactating women. There is well-established evidence to indicate that replacing saturated fatty acids with polyunsaturated and monounsaturated fatty acids reduces blood LDL cholesterol levels and, therefore, the risk of CVD (Ref. 6). Because monounsaturated and polyunsaturated fats have public health significance when they replace saturated fat, consistent with the factors we consider for voluntary declaration discussed in section I.C., we tentatively conclude that not permitting the declaration of polyunsaturated and monounsaturated fat on foods represented or purported to be specifically for children less than 2 years of age in § 101.9(j)(5)(i) is no longer necessary.

Therefore, we are proposing to revise § 101.9(j)(5)(i) to remove the exceptions for the declaration of calories from saturated fat, and the amount of polyunsaturated fat and monounsaturated fat on foods represented or purported to be specifically for children less than 2 years of age. If finalized, these declarations would be the same as the proposed voluntary declarations for foods for the general population (see sections II.A.2, II.B.4, and II.B.5., respectively).

b. Voluntary Declaration of Soluble Fiber, Insoluble Fiber, and Sugar Alcohols—As discussed in section II.D., while quantitative intake recommendations are lacking for soluble fiber, insoluble fiber, and sugar alcohols, there is well established evidence for the role of these nutrients in chronic disease risk, risk of a health-related or a physiological endpoint (i.e., CHD, laxation or dental caries) (Ref. 66 and §§ 101.76, 101.77, 101.80, and 101.81). There is no evidence to suggest that the role of these nutrients would be different among infants 7 through 12 months, children 1 through 3 years of age, or pregnant and lactating women compared to the general population.

Accordingly, we are not proposing any changes to the provisions for the voluntary declaration of soluble fiber, insoluble fiber, and sugar alcohols on the label of foods represented or purported to be specifically for infants 7 to 12 months, children 1 through 3 years of age, or pregnant and lactating women.

c. Mandatory Declaration of *Trans* Fat—*Trans* fat is required to be declared on the Nutrition Facts label and regulations do not provide exceptions for foods represented or purported to be specifically for infants, young children, or pregnant and lactating women. One comment to the 2007 ANPRM recommended eliminating mandatory *trans* fat labeling when total fat is declared as 0 g in the Nutrition Facts label of foods for infants.

As explained in section II.B.3., we are not proposing any changes to the mandatory declaration of *trans* fat in the labeling of foods intended for the general population. The relationship between the consumption of *trans* fat and risk of CHD is well established (Refs. 6 and 49). Cardiovascular disease is also known to begin in childhood (Refs. 146 and 151). Thus, we tentatively conclude that declaration of *trans* fat continues to be necessary to assist consumers in maintaining health dietary practices, including among infants, young children, and pregnant and lactating women.

Trans fat declaration is voluntary when the total fat content of a food is less than 0.5 g (§ 101.9(c)(2)(ii)). In addition, if a manufacturer does not declare the *trans* fat content because total fat amount is less than 0.5 g, then the statement ''Not a significant source of *trans* fat'' must be placed at the bottom of the table of nutrient values. This statement indicates why information that is required to be declared is omitted and provides necessary information to assist in making healthy dietary choices (55 FR 29487 at 29502). The statement is also helpful in minimizing space requirements for labels that do not meet the simplified label format requirements (58 FR 2079 at 2084).

Therefore, we are not proposing any changes to the mandatory declaration of *trans* fat on the label of foods represented or purported to be specifically for infants, children 1 through 3 years of age, or pregnant and lactating women.

d. Mandatory Declaration of Added Sugars—Whereas FDA regulations do not provide for the declaration of added sugars on the Nutrition Facts label, as explained in section II.D.3., we are proposing to require the mandatory declaration of added sugars on the Nutrition Facts label. The 2010 DGA provides recommendations for consumption of added sugars for the U.S. population 2 years of age and older, but not for infants and children under age two. However, we would not expect the recommendations for added sugars for a 2 year old to be different from that of a 1 year old because we do not expect the role of added sugars in health to be markedly different between children 1 and 2 year olds. Moreover, the IOM has established DRI ranges for 1 through 3 year olds because growth velocity is most similar during this age range (Ref. 15). Further, mandatory declaration of added sugars would be important for foods for infants 7 through 12 months, as it is for the general population, to assist consumers in choosing nutrient-dense foods for infants 7 through 12 months during this phase of accelerated growth and development. Moreover, we do not have any information that providing added sugars information on the Nutrition Facts label of foods marketed to the subpopulations of infants 7 through 12 months and children 1 to 3 years of age would not assist in maintaining healthy dietary practices.

Therefore, we are proposing the mandatory declaration of *added sugars* on the Nutrition Facts label of foods represented or purported to be specifically for infants 7 through 12 months, children 1 through 3 years of age, and pregnant and lactating women. We request comment on our tentative conclusion.

e. Voluntary Declaration of Fluoride—FDA regulations do not provide for the declaration of fluoride on the Nutrition Facts label of any foods. For the reasons discussed in section II.G., we are proposing to permit voluntary declaration of fluoride on the labeling of foods for the general population based on the factors we consider in section I.C. and fluoride's role in reducing the risk of dental caries. Because fluoride provides protection against dental caries by strengthening the tooth enamel before and after teeth appear (Ref. 90) and because excessive fluoride intake can cause dental fluorosis in young children (Ref. 92), we tentatively conclude that the declaration of fluoride on foods represented or purported to be specifically for children 1 through 3 years of age, and pregnant and lactating women can assist in maintaining healthy dietary practices. While evidence on dental caries is lacking for infants 7 through 12 months of age, there is no reason to expect the role of fluoride in the protection against dental caries to be different from other age groups. Therefore, proposed § 101.9(c)(5) would permit the voluntary declaration of fluoride on foods

represented or purported to be specifically for infants 7 through 12 months of age, children 1 through 3 years of age, and pregnant and lactating women.

4. Declaration of Essential Vitamins and Minerals

The declarations of vitamin A, vitamin C, calcium, and iron are required on the Nutrition Facts label, and there are no specific exceptions to this requirement for foods represented or purported to be specifically for infants and children less than 2 years and children less than 4 years of age, and pregnant and lactating women. We considered the factors for mandatory and voluntary declaration of nutrients discussed in section I.C., as applicable, to determine whether to propose to require or permit certain vitamins and minerals in the labeling of foods for infants, children, and pregnant and lactating women.

The AIs for essential vitamins and minerals (and RDAs for iron and zinc) for infants 7 to 12 months of age are based on the average intake of nutrients that infants consumed from breast milk, complementary foods, and/or supplements with the understanding that these sources provided sufficient amounts of the nutrients to meet the infant's daily needs (Refs. 18, 22, and 23). Therefore, the AIs (as well as the RDAs for iron and zinc) for infants were not based on endpoints related to chronic disease risk, or a health-related conditions or health-related physiology. Furthermore, because the AI represents intakes that are considered adequate and are based on average nutrient intakes from breast milk, foods, and/or supplements, the presence of an AI indicates that there is not a public health concern about adequate intake of that nutrient. Therefore, we could not determine public health significance for a nutrient during infancy based on an AI for infants. Instead, we considered the importance of the nutrient in establishing healthy dietary practices during infancy for later in life, as well as the relevant available information for children 1 through 3 months of age that may also be applicable to infants. For nutrients with an RDA for infants 7 through 12 months of age (i.e., iron and zinc), we considered the factors for mandatory and voluntary labeling described in section I.C. to determine whether to propose mandatory or voluntary labeling for the nutrient.

For the declaration of essential vitamins and minerals for children 1 through 3 years of age and pregnant and lactating women, we propose the same considerations based on the same rationale as we set forth and proposed for the general population because scientific and policy considerations are generally the same and the DGA recommendations apply to Americans 2 years of age and older. While NHANES data were collected in lactating women, these data are not included in our analysis in this document because the sample size of lactating women was small and, thus, we could not reliably estimate mean intake and status of this population. However, the conclusions made about nutrient inadequacy during pregnancy are applied to lactating women since the needs of essential vitamin and minerals are increased for both pregnant and lactating women. Therefore, we are proposing the requirements related to essential vitamins and minerals in the labeling of foods for pregnant women and those for foods for lactating women should be the same. Accordingly, we are proposing to remove the provision in § 101.9(c)(8)(i) that requires separate declaration of percent DVs based on both RDI values for pregnant women and for lactating women in the labeling of foods represented or purported to be for use by both pregnant and lactating women.

We did not ask questions related to this issue in the 2007 ANPRM, but received some comments which we considered in reaching our tentative conclusions discussed in this document.

a. Mandatory Declaration of Calcium and Iron—We are not proposing any changes to the mandatory declaration of calcium on foods for the general population (see section II.H.1.). The AI for calcium for infants 7 through 12 months of age is based on average calcium consumption of these nutrients, rather than chronic disease risk, health related-condition, or physiological endpoints (Ref. 152). For children 1 through 3 years of age, and pregnant and lactating women, the RDAs for calcium are based, in part, on bone health (Ref. 22). One comment to the 2007 ANPRM recommended mandatory declaration of calcium and iron for labeling of foods for young children.

Our analysis of NHANES 2003–2006 data estimated that infants ages 7 to 12 months have usual calcium intakes above the AI (table 3). Our analysis of NHANES 2003–2006 estimated that about 12 percent of children 1 through 3 years of age had usual intakes of calcium below the EAR, based on intakes from conventional foods only (table 4). The percentage did not change when supplements were included. We are unable to consider biomarker data because sensitive biochemical indicators reflecting calcium nutritional status are lacking. Promoting the development of eating patterns that are associated with adequate calcium intake later in life is important (Ref. 153) given that calcium intakes are inadequate for the majority of the population (see table 1). Intakes of calcium, which is necessary for growth and bone development, are inadequate among children. Similar to the general population, approximately 20 percent of pregnant women consumed less than the EAR for calcium from conventional foods as well as from conventional foods and supplements (table 5).

Consistent with the factors we consider for essential vitamins and minerals (see section I.C.), we tentatively conclude that calcium is a nutrient of public health significance for children 1 through 3 years of age, and pregnant and lactating women. Because calcium is important for growth and development, we tentatively conclude that calcium is of public health significance for infants 7 through 12 months of age. As such, we agree with the comment that recommended mandatory declaration of calcium for foods purported to be specifically for young children.

We are not proposing any changes to the mandatory declaration of iron on foods for the general population (see section II.H.1.). Although the EAR and RDA are based on daily iron requirements and not directly on chronic disease risk, iron deficiency is associated with delayed normal infant motor function (i.e., normal activity and movement) and mental function (i.e., normal thinking and processing skills) (Ref. 100). Our analysis of NHANES 2003–2006 data estimated that about 18 percent of infants ages 7 to 12 months have usual iron intakes below the EAR, based on intakes from conventional foods only and 4 percent of infants ages 7 to 12 months have usual iron intakes below the EAR based on intakes from conventional foods and supplements (table 3).

For children 1 through 3 years of age, about 1 percent of children have usual iron intakes below the EAR, based on intakes from conventional foods only and 0.4 percent of children have usual iron intakes below the EAR based on intakes from conventional foods and supplements (table 4). The IOM set the EAR by modeling components of iron requirements. While total iron intakes appear adequate, the prevalence of iron deficiency in children ages 1 to 2 years has been reported to be 14.4 percent and the prevalence of iron deficiency anemia in children younger than 5 years has been reported to be 14.9 percent (Refs. 74 and 154). Therefore, we agree with the comment that recommended

mandatory declaration of iron in the labeling of foods for young children.

Inadequate iron intakes during pregnancy are also of public health significance because of the adverse effects for both the mother and the fetus (such as maternal anemia, premature delivery, low birth weight, and increased perinatal infant mortality) (Ref. 15). Our analysis of data collected by NHANES 2003–2006 estimated that 5 percent of pregnant women 14 to 50 years of age had usual iron intakes below the EAR based on intakes from conventional foods and 4 percent of pregnant women 14 to 50 years of age had usual iron intakes below the EAR based on intakes from conventional foods and supplements (table 5). The EAR for iron for pregnant women was based on estimates of iron stores needed during the first trimester (Ref. 100). Our analysis of 2003–2006 NHANES data indicate that among pregnant women aged 12 to 49 years, 25 percent were iron deficient and 13 percent had iron deficiency anemia. For the purpose of this analysis, iron deficiency was based on two out of three cutoffs of iron deficiency variables (transferrin saturation, serum ferritin, and erythrocyte protoporphyrin) (Ref. 155). While intakes appear adequate for most individuals, the prevalence of iron deficiency and iron deficiency anemia indicates that iron deficiency is of public health significance for pregnant women. As discussed in section II.H.1., iron is of public health significance for women of childbearing age. Therefore, we tentatively conclude that iron is a nutrient of public health significance for lactating women as well.

Because calcium and iron have quantitative intake recommendations and are considered to have public health significance for infants 7 through 12 months, children 1 through 3 years of age, and pregnant and lactating women, we tentatively conclude that the declaration of calcium and iron is necessary to assist consumers in maintaining healthy dietary practices. Accordingly, proposed § 101.9(c)(8)(ii) would require the mandatory declaration of calcium and iron on foods represented or purported to be specifically for infants 7 to 12 months, children 1 through 3 years of age, or pregnant and lactating women; we are not providing for any exceptions for these subpopulations from the requirement for declaration of calcium and iron applicable to foods for the general population.

b. Mandatory Declaration of Vitamin D and Potassium—We are proposing to require the declaration of vitamin D on foods for the general population (see section II.H.1.). The AI for vitamin D for infants was based on maintenance of serum 25(OH)D concentrations at a level to achieve and maintain serum 25(OH)D concentrations above a defined level (30 to 50 nmol/L) in order to meet the needs of the majority of the infants and support bone accretion (Ref. 22). DRIs (EAR and RDA) for vitamin D were established at a level to achieve and maintain serum 25(OH)D concentrations above a defined level (40 to 50 nmol/L) in order to maintain bone health for children 1 through 3 years of age and pregnant women (Ref. 22).

Serum 25(OH)D data were not available in NHANES 2003–2006 for infants ages 7 to 12 months. Our analysis of NHANES 2003–2006 dietary data shows that 28.7 and 33.6 percent of infants ages 7 to 12 months have usual vitamin D intakes above the AI from conventional foods and conventional foods plus supplements, respectively (table 3).

Our analysis of NHANES 2003–2006 data shows that about 3 percent of children 1 through 3 years of age had serum 25(OH)D levels below 40 nmol/L (a level set by IOM as equivalent to EAR, see section II.H.2.a). Analysis of NHANES 2005–2008 dietary data shows that, assuming minimal sun exposure, about 82 percent of these children had usual vitamin D intakes below the EAR from conventional foods only and 66 percent had usual intakes below the EAR from conventional foods and supplements (table 4). For pregnant women, 15 percent had serum 25(OH)D levels below 40 nmol/L, while about 88 percent of pregnant women had usual vitamin D intakes below the EAR from conventional foods only and 48 percent had usual intakes below the EAR from conventional foods and supplements (table 5). In addition to data on vitamin D status and intake, we considered other scientific and policy considerations, such as the importance of the nutrient in establishing healthy dietary practices for later life for children 1 through 3 years of age and pregnant and lactating women. Vitamin D has a role in bone health through calcium absorption and uptake by bones (Ref. 22). Deficiency results in inadequate bone mineralization or demineralization of the skeleton including rickets, osteomalacia, and osteoporosis (Ref. 22). Therefore, we tentatively conclude that vitamin D has public health significance in children 1 through 3 years of age and pregnant women based on the high prevalence of inadequate intakes of vitamin D and its important role in bone development and health (Ref. 22). In addition, in 2008, we authorized a health claim for calcium and vitamin D intake and reduced risk of osteoporosis (§ 101.72), signifying vitamin D's critical role in the risk reduction of this chronic disease for individuals 2 years of age and older. We also tentatively conclude that vitamin D is of public health significance for infants 7 through 12 months of age based on its importance for growth and development during infancy.

We are proposing to require the declaration of potassium on foods for the general population (see proposed § 101.9(c)(8)(ii) and section II.H.1.). The AI for infants is based on average potassium intake from breast milk and/or complementary foods. The AI for the other life-stage and gender groups is set at a level to maintain blood pressure, reduce the adverse effects of sodium chloride intake on blood pressure, and reduce the risk of recurrent kidney stones (Ref. 21).

Our analysis of NHANES 2003–2006 shows that 99 percent of infants ages 7 to 12 months have usual potassium intakes above the AI (table 3). Only 7 percent of children 1 through 3 years of age (table 4) and 4 percent of pregnant women (table 5) had usual potassium intakes above the AI from conventional foods or conventional foods plus dietary supplements, indicating that the adequacy of intakes is very low. In the absence of a sensitive biochemical indicator of potassium nutritional status, we could not consider biomarker data to inform the determination of prevalence of potassium deficiency. In 2000, a FDAMA notification for a health claim about potassium, blood pressure, and stroke was submitted to us under section 403(r)(2)(g) of the FD&C Act (Ref. 114). Foods may bear the following claim ''Diets containing foods that are good sources of potassium and low in sodium may reduce the risk of high blood pressure and stroke,'' on the label or labeling of any food product that meets the eligibility criteria described in the notification and meets the general requirements for a health claim (§ 101.14(e)(6)). This health claim pertains to the general population 2 years of age and older. Thus, we recognize the importance of potassium in the risk reduction of these chronic diseases for children 2 years of age and older. Therefore, we tentatively conclude that potassium is of public health significance to children 1 through 3 years of age, and pregnant and lactating women. We have no basis to conclude that the public health significance of potassium among infants 7 through 12 months of age would be different than the science-based evidence for children 1 through 3 years of age and consider it important to

establish healthy dietary practices for later life. Because of the benefits of adequate potassium intake in lowering blood pressure, data indicating low likelihood of potassium adequacy, and importance of establishing healthy dietary practices for later life, we tentatively conclude that potassium is a nutrient of public health significance for infants 7 through 12 months of age, children 1 through 3 years of age, and pregnant and lactating women.

We are proposing to require the labeling of vitamin D and potassium on foods represented or purported to be specifically for infants 7 through 12 months of age, children 1 through 3 years of age, or pregnant and lactating women based on the quantitative intake recommendations for vitamin D and potassium and the public health significance of these nutrients. Consequently, we are not providing for any exceptions for these subpopulations from the general requirement for declaration of vitamin D and potassium in proposed § 101.9(c)(8)(ii).

c. Voluntary Declaration of Vitamin A and Vitamin C—We are proposing to no longer require the declaration of vitamin A and vitamin C on foods for the general population (see section II.H.1.). None of the DRIs (AIs or RDAs) for vitamin A were based on chronic disease risk, a health related-condition, or health-related physiological endpoints. One comment to the 2007 ANPRM stated that intakes of vitamins A and C among young children appear to be adequate (Ref. 148) and supported voluntary declaration of these nutrients in the labeling of foods for this subpopulation.

Our analysis of data from NHANES 2003–2006 shows that less than 2 percent of children had usual vitamin A intakes below the EAR from conventional foods or conventional foods plus dietary supplements (table 4). While 36 percent of pregnant women had usual intakes below the EAR from conventional foods and 22 percent had usual intakes below the EAR for conventional foods plus dietary supplements, only 1 percent of these women had serum vitamin A levels that were considered to be indicative of a vitamin A deficiency (table 5).

While quantitative intake recommendations are available for vitamins A and C, neither of these vitamins is considered to have public health significance for children 1 through 3 years of age and pregnant women. There is a very low prevalence of inadequate intakes of vitamins A and C or inadequate status among children 1 through 3 years of age or pregnant women, and we have no evidence to indicate that this would be different for infants or lactating women. Therefore, we tentatively conclude that vitamin A and vitamin C are not of public health significance among infants 7 through 12 months of age, children 1 through 3 years of age, and pregnant and lactating women. Thus, we agree with a comment that supported voluntary declaration of vitamins A and C in the labeling of foods for young children. An AI for older infants was provided by the IOM with the assumption that vitamin A and vitamin C intakes are adequate during infancy. Accordingly, similar to our proposal for voluntary declaration of vitamins A and C in the labeling of foods for the general population, we are proposing to permit, but not require, the declaration of vitamin A and vitamin C on foods represented and purported to be specifically for infants 7 through 12 months, children 1 through 3 years of age, or pregnant and lactating women. As for other voluntary nutrients, the declaration of these nutrients would be required when these nutrients are added as nutrient supplements or claims are made about them (proposed § 101.9(c)(8)(ii)).

d. Voluntary Declaration of Other Vitamins and Minerals—As discussed in section II.H.3., for the general population, we are proposing to permit the voluntary declaration of vitamin E, vitamin K, vitamin B_6, vitamin B_{12}, thiamin, riboflavin, niacin, folate, biotin, pantothenic acid, phosphorus, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, and choline (proposed § 101.9(c)(8)(ii)). Vitamins and minerals other than iron, calcium, vitamin D and potassium for infants either have DRIs that are not based on chronic disease risk, heath-related conditions, or health-related physiological endpoints or are not shown to have public health significance due to the prevalence of a clinically relevant nutrient deficiency. For infants 7 to 12 months, children 1 through 3 years of age, and pregnant and lactating women, we tentatively conclude that the essential vitamins and minerals, other than iron, calcium, vitamin D and potassium, do not have public health significance and there is no basis for the declaration of these nutrients to be different from that proposed for the general population. Accordingly, proposed § 101.9(c)(8)(ii) would allow the voluntary declaration of vitamin E, vitamin K, vitamin B_6, vitamin B_{12}, thiamin, riboflavin, niacin, folate, biotin, pantothenic acid, phosphorus, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, and choline on foods represented or purported to be specifically for infants 7 to 12 months, children 1 through 3 years of age, or pregnant and lactating women, under the requirements of this section, unless they are added to foods as a nutrient supplement or if the label or labeling makes a claim about them, in which case the nutrients would have to be declared.

5. DRVs and RDIs for Infants 7 Through 12 Months of Age

FDA regulations do not include DRVs or RDIs for nutrients for infants 7 through 12 months of age, except an RDI for protein of 14 g for infants. We reviewed scientific evidence and recommendations, as well as comments in response to the 2007 ANPRM to consider establishing DRVs and RDIs for nutrients for infants 7 through 12 months of age and to consider revisions to the current RDI for protein.

a. Calories—We have not established a reference calorie intake level for infants and children less than 2 years of age. For the general population, a reference calorie intake level is necessary when using a percent of calories approach to calculating the DRV for nutrients, such as total fat and carbohydrate. There is no quantitative intake recommendation for calories for infants and we are not aware of other scientific data and information on which we could rely to establish that level. Therefore, we are not proposing to establish a reference calorie intake level for infants 7 to 12 months.

b. Total Fat—The IOM set an AI of 30 g/d for fat for infants 7 through 12 months of age based on the average intake of human milk and complementary foods (Ref. 49). There was no AI available in 1993. The current AI provides a basis on which we can determine an appropriate DRV for total fat for this subpopulation that can assist consumers in maintaining healthy dietary practices among this subpopulation. Therefore, we are proposing to amend § 101.9(c)(9) to include a DRV of 30 g for fat for infants 7 through 12 months of age.

c. Saturated Fat, *Trans* Fat, Cholesterol, Dietary Fiber and Sugars—There are no quantitative intake recommendations from U.S. consensus reports available for saturated fat, *trans* fat, cholesterol, dietary fiber, and sugars for infants. We are not aware of other scientific data and information on which we could rely to establish DRVs for these nutrients for infants 7 through 12 months of age. Accordingly, we are not proposing to establish DRVs for these nutrients for infants 7 through 12 months of age.

d. Polyunsaturated Fat, Monounsaturated Fat, Insoluble Fiber, Soluble Fiber, Insoluble Fiber, Added Sugars, and Sugar Alcohols—Quantitative intake recommendations from U.S. consensus reports are not available for polyunsaturated fat, monounsaturated fat, insoluble fiber, soluble fiber, added sugars, or sugar alcohols for infants. We are not aware of other scientific data and information on which we could rely to establish DRVs for these nutrients for this subpopulation. Accordingly, we are not proposing to establish DRVs for these nutrients for infants 7 through 12 months of age.

e. Total Carbohydrate—The IOM has set an AI of 95 g/d for carbohydrates for infants 7 through 12 months of age based on the average intake of human milk and complementary foods (Ref. 68). There was no AI available in 1993. The current AI provides a basis on which we can determine an appropriate DRV for total carbohydrate for this subpopulation that can assist consumers in maintaining healthy dietary practices among this subpopulation. Therefore, we are proposing to amend § 101.9(c)(9) to establish a DRV of 95 g for total carbohydrate for infants 7 through 12 months of age.

f. Protein—The DV for protein for infants is an RDI, rather than a DRV. Before 1993, we established the RDIs for protein for all age groups based on the 1989 RDA. In 1993, we changed the RDI for protein for the general population to a DRV in response to comments that suggested the DV for protein should be consistent with the ''percent of calories'' approach used for the other energy-yielding macronutrients, total fat and total carbohydrate (58 FR 2206 at 2216). However, we retained the RDI for infants, and based it on the highest 1968 RDA value (14 g/d for infants), to be consistent with a population-coverage approach (58 FR 2206 at 2216).

We find no reason to change the approach of using the RDI for infants 7 through 12 months. However, we consider it appropriate to revise the RDI to rely on current quantitative intake recommendations. In 2002, the IOM established an RDA for infants 7 through 12 months of 1.2 g/kg/d based on nitrogen balance studies and using a reference body weight of 9 kg (Ref. 84). This reference body weight is also consistent with current growth charts for infants (Ref. 156). The value 1.2g/kg/g×9 kg equals 10.8 g/d or a rounded value of 11 g/d. In addition, protein intakes are well above the current and proposed RDI. Mean protein intake for infants 6 to 11 months of age was 22 g/d (Ref. 150), well above the RDA of 11 g/d. Accordingly, we are proposing to revise § 101.9(c)(9) to establish an RDI of 11 g for protein for infants 7 through 12 months of age.

g. Sodium—For the general population, we are proposing to establish a DRV for sodium based on the IOM's UL (section II.F.). The IOM did not set a UL for sodium for infants 7 through 12 months of age due to insufficient data on adverse effects of chronic overconsumption in this age group (Ref. 10). We are not aware of other scientific data and information on which we could rely to establish a DRV for sodium for this subpopulation. Therefore, we are not proposing a DRV for sodium for infants 7 through 12 months of age.

h. Fluoride—As discussed in section II.G., although the IOM set an AI for fluoride, the AIs for infants 7 through 12 months and children 1 through 3 years are close to the EPA benchmarks for total fluoride intake (Ref. 92). We are not proposing a DRV for fluoride for use in the labeling of foods for the general population because of a concern about excess intakes associated with dental fluorosis (section II.G.). Therefore, we tentatively conclude that a DRV for fluoride is not warranted for infants 7 through 12 months. The use of such a DRV to calculate percent DV may have the unintended effect of consumers selecting foods with higher fluoride amounts, which are not necessary or advised. Accordingly, we are not proposing to establish a DRV for fluoride for infants 7 through 12 months of age.

i. Vitamins and Minerals—As noted previously in the introduction to section II.K., while not included in current regulations, the preamble to the 1993 DRV/RDI final rule provides a table listing RDIs for infants (58 FR 2206 at 2213), which is also provided in FDA's Food Labeling Guide (Ref. 144). We reviewed current quantitative intake recommendations for vitamins and minerals for infants and considered comments received in response to the 2007 ANPRM (Ref. 47) to determine appropriate RDIs for vitamins and minerals to be established in regulations for infants 7 through 12 months of age.

We consider it important to establish RDIs for infants 7 through 12 months of age because infants in this age range transition from a diet of mostly breast milk and infant formula to infant cereal and baby foods (Ref. 147 p. 71) and labeling foods for this subpopulation with percent DV declarations can assist parents in making nutritious food choices. The DRIs (AIs and RDAs) provide a basis on which to determine RDIs for vitamins and minerals for this subpopulation. We consider it appropriate to use RDAs and, in the absence of RDAs, AIs to determine appropriate micronutrient RDIs for infants. While there is more certainty with RDAs than AIs, both RDAs and AIs are sufficient for setting RDIs, because they both represent intake levels that are expected to meet or exceed the nutrient needs of the majority of infants (Ref. 157).

We also considered and rejected an approach, as suggested by a comment, where the highest reference value available would be used for each nutrient, irrespective of whether it is an RDI based on the 1968 RDAs, a current RDA, or a current AI. The IOM established DRIs based on scientific knowledge that update and supersede previous RDA recommendations. Because DRIs are available for infants 7 through 12 months of age, we are proposing to use these current quantitative intake recommendations (i.e., AIs and RDAs) for setting RDIs for infants.

Accordingly, we are proposing to amend § 101.9(c)(8)(iv) to include a listing of RDIs for vitamin A, vitamin C, vitamin D, vitamin E, vitamin K, vitamin B_{12}, folate, choline, riboflavin, niacin, vitamin B_6, calcium, iron, thiamin, biotin, pantothenic acid, phosphorous, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, and potassium for infants 7 months through 12 months of age.

We invite comment on the adequacy of the proposed RDIs for vitamins and minerals for older infants.

6. DRVs and RDIs for Children 1 Through 3 Years of Age

FDA regulations do not include DRVs or RDIs for nutrients for children 1 through 3 years of age, except an RDI for protein of 16 g for children less than 4 years of age. We reviewed scientific evidence and current recommendations, as well as comments in response to the 2007 ANPRM to consider establishing DRVs and RDIs for nutrients for this subpopulation and to consider revisions to the current RDI for protein.

a. Calories—We have not established a reference calorie intake level for nutrition labeling for children ages 1 through 3 years. Several comments to the 2007 ANPRM supported establishing a DV for calories specifically for young children 1 through 3 years of age. Citing the IOM and AAP/AHA caloric intake recommendations (Refs. 50 and 71), one comment recommended 1,050 calories as the DV for calories and supported

rounding it down to 1,000 calories to facilitate use by consumers.

We consider it appropriate to establish a reference calorie intake level for children 1 through 3 years of age because, as discussed in this document, we are proposing to set DRVs using quantitative intake recommendations that are based on calories (e.g., total fat, saturated fat, and dietary fiber). Current recommendations from the IOM, AHA, AAP, and the 2010 DGA for caloric intake range from 800 to 900 calories/d for children 1 year old, approximately 1,000 calories/d for children 2 years of age, and from 1,000 to 1,200 calories/d for children 3 years of age (Refs. 6, 50, and 71) . We consider that an average of the range of these caloric intake recommendations (800 to 1,200 calories/d), i.e., 1,000 calories/d, provides a reasonable reference calorie intake level. Therefore, we are proposing to amend § 101.9(c)(9) to provide a reference calorie intake level of 1,000 calories/d for children 1 through 3 years of age.

b. Total Fat—There is no DRV for total fat for children ages 1 through 3 years. One comment to the 2007 ANPRM recommended that 35 percent of the recommended 1,050 calories or 41 g/d of fat be used to as the DRV for fat because it is the midpoint of the AAP/AHA recommendation and the IOM Acceptable Macronutrient Distribution Range (AMDR) for 1 through 3 year olds. We agree that 35 percent of calories from fat for children 1 through 3 years of age, the midpoint of the IOM AMDR of 30 to 40 percent, serves as an appropriate basis on which to set the DRV for total fat. This approach to calculating the DRV for total fat is consistent with our proposed approach to setting the DRV for total fat for the general population. Thirty-five percent is also consistent with AHA and AAP recommendations that 30 to 40 percent of calories consumed by children 12 through 24 months of age and 30 to 35 percent of calories consumed by children 24 through 48 months of age should come from fat (Ref. 71). Therefore, we tentatively conclude that 35 percent of total calories from fat (i.e., 39 g using the proposed reference calorie intake level of 1,000 calories/d) is an appropriate DRV for total fat for children 1 through 3 years of age. Accordingly, we are proposing to amend § 101.9(c)(9) to establish a DRV of 39 g for fat for children 1 through 3 years of age.

c. Saturated Fat, *Trans* Fat, and Cholesterol—There are no DRVs for saturated fat, *trans* fat, or cholesterol for children 1 through 3 years of age. Once comment to the 2007 ANPRM suggested using the midpoint of 10 to 15 percent of calories for saturated fat, 2 percent of calories for *trans* fat based on estimates of mean *trans* fat intake for the U.S. population 3 years of age and older, and less than or equal to 300 mg/d for cholesterol based on the 2005 DGA recommendation.

Cardiovascular disease is known to begin in childhood (Refs. 146 and 151). The 2010 DGA recommends that Americans 2 years of age and older consume less than 10 percent of calories from saturated fat and less than 300 mg/d of cholesterol (Ref. 6). Based on these recommendations, we tentatively conclude that it is appropriate to set a DRV of 10 g for saturated fat, based on 10 percent of total calories from saturated fat and using the proposed reference calorie intake level of 1,000 calories/d which equals 11 g, rounded down to 10 g, and a DRV of 300 mg for cholesterol for children 1 through 3 years of age. The comment provided no rationale for using an upper range of 15 percent of calories from saturated fat. We have no information to indicate that applying the level of 10 percent of calories from saturated fat to this subpopulation is restrictive, as the comment asserted. Accordingly, we are proposing to amend § 101.9(c)(9) to establish a DRV of 10 g for saturated fat and a DRV of 300 mg for cholesterol for children 1 through 3 years of age.

Current recommendations from the IOM (Ref. 49) and 2010 DGA (Ref. 6) recommend keeping *trans* fat intake as low as possible but do not provide any specific appropriate levels of intake. Thus, consistent with our discussion in section II.B.3., we disagree with the comment that suggested setting a DRV for *trans* fat and, therefore, we are not proposing to establish a DRV for *trans* fat in response to this comment.

d. Polyunsaturated Fat, Monounsaturated Fat, Sugars, Added Sugars, Insoluble Fiber, Soluble Fiber, and Sugar Alcohols—There are no DRVs for polyunsaturated fat, monounsaturated fat, sugars, added sugars, insoluble fiber, soluble fiber, or sugar alcohol for children 1 through 3 years of age. One comment to the 2007 ANPRM recommended establishing a DV for *n*-3 polyunsaturated fatty acids (α-linolenic acid) of 700 mg/d because α- linolenic acid is essential to the human diet and children 1 through 3 years of age are below recommended intake levels. We disagree that a DRV should be set for *n*-3 polyunsaturated fatty acids for children 1 through 3 years of age for the same reasons that we are not proposing a DRV for these fatty acids for the general population (see section II.B.). We recognize the essential nature of α-linolenic acid in the diet. The IOM based AIs for *n*-6 linoleic and *n*-3 α-linolenic acid on U.S. median intake levels because of the lack of linoleic and α- linolenic acid deficiency in non-institutionalized populations in the United States (Ref. 49).

For children 1 through 3 years of age, DRIs or other data and information are not available on which we could rely to establish DRVs for polyunsaturated fat, monounsaturated fat, sugars, added sugars, insoluble fiber, soluble fiber, and sugar alcohols. Therefore, we tentatively conclude that there is no basis for setting DRVs for these nutrients. Accordingly, we are not proposing DRVs for polyunsaturated fat, including *n*-3 or *n*-6 polyunsaturated fatty acids, monounsaturated fat, sugars, added sugars, soluble fiber, insoluble fiber, or sugar alcohols for children 1 through 3 years of age.

e. Total Carbohydrate—There is not a DRV for total carbohydrate for children 1 through 3 years of age. One comment to the 2007 ANPRM suggested that we establish a DV for carbohydrates using 59 percent of calories from carbohydrates, or 154 g using the method of calculation by difference.

As discussed in section II.D.1., we are proposing a DRV for total carbohydrate for the general population based on the percentage of calories in a 2,000 calorie diet remaining after the sum of the DRV for fat (30 percent) plus the DRV for protein (10 percent) have been subtracted. We also consider this method to be appropriate for setting a DRV for total carbohydrate for children 1 through 3 years of age. Total calories (100 percent) minus the proposed DRV for total fat (35 percent of calories) and the proposed DRV for protein (5 percent of calories) equals 60 percent of calories from total carbohydrate. A value of 60 percent of total calories from total carbohydrates also falls within the IOM AMDR recommendation of 45 to 65 percent of calories from carbohydrates for children 1 through 3 years of age. Therefore, we tentatively conclude that an appropriate DRV for total carbohydrate is 60 percent of calories (i.e., 150 g using the proposed reference calorie intake level of 1,000 calories/d). Accordingly, we are proposing to amend § 101.9(c)(9) to set a DRV of 150 g for total carbohydrate for children 1 through 3 years of age.

f. Dietary Fiber—There is not a DRV for dietary fiber for children 1 through 3 years of age. One comment to the 2007 ANPRM recommended using 15 g/d as the basis of the DRV for dietary fiber, based on the AI of 14 g/1,000 calories and a 1,050 calorie diet. We agree that the AI of 14 g/1,000 calories for dietary fiber for children 1 through 3 years of

age (Ref. 66) should be used to set a DRV for dietary fiber to be consistent with how other proposed DRVs are being set. Given that we are proposing a reference calorie intake level of 1,000 calories/d for this subpopulation, we are proposing to amend § 101.9(c)(9) to establish a DRV of 14 g for dietary fiber for children 1 through 3 years of age.

g. Protein—The RDI for protein for children less than 4 years of age was based on the 1989 RDA for protein of 16 g/d (§ 101.9(c)(7)(iii)). One comment to the 2007 ANPRM recommended maintaining the DV of 16 g for protein because the RDA for protein of 13 g/d for toddlers 1 through 3 years of age appears low relative to the amount of protein from a diet pattern consistent with dietary guidance from AAP/AHA.

We consider it appropriate to determine whether changes are necessary to the current RDI taking into account current recommendations and protein intakes. Protein intakes are well above the current RDI. Mean protein intake for children 12 to 23 months of age was 44 g/d (Ref. 150), well above the RDA of 13 g/d and the midpoint of the AMDR of 5 to 20 percent calories from protein (i.e., 12.5 percent of calories from protein or 31 g/d) (Ref. 84). The protein AMDR for children 1 through 3 years of age is 5 to 20 percent of calories and the RDA is approximately 5 percent of calories (Ref. 84). While the RDA is lower than the amount of protein consistent with guidance from AAP/AHA, we explain in section II.B.2.c. that we do not consider the menu modeling approach used to develop this guidance appropriate to determine DRVs because it does not permit the selection of DRVs that are based on scientific evidence related to actual public health outcomes. In light of the proposed reference calorie intake level and the approaches used for the proposed DRVs for fat and carbohydrate that are based on percent of calories, we tentatively conclude that, as with the general population, the DV for protein for children 1 through 3 years of age should be a DRV, rather than an RDI (using the RDA). Therefore, we tentatively conclude that a DRV for protein should be based on 5 percent of 1,000 calories or 50 calories which equals 12.5 g or, when rounded up, is 13 g. Accordingly, we are proposing to amend § 101.9(c)(7)(iii) to establish a DRV for protein of 13 g for children 1 through 3 years of age.

h. Sodium—For the general population, we are proposing to establish a DRV based on the UL for sodium (section II.F.). There is no DRV for sodium for children 1 through 3 years of age. Two comments to the 2007 ANPRM recommended basing the DRV for sodium on the IOM's UL of 1,500 mg/d for children 1 through 3 years of age to be consistent with recommendations from AAP and AHA (Ref. 71).

The IOM derived the UL for children 1 through 3 years of age by extrapolation from the adult UL of 2,300 mg/d based on observational studies showing that blood pressure increases with age into adulthood and the recognition that risk factors for CVD, such as high blood pressure and atherosclerosis, occur in childhood (Ref. 10). We agree with the comments noting that 1,500 mg is an appropriate DRV for sodium for children 1 through 3 years of age. Consistent with the proposed approach for the general population, we are proposing to amend § 101.9(c)(8)(iv) to establish a DRV of 1,500 mg for sodium for children 1 through 3 years of age.

i. Fluoride—There is not a DV for fluoride for children 1 through 3 years of age. One comment to the 2007 ANPRM suggested that fluoride should not have a DV because it is not found abundantly in food. We disagree with this comment. Whether a nutrient is found abundantly in food is not a consideration for FDA in setting DVs. The IOM recognized fluoride as a trace mineral that is important for public health by setting an AI based on evidence of its role in reducing the risk of dental caries.

However, we tentatively conclude that a DRV should not be established for fluoride. Although the IOM set an AI for fluoride, the AI for children 1 through 3 years of age is close to the EPA benchmarks for maximum total fluoride intake (Ref. 92). In addition, we are not proposing a DRV for the general population because of concern about excess intakes associated with dental fluorosis (see section II.G.). The use of such a DRV to calculate percent DV may have the untoward effect of consumers selecting foods with higher fluoride amounts, which are not necessary or advised. Therefore, we tentatively conclude that a DRV for fluoride is not warranted for children 1 through 3 years of age. Accordingly, we are not proposing a DRV for fluoride for children 1 through 3 years of age.

j. Vitamins and Minerals—As explained earlier, while not included in our regulations, the preamble to the 1993 DRV/RDI final rule provides a table listing RDIs for children less than 4 years of age (58 FR 2206 at 2213), which is also provided in FDA's Food Labeling Guide (Ref. 144). We reviewed current quantitative intake recommendations for vitamins and minerals for infants and considered comments received in response to the 2007 ANPRM (Ref. 47) to determine appropriate RDIs for vitamins and minerals for children 1 through 3 years of age.

The IOM's quantitative intake recommendations (AIs and RDAs) provide a basis on which to determine RDIs for vitamins and minerals for this subpopulation. In addition, where data on functional indicators of nutritional status were available, the IOM relied on such data and determined that available evidence was sufficient to establish appropriate RDAs and AIs for vitamins and minerals for this subpopulation. Therefore, we disagree with a comment to the 2007 ANPRM that suggested that more population-specific data based on functional indicators of nutritional status are needed before establishing the RDIs for vitamins and minerals.

We consider it appropriate to use RDAs and, in the absence of RDAs, AIs to determine appropriate micronutrient RDIs for children 1 through 3 years of age. As such, we agree with comments that suggested using RDAs to determine the RDIs for selenium and vitamin E and AIs to determine the RDIs for choline, vitamin K, and manganese, which do not have established RDAs. The RDA, when available, is the best estimate of an intake level that will meet the nutrient goals of practically all consumers who would use the Nutrition Facts label. AIs have less certainty than RDAs, but they represent goals for nutrient intake for individuals and provide the best estimate based on current science for use in setting RDIs for such nutrients.

Finally, we disagree with comments suggesting we use 1,800 or 2,000 mg/d potassium as the basis for the RDI for potassium because it is inconsistent with the proposed approach for the general population. The comments did not explain why data collection on mean potassium intake should be the basis for the DV in lieu of the AIs and RDAs. In addition, promoting the development of eating patterns that will be associated with adequate potassium intake later in life is important because chronic conditions such as elevated blood pressure, bone demineralization, and kidney stones likely result from inadequate potassium intakes over an extended period of time, including childhood (Ref. 136). The AI for potassium is 3,000 mg/d and we consider it an appropriate basis for establishing a RDI for potassium for children 1 through 3 years of age.

Therefore, using the RDAs and AIs, we are proposing to amend § 101.9(c)(8)(iv) to establish RDIs as set forth previously for vitamin A, vitamin

C, vitamin D, vitamin E, vitamin K, vitamin B_{12}, folate, choline, riboflavin, niacin, vitamin B_6, calcium, iron, thiamin, biotin, pantothenic acid, phosphorous, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, and potassium for children 1 through 3 years of age.

We invite comment on the adequacy of the proposed RDIs for vitamins and minerals for children 1 through 3 years of age.

7. DRVs and RDIs for Pregnant and Lactating Women

a. Calories—The reference calorie intake of 2,000 used for the general population applies to pregnant and lactating women (§ 101.9(c)(9)). The calorie needs for pregnant and lactating women are similar to the general population and few products are purported for pregnant and lactating women. Therefore, we tentatively conclude that it is appropriate to establish a reference calorie intake level for setting DRVs for pregnant and lactating women that is the same as for the general population. Accordingly, we are proposing to use the 2,000 reference calorie intake level for setting DRVs for pregnant and lactating women (§ 101.9(c)(9)).

b. Total Fat, Saturated Fat, Cholesterol, Total Carbohydrate, Sodium, and Dietary Fiber—FDA regulations do not provide DRVs for total fat, saturated fat, cholesterol, total carbohydrate, sodium, and dietary fiber for pregnant and lactating women. Quantitative intake recommendations for total fat, saturated fat, cholesterol, total carbohydrate, sodium, and dietary fiber for pregnant and lactating women are generally similar to the general population (Refs. 6 and 23). Therefore, we tentatively conclude that the DRVs for total fat, saturated fat, cholesterol, total carbohydrate, sodium, and dietary fiber for pregnant and lactating women should remain the same as for the general population. Accordingly, we are proposing to amend § 101.9(c)(9) to establish DRVs for pregnant and lactating women using the proposed DRVs for the general population for total fat, saturated fat, cholesterol, total carbohydrate, sodium, and dietary fiber.

c. *Trans* Fat, Polyunsaturated Fat, Monounsaturated Fat, Soluble Fiber, Insoluble Fiber, Sugars, Added Sugars, and Sugar Alcohols—There are no DRVs for trans fat, polyunsaturated fat, monounsaturated fat, soluble fiber, insoluble fiber, sugars, added sugars, or sugar alcohol for pregnant and lactating women. As discussed in sections II.B. and II.D., we are not proposing DRVs for these nutrients for the general population because of a lack of quantitative intake recommendations. Similarly, quantitative intake recommendations are lacking for these nutrients for pregnant and lactating women. Therefore, we are not proposing to establish DRVs for trans fat, polyunsaturated and monounsaturated fat, soluble fiber, insoluble fiber, sugars, added sugars, or sugar alcohols for pregnant and lactating women.

d. Protein—FDA established RDIs of 60 g protein for pregnant women and 65 g protein for lactating women (§ 101.9(c)(7)(iii)) based on the highest 1989 RDAs for pregnant and lactating women (58 FR 2206 at 2216). The IOM established 71 g/d protein as the RDA for pregnant and lactating women based on the needs for maternal and fetal development and human milk production. Because the RDA for protein during both pregnancy and lactation is the same (Ref. 84) and given that most foods represented or purported to be specifically for pregnant women are also represented or purported to be specifically for lactating women, we tentatively conclude that it is appropriate to establish a single RDI of 71 g applicable to both pregnant and lactating women. We tentatively conclude that the DV for protein for pregnant and lactating women should remain an RDI (using the RDA) instead of a DRV because the DRV approach used to calculate protein for the general population based on 10 percent of 2,000 calories, which equals 50 g of protein/d, falls short of the recommended protein needs of pregnant and lactating women of 71 g/d. Therefore, we are proposing to amend § 101.9(c)(7)(iii) to establish an RDI of 71 g for protein for pregnant and lactating women.

e. Fluoride—There is no DRV for fluoride for the general population or for pregnant and lactating women. While an AI has been established for fluoride, we are not proposing to establish a DRV for fluoride for the general population for the reasons discussed in section II.G. Similarly, because the AI for fluoride for pregnant and lactating women is not different from the general population (Ref. 90), we are not proposing a DRV for fluoride for pregnant and lactating women.

f. Vitamins and Minerals—While not included in FDA regulations, the preamble to the 1993 DRV/RDI final rule provides a table listing RDIs for pregnant and lactating women (58 FR 2206 at 2213), which is also provided in FDA's food labeling guide (Ref. 144). We reviewed current quantitative intake recommendations for vitamins and minerals for pregnant and lactating women and considered comments received in response to the 2007 ANPRM (Ref. 47) to determine appropriate RDIs for vitamins and minerals for pregnant and lactating women.

For the same reasons stated for the general population (see section II.I.), we consider it appropriate to establish RDIs for pregnant and lactating women for vitamins and minerals that have DRIs, using population-coverage RDAs and AIs, instead of population-weighted EARs. In addition, we are proposing to establish a single set of RDIs intended for both pregnant women and lactating women because nutrient needs during pregnancy and lactation are similar (Refs. 16, 17, 21, 22, 140). Moreover, most foods represented or purported to be specifically for pregnant women are, at the same time, represented or purported to be specifically for lactating women and, as such, using one set of RDIs would address practical concerns related to limited space on food labels.

Therefore, we are proposing to amend § 101.9(c)(8)(iv) to establish RDIs as set forth previously for vitamin A, vitamin C, vitamin D, vitamin E, vitamin K, vitamin B_{12}, folate, choline, riboflavin, niacin, vitamin B_6, calcium, iron, thiamin, biotin, pantothenic acid, phosphorous, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, and potassium for pregnant and lactating women.

TABLE 3—PREVALENCE OF NUTRIENT INADEQUACY AND ADEQUACY (FROM CONVENTIONAL FOODS AND WATER) AND FROM TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENTS) OF U.S. INFANTS 7 THROUGH 12 MONTHS OF AGE [1]

Nutrients	EAR [3]	Usual nutrient intake [2]	
		% Below the EAR [4]	
		Food	Total intake
Iron	6.9 mg	17.8	3.7
Zinc	2.5 mg	0.1	0.1
	AI [3]	% Above AI [5]	
Choline	150 mg	23.5	23.5
Folate	80 mcg	100	100
Niacin	4 mg	99.9	99.9
Riboflavin	0.4 mg	100	100
Thiamin	0.3 mg	99.9	99.9
Vitamin A	500 mcg	86.9	87.5
Vitamin B_6	0.3 mg	99.9	99.9
Vitamin B_{12}	0.5 mg	99.8	99.8
Vitamin C	50 mg	90.1	94
Vitamin D	10 mcg	28.7	33.6
Vitamin E	5 mcg	67	70.6
Vitamin K	2.5 mcg	100	100
Calcium	260 mg	99.6	99.6
Copper	220 mcg	100	100
Magnesium	75 mg	97.6	97.6
Phosphorus	275 mg	98.9	98.9
Potassium	700 mg	98.8	98.8
Selenium [6]	20 mcg	9.9	9.9

[1] All prevalence of nutrient inadequacy or adequacy and status biomarker data is based on NHANES 2003–2006 except for vitamin D and choline (NHANES 05–08).

[2] Usual nutrient intake distributions from conventional foods are determined using the National Cancer Institute statistical method for all nutrients except iron (see footnote 9 to table 1 and Ref. 48).

[3] The DRIs (Estimated Average Requirements (EARs) and Adequate Intakes (AIs)) for infants ages 7–12 months are established by the Institute of Medicine *http://www.iom.edu/Activities/Nutrition/SummaryDRIs/~/media/Files/Activity%20Files/Nutrition/DRIs/New%20Material/2_%20RDA%20and%20AI%20Values_Vitamin%20and%20Elements.pdf.*

[4] The EAR cut-point method was used to compare usual nutrient intakes to the EAR to determine the prevalence of nutrient inadequacy for iron and zinc. For iron, refer to Table I–5 Probability of inadequate iron intakes (Refs. 100 and 158).

[5] For nutrients with an AI, prevalence of nutrient adequacy was determined when usual nutrient intakes are at or above the AI.

[6] We did not receive any comments for this nutrient (for which voluntary declaration is permitted) in response to the ANPRM. In addition, dietary intake and/or biomarker data were not provided in NHANES database for chromium, biotin, iodine, pantothenic acid, molybdenum, manganese and chloride and, therefore, these nutrients are not listed in this table.

TABLE 4—PREVALENCE OF NUTRIENT INADEQUACY AND ADEQUACY (FROM CONVENTIONAL FOODS AND WATER AND TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENT) AND STATUS BIOMARKERS OF THE U.S. POPULATION OF CHILDREN 1 THROUGH 3 YEARS OF AGE [1]

Nutrient	EAR [3]	Usual nutrient intake [2]			
		% below EAR [4]		Status biomarker	
		Food	Total intake	Biomarker cutoff	% Below cutoff
Folate	120 mcg	0.1	0.1	Serum folate < 2 ng/mL RBC folate < 95 ng/mL	0.01
					0.17
Niacin	5 mg	0.6	0.6	N/A	N/A
Riboflavin	0.4 mg	0	0	N/A	N/A
Thiamin	0.4 mg	0	0	N/A	N/A
Vitamin A	210 mcg	1.9	1.5	N/A	N/A
Vitamin B_6	0.4 mg	1.5	1.1	Serum B_6 (pyridoxal 5′ phosphate) < 20 nmol/L	2.57
Vitamin B_{12}	0.7 mcg	0	0	Serum B_{12} < 200 pg/mL	0.2
Vitamin C	13 mg	1.9	1.3	N/A	N/A
Vitamin D	10 mcg	82.0	66.5	Serum 25(OH)D	8.2
					2.9
				< 50 nmol/L	0.8
				< 40 nmol/L	
				< 30 nmol/L	
Vitamin E	5 mg	84.6	61.6	Serum E < 516 mcg/dL	1.3
Calcium	500 mg	11.7	11.7	N/A	N/A
Copper	260 mcg	0.2	0.2	N/A	N/A
Iron	3 mg	1.0	0.42	Serum ferritin < 12 mcg/L (99–02) [5]	17.7
				Iron deficiency (Ferritin model, 99–02)	7.9

TABLE 4—PREVALENCE OF NUTRIENT INADEQUACY AND ADEQUACY (FROM CONVENTIONAL FOODS AND WATER AND TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENT) AND STATUS BIOMARKERS OF THE U.S. POPULATION OF CHILDREN 1 THROUGH 3 YEARS OF AGE [1]—Continued

Nutrient		Usual nutrient intake [2]			
	EAR [3]	% below EAR [4]		Status biomarker	
		Food	Total intake	Biomarker cutoff	% Below cutoff
				Anemia (99–02)	1.8
				Serum ferritin < 12 mcg/L (03–06)	23.3
				Iron deficiency (Body iron model, 03–06)	9.5
Magnesium	65 mg	0	0	N/A	N/A
Phosphorus	380 mg	0.2	0.2	N/A	N/A
Selenium [6]	17 mcg	0	0	N/A	N/A
Zinc	2.5 mg	1.4	1.2	N/A	N/A
	AI [3]	% Above AI [7]			
Choline	200 mg	46.4	48.5	N/A	N/A
Potassium	3000 mg	6.5	6.5	N/A	N/A
Vitamin K	30 mcg	50.9	51.2	N/A	N/A

N/A = Data is not available in NHANES; mg = milligrams; mcg = micrograms.

[1] All prevalence of nutrient adequacy or inadequacy and status biomarker data is based on NHANES 2003–2006 except for vitamin D and choline intakes (2005–2008); serum pyridoxal-5′-phosphate (2005–2006); serum tocopherol for age 3 years (1999–2002), and serum ferritin (1999–2002).

[2] Usual nutrient intake distributions from conventional foods are determined using the National Cancer Institute statistical method for all nutrients except iron (see footnote 9 to table 1 and Ref. 48).

[3] The DRIs (Estimated Average Requirements (EARs) and Adequate Intakes (AIs)) for children 1–3 years of age are established by the Institute of Medicine. Units are in mg/d or mcg/d *http://www.iom.edu/Activities/Nutrition/SummaryDRIs/~/media/Files/Activity%20Files/Nutrition/DRIs/New%20Material/2_%20RDA%20and%20AI%20Values_Vitamin%20and%20Elements.pdf.*

[4] The EAR cut-point method was used to compare usual nutrient intakes to the EAR to determine the prevalence of nutrient inadequacy. For iron, refer to Table I–5 Probability of inadequate iron intakes (Ref. 100).

[5] Serum ferritin analysis changed from the Biorad assay to the Roche assay in 2003. Serum ferritin for 2003–2006 using the Biorad assay was adjusted to be comparable to those 2004–2006 data using the Roche assay. Iron deficiency based on the ferritin model is calculated using 2 out of 3 cutoffs of iron deficiency variables (transferrin saturation, serum ferritin, and erythrocyte protoporphyrin, NHANES 1999–2002) (Refs. 155 and 159). Anemia was based upon iron deficiency criteria (ferritin model) and a low hemoglobin level. Iron deficiency based on the iron body model is calculated from the log ratio of transferrin receptor to ferritin using NHANES 2003–2006 data. NHANES 1999–2002 did not measure transferrin receptor; therefore body iron model could not be analyzed for this time frame. NHANES 2003–2006 did not measure all iron biomarkers for all ages, thus serum ferritin, body iron model or ferritin model could not be analyzed for all ages during this time period.

[6] We did not receive any comments for this nutrient (for which voluntary declaration is permitted) in response to the ANPRM. In addition, dietary intake and/or biomarker data were not provided in NHANES database for chromium, biotin, iodine, pantothenic acid, molybdenum, manganese and chloride and, therefore, these nutrients are not listed in this table.

[7] For nutrients with an AI, prevalence of nutrient adequacy was determined when usual nutrient intakes are at or above the AI.

TABLE 5—PREVALENCE OF NUTRIENT INADEQUACY AND ADEQUACY (FROM CONVENTIONAL FOODS AND WATER) AND TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENT) AND STATUS BIOMARKERS OF THE U.S. POPULATION OF PREGNANT WOMEN 14–50 YEARS OF AGE [1]

Nutrient	Weighted EAR [3]	Usual nutrient intake [2]			
		% below EAR [4]		Status biomarker	
		Food	Total intake	Biomarker cutoff	% below cutoff
Folate	520 mcg	39.6	27.5	Serum folate < 2 ng/mL	0.28
				RBC folate < 95 ng/mL	0
Niacin	14 mg	3.7	2.6	N/A	N/A
Riboflavin	1.2 mg	3.6	3.1	N/A	N/A
Thiamin	1.2 mg	10.4	6.1	N/A	N/A
Vitamin A	549 mcg	36.4	22	Serum A < 20 mcg/mL	1.0
Vitamin B_6	1.6 mg	28.3	15.7	Serum B_6 (Pyridoxal 5' phosphate) < 20 nmol/L	0
Vitamin B_{12}	2.2 mcg	1.6	1.1	Serum B_{12} < 200 pg/mL	4.1
Vitamin C	70 mg	21.7	11.2	Serum C < 11.4 μmol/L	0.4
Vitamin D	10 mcg	87.6	47.6	Serum 25(OH)D	
				< 50 nmol/L	16.9
				< 40 nmol/L	6.4
				< 30 nmol/L	3.7
Vitamin E	12 mg	94.8	51	Serum E < 516 mcg/dL	0.6
Calcium	835 mg	20.7	18.9	N/A	N/A
Copper	0.79 mcg	4.4	4.1	N/A	N/A
Iron	22 mg	5.3	3.71	Serum ferritin < 15 mcg/L	26.1
				[5] Iron deficiency	
				—Body iron model	16.4
				—Ferritin model Anemia	25.1

TABLE 5—PREVALENCE OF NUTRIENT INADEQUACY AND ADEQUACY (FROM CONVENTIONAL FOODS AND WATER) AND TOTAL INTAKE (CONVENTIONAL FOODS, WATER, AND SUPPLEMENT) AND STATUS BIOMARKERS OF THE U.S. POPULATION OF PREGNANT WOMEN 14–50 YEARS OF AGE [1]—Continued

Nutrient	Weighted EAR [3]	Usual nutrient intake [2]			
		% below EAR [4]		Status biomarker	
		Food	Total intake	Biomarker cutoff	% below cutoff
					12.8
Magnesium	295 mg	57.2	55.0	N/A	N/A
Phosphorus	583 mg	0.3	0.3	N/A	N/A
Selenium [6]	49 mcg	0.7	0.7	N/A	N/A
Zinc	9.5 mg	15.9	12.8	N/A	N/A
	Weighted AI [3]	% Above AI [7]			
Choline	450 mg	13.5	13.6	N/A	N/A
Potassium	4700 mg	3.9	3.9	N/A	N/A
Vitamin K [6]	89 mcg	34.5	36.1	N/A	N/A

N/A = Data is not available in NHANES; mg = milligrams; mcg = micrograms.

[1] All prevalence of nutrient adequacy or inadequacy and biomarker data is based on NHANES 2003–2006 except for vitamin D and choline intakes (2005–2008); serum pyridoxal-5'-phosphate (2005–2006); serum tocopherol (1999–2002), and serum ferritin (1999–2002). Biomarker data are for pregnant women 12 through 49 years of age.

[2] Usual nutrient intake distributions from conventional foods are determined using the National Cancer Institute statistical method for all nutrients except iron (see footnote 9 to table 1 and Ref. 48).

[3] The DRIs (Estimated Average Requirements (EARs) and Adequate Intakes (AIs)) for pregnant women 14–50 years of age are established by the Institute of Medicine. Units are in mg/d or mcg/d *http://www.iom.edu/Activities/Nutrition/SummaryDRIs/~/media/Files/Activity%20Files/Nutrition/DRIs/New%20Material/2_%20RDA%20and%20AI%20Values_Vitamin%20and%20Elements.pdf.*

[4] The EAR cut-point method was used to compare usual nutrient intakes to the EAR to determine the prevalence of nutrient inadequacy. For iron, refer to Table I–5 Probability of inadequate iron intakes (Ref. 100).

[5] Iron deficiency based on the iron body model is calculated from the log ratio of transferrin receptor to ferritin using NHANES 2003–2006 data. Iron deficiency based on the ferritin model is calculated using 2 out of 3 cutoffs of iron deficiency variables (transferrin saturation, serum ferritin, and erythrocyte protoporphyrin, NHANES 1999–2002) (Refs. 155 and 159). Anemia was based upon iron deficiency criteria (ferritin model) and a low hemoglobin level.

[6] We did not receive any comments for these nutrients (for which voluntary declaration is permitted) in response to the ANPRM. In addition, dietary intake and/or biomarker data were not provided in NHANES database for chromium, biotin, iodine, pantothenic acid, molybdenum, manganese and chloride and, therefore, these nutrients are not listed in this table.

[7] For nutrients with an AI, prevalence of nutrient adequacy was determined when usual nutrient intakes are at or above the AI.

L. Dietary Supplements

FDA regulations specific to dietary supplement nutrition labeling appear in § 101.36. Many requirements in § 101.36 are consistent with the requirements for the nutrition labeling of conventional foods in § 101.9 and there are references throughout § 101.36 to requirements established in § 101.9. As discussed previously, we are proposing several amendments to § 101.9 that, if finalized, would result in significant changes to the content and format of the Nutrition Facts label. For consistency, we are proposing to amend § 101.36 so that the content and format of the Supplement Facts label corresponds with that of the Nutrition Facts label. The IOM Labeling Report included a recommendation that the Supplement Facts label should use the same DVs as the Nutrition Facts label. In light of the IOM recommendation, we requested comment in the 2007 ANPRM on whether the Supplement Facts label should use the same DVs as the Nutrition Facts label, as suggested in the IOM labeling report. We received no comments in response to this question. We also did not receive any other comments to the 2007 ANPRM that are relevant to the Supplement Facts label.

We expect that the proposed DVs for infants 6 through 12 months, children 1 through 3 years, pregnant and lactating women, and individuals 4 years of age and older may result in reformulation of dietary supplement products. Reformulations could impact intakes of vitamins and minerals for all age groups. We invite comment, including the submission of data and other factual information, on the reformulation of dietary supplement products that may result from proposed changes to the DVs, as well as information on the potential consequences of such reformulations.

Our proposed changes to the Supplement Facts label in light of proposed changes to the Nutrition Facts label are described in this document.

1. Mandatory Dietary Ingredients

In § 101.36(b)(2), we established a list of dietary ingredients that have an RDI or a DRV as established in § 101.9(c)(8)(ii) that are referred to as the ''(b)(2)-dietary ingredients.'' These 15 nutrients must be listed in the Supplements Facts label for a dietary supplement when they are present in amounts that exceed the amount that can be declared as zero in the nutrition labeling of foods in accordance with § 101.9(c).

Section § 101.9(c)(8)(ii) requires vitamin A, vitamin C, calcium, and iron to be declared on food labels. As discussed in section II.H., we are proposing to amend § 101.9(c)(8)(ii) to allow for voluntary declaration of vitamins A and C and to require mandatory declaration of calcium, vitamin D, potassium, and iron. In addition, we are proposing to eliminate the mandatory declaration of ''Calories from fat'' on the Nutrition Facts label (see section II.A.1.).

We are proposing to update the list of (b)(2)-dietary ingredients to maintain consistency with the proposed requirements for nutrition labeling of foods in § 101.9. Therefore, proposed § 101.36(b)(2)(i) would: (1) No longer require declaration of vitamin A, vitamin C, or Calories from fat; (2) require vitamin D and potassium; (3) require the declaration of added sugars; and (4) retain the other (b)(2)-dietary ingredients as mandatory declarations. We are also proposing to amend

§ 101.36(b)(2)(i), (b)(2)(i)(B)(*1*), and (b)(2)(iii)(G) to remove the requirement for declaration of ''Calories from fat.''

2. Folate and Folic Acid

We are proposing to only allow the use of the term ''folic acid'' for the labeling of dietary supplements. Folate is a nutrient found in conventional foods, whereas folic acid is the synthetic form of folate that is added to fortified conventional foods and dietary supplements. As discussed in section II.J.2., ''folic acid'' or ''folacin'' are identified as synonyms of folate and can be used on the Nutrition Facts label (§ 101.9(c)(8)(v)) or in the Supplement Facts label (§ 101.36(b)(2)(i)(B)(*2*)). However, because of the difference in bioavailability between naturally occurring folate, and synthetic folic acid, we are proposing to amend § 101.9(c)(8)(v) such that the term ''folate'' would be used in the labeling of conventional foods that contain either folate alone or a mixture of folate and folic acid. As discussed in section II.J.2.c., we consider only the term ''folic acid'' to be appropriate for use in the labeling of dietary supplements. Therefore, we are proposing to amend §§ 101.36(b)(2)(i)(B) and (b)(2)(i)(B)(*2*) to specify that ''folic acid'' is the term used to declare folic acid content of dietary supplements; and to remove ''folate'' and ''folacin'' from the list of synonyms that may be used to declare folic acid on the Supplement Facts label.

3. Units of Measure

In section II.J.3., we are proposing to amend § 101.9(c)(8)(iv) to replace ''IU'' for the RDIs for vitamin A, vitamin D, and vitamin E with mcg RAE for vitamin A, mcg for vitamin D, and mg α-tocopherol for vitamin E. In addition, in section II.J.2., we are proposing to quantify and declare folate and folic acid in ''mcg DFE'' instead of ''mcg.'' In the interest of maintaining consistency in nutrition labeling of foods and dietary supplements, we are proposing to amend § 101.36(b)(2)(i)(B)(*3*) to require that when β-carotene is included in parentheses following the percent statement for vitamin A, it should be declared using ''mcg'' (representing mcg RAE) as the unit of measure. In addition, under § 101.36(b)(2)(ii)(B), the proposed units of measure for vitamin D, vitamin E, and folate in § 101.9(c)(8)(iv) would be used in the declaration of vitamin D, vitamin E, and folic acid in the Supplement Facts label.

In 2005, we received a citizen petition (Docket No. FDA–2005–P–0126 (formerly Docket No. 2005P–0293)) requesting us to preclude the declaration of β-carotene in supplements as vitamin A (*http://www.regulations.gov/#!docketDetail;D=FDA-2005-P-0126*). The petition maintained that the declaration of vitamin A on dietary supplement labels is misleading when the supplement contains mostly β-carotene because only a small amount of β-carotene is converted by the liver into vitamin A. We do not see a need to preclude the declaration of β-carotene as vitamin A, because the difference in the bioconversion of β-carotene to vitamin A will be accounted for with the proposed declaration of vitamin A content as ''mcg'' (representing mcg RAE) (see section II.J.3.). Therefore, we are not proposing to preclude the declaration of β-carotene in dietary supplements as vitamin A.

4. Order of Nutrients Declared on the Label

For dietary supplements, § 101.36(b)(2)(i)(B) specifies that vitamins and minerals must be declared in a specific order on the Supplement Facts label. We are now proposing to establish an RDI for choline in section I.7. Therefore, it is necessary to add choline to the list of ordered nutrients in § 101.36(b)(2)(i)(B). We are proposing to require that, when declared, choline shall follow potassium on the label.

5. Subpopulations

We discussed several changes in section II.K. that will affect dietary supplement labeling currently required for infants, children under 4 years of age, and pregnant and lactating women. To maintain consistency with the proposed requirements for nutrition labeling of foods in § 101.9, we tentatively conclude that it is appropriate to revise the appropriate sections of § 101.36 that pertain to labeling requirements for foods, other than infant formula, that are represented or purported to be specifically for infants 7 through 12 months, children 1 through 3 years, and pregnant and lactating women. Therefore, we are proposing to amend § 101.36(b)(2)(iii) to read as follows: ''The percent of the Daily Value of all dietary ingredients declared under paragraph (b)(2)(i) of this section shall be listed, except that the percent DV for protein may be omitted as provided in § 101.9(c)(7); no percent DV shall be given for subcomponents for which DRVs have not been established (e.g., sugars).''

When the percent DV is declared for total fat, saturated fat, total carbohydrate, dietary fiber, or protein, we require that a symbol be placed next to the percent DV declaration for these nutrients that refers the consumer to a statement at the bottom of the label that says ''Percent Daily Values are based on a 2,000 calorie diet.'' This statement is only accurate for products meant for children and adults that are 4 years of age and older. The proposed DRVs for total fat, total carbohydrate, dietary fiber, and protein for children 1 through 3 years of age are based on a 1,000 calorie diet. Therefore, when a product that is represented or purported to be for children 1 through 3 years of age contains a percent DV declaration for total fat, total carbohydrate, dietary fiber, or protein, we are proposing to require in § 101.36(b)(2)(iii)(D) that a symbol be placed next to the percent DV declaration that refers the consumer to a statement at the bottom of the label that says ''Percent Daily Values are based on a 1,000 calorie diet.''

In addition, we are proposing to amend § 101.36(b)(2)(iii)(E) to change the categories of infants and children less than 4 years of age to infants 7 through 12 months of age and children 1 through 3 years of age.

Finally, because we are proposing DRVs for various nutrients for infants 7 through 12 months, children 1 through 3 years, and pregnant and lactating women (see section II.K.), we are proposing to amend § 101.36(b)(2)(iii)(F) such that the requirement for an asterisk noting that a DV has not been established would be applicable to foods for these subpopulations only when a DRV has not been established for a nutrient (i.e., for saturated fat, cholesterol, or dietary fiber for dietary supplements that are represented or purported to be for use by infants 7 through 12 months). Proposed § 101.36(b)(2)(iii)(F) states: ''For declared subcomponents that have no DRVs, a symbol (e.g., an asterisk) shall be placed in the ''Percent Daily Value'' column that shall refer to the same symbol that is placed at the bottom of the nutrition label, below the last heavy bar and inside the box, and followed by the statement ''Daily Value not established.''

6. Footnote

As discussed in section II.M, we are proposing to modify the footnote on the Nutrition Facts label. We are planning to conduct consumer studies related to the footnote on the Nutrition Facts label. The current footnote statement required for the Supplement Facts label differs from that which is currently required on the Nutrition Facts label. We expect that consumers that purchase dietary supplements would be more interested in information about the amount of specific micronutrients contained in dietary supplements and would be less

focused on the caloric reference value used in determining the percent DV for macronutrients. Based on the results of the consumer study, we will consider whether it is necessary to make corresponding changes to the footnote used on the Supplement Facts label when certain macronutrients are declared. We invite comment on whether we should consider changes to the footnote statement on the Supplement Facts label to be consistent with any changes to the footnote statement in the Nutrition Facts label.

M. Format

Nutrition information must be presented on food labels in a specific format (see e.g., § 101.9(d)–(f) and (j)). The elements of format related to the Nutrition Facts label include such features and graphic design principles as the type style (i.e., font) and size of the type (i.e., point); use of boldface, lines, and bars; arrangement of information in one or more columns; column headings; presence of a footnote and use of a symbol (such as an asterisk) to designate a footnote; and whether nutrition information is listed as a percentage or in absolute (i.e., quantitative) amounts. The elements of format also include the alignment of information; whether indentations are used in listing nutrient data; and the use of white space (or negative space) where no image or text exists. White space helps to isolate an element of the label that demands attention and provides a hierarchy and pacing of information for the reader (Ref. 160). The format may differ from package to package according to the amount of space on the package that is available for labeling, as described and detailed in the relevant sections in this document.

The format of the Nutrition Facts label was informed by a number of factors, including consumer research conducted by FDA (Refs. 161 to 163); consideration of the environment in which consumers typically use the label (i.e., grocery stores); the diversity of consumers for whom the label is intended (i.e., with respect to education, age, socioeconomic status, etc.); and comments and data received on this issue in response to a 1990 proposed rule, as discussed in the 1993 final rule entitled Food Labeling: Mandatory Status of Nutrition Labeling and Nutrient Content Revision, Format for Nutrition Label (58 FR 2079 at 2114–2144) (the format rule). Research studies consistently confirmed that simple formats are easier to comprehend and require less consumer effort than complex information formats. A simple format is one that minimizes clutter and best meets the NLEA requirements that nutrition information should enable the public to readily observe and comprehend such information. In addition, a simple format allows consumers to search for accurate nutrition information with minimum effort, and provides information in a succinct manner that maximizes understanding.

Although the original intent of the format rule to meet the requirements and objectives of the NLEA for format has not changed, FDA is proposing certain changes to the format because of new information that has become available to us since 1993. The new information includes results of consumer research including studies that we conducted (Ref. 164), trends in health conditions (especially obesity), comments received in response to the 2005 and 2007 ANPRMs, and recommendations from FDA's Obesity Working Group (OWG) (Ref. 165). We are using this notice of proposed rulemaking to re-examine aspects of the current label format to determine which, if any, design changes may facilitate how information is conveyed to consumers.

We are not proposing an extensive reformatting of the Nutrition Facts label. The original design, which took into account fundamental design principles for communicating complex ideas with clarity, precision, and efficiency, are largely being retained (Ref. 166). Rather, our tentative views, tentative conclusions, and proposed changes include our consideration of graphic design principles such as alignment, consistency, repetition, and contrast, and place an emphasis on highlighting key nutrients and key information and removing or modifying parts of the label to assist consumers in maintaining healthy dietary practices (Ref. 167). We consider our proposed changes to the Nutrition Facts label to be visually appealing and inviting. In general, the goal is to continue to display the information in a simple manner that is legible, readable, and follows a logical hierarchy. This presentation should serve as a visual guide to the reader that allows the eye to easily scan the label while the actual effort of reading is reduced.

Toward that end, we are proposing the following changes to the format of the Nutrition Facts label: (1) Increasing the prominence of calories and serving size; (2) reversing the order of the ''Serving Size'' declaration and the ''Servings Per Container'' declaration and increasing the prominence of ''Servings Per Container''; (3) right-justifying the quantitative amounts of the serving size information; (4) changing the phrase ''Amount Per Serving'' to ''Amount Per ____'' with the blank filled in with the serving size; (5) removing the declaration of ''Calories from fat''; (6) modifying the presentation of the ''% DV'' information by changing its position to the left of the name of the nutrient on certain labels, and separating it from the list of nutrients with a vertical line; (7) declaring ''Added Sugars'' as an indented listing directly beneath the listing for ''Sugars''; (8) declaring the quantitative amounts (in addition to percent DVs) of mandatory vitamins and minerals and, when declared, voluntary vitamins and minerals; (9) requiring dual column labeling under certain conditions; (10) modifying the footnote; (11) requiring that all nutrients not currently highlighted in bold or extra bold type be highlighted in a type that is intermediate between bold or extra bold and regular (i.e., semi-bold) type; (12) adding a horizontal line directly beneath the ''Nutrition Facts'' heading; and (13) replacing the listing of ''Total Carbohydrate'' with ''Total Carbs.'' We discuss each of these proposed amendments in this document. In addition, we are requesting comments on other issues related to the Nutrition Facts label format, including the use of an alternative format design or requiring the use of a specific font.

Although the discussion in this document focuses primarily on the format of the standard Nutrition Facts label illustrated in § 101.9(d)(12), we also discuss certain modifications that we are proposing to be applied to other label formats to maintain consistency with the new format of the standard Nutrition Facts label. These other modifications pertain to formats for packages of products that contain two or more separately packaged foods that are intended to be eaten individually (e.g., variety packs of cereals and snacks) or that are used interchangeably for the same type of foods (e.g., round ice cream containers (§ 101.9(d)(13)); formats that apply to subpopulations (§ 101.9(e) and § 101.9(j)(5)); the simplified format (§ 101.9(f)); the tabular display on packages that do not have sufficient continuous vertical space (§ 101.9(d)(11)(iii)); and the tabular display (§ 101.9(j)(13)(ii)(A)(*1*)) and linear display (§ 101.9(j)(13)(ii)(A)(*2*)) for small packages.

1. Increasing the Prominence of Calories and Serving Size

The ability to determine the caloric content of packaged foods is important for all consumers, especially those who are trying to control their total caloric

intake and manage their weight. Inasmuch as overweight and obesity are major public health problems in the United States and are fundamentally a direct result of calorie consumption exceeding energy expenditure, we are interested in increasing consumer attention to the calorie content of packaged foods.

Current FDA regulations require ''Calories'' to be declared in a type size no smaller than 8 point (§ 101.9(d)(1)(iii)) and highlighted in bold or extra bold type or other highlighting (§ 101.9(d)(1)(iv)). While calorie information is mandatory on the Nutrition Facts label, it is possible that modifying the Nutrition Facts label to give more prominence to calories may benefit consumers in weight control and maintenance, as noted by the OWG in its final report entitled ''Calories Count'' (Ref. 165).

The OWG recommended, in part, that FDA issue an ANPRM to solicit comments on how to give more prominence to calories on the food label. The OWG suggested possible changes to the Nutrition Facts label, such as increasing the prominence of ''Calories'' and ''Serving Size,'' providing a percent DV for calories, and eliminating the ''Calories from fat'' declaration, which may detract from the emphasis on total calories. The OWG recommended that we obtain information on the effectiveness of these options on consumer understanding and behavior related to calorie intake (Ref. 165). After issuing the 2005 ANPRM, in which we solicited comment on the OWG recommendations, we received several comments that generally supported increasing the prominence of calories on the Nutrition Facts label. These comments suggested various approaches for doing so, and pointed out the need for additional research to fully understand the effects of potential label changes on consumer understanding and behavior (Ref. 47).

We considered available data from consumer research and comments received in response to the ANPRMs. Research conducted for warning labels and drug label formats has consistently demonstrated that increasing type size, among other things, increases attention to, and improves understanding of warning information, especially for older consumers and those with limited vision (Refs. 168 to 170). Also, our research on food labels with two servings per container found that labeling changes that highlighted the number of servings per container (via text or a dual column) served as cues to consumers that the product contained more than one serving and helped them more accurately determine the number of calories per container (Ref. 164).

We tentatively conclude that the proposed changes to the number of calories per serving and the number of servings per container would result in these declarations serving as an anchor to the Nutrition Facts label by focusing the reader's attention to this information and therefore would assist consumers to effectively use this information in the Nutrition Facts label (Ref. 171). Accordingly, we are proposing to revise § 101.9(d) to increase the type size for ''Calories'' and the numeric value for ''Calories.'' We are also proposing that the numeric value for calories be highlighted in bold or extra bold type in order to draw attention to this information, emphasize the importance of calories on the label, and maintain consistency with the bolded declaration for ''Calories.'' We invite comment on these tentative conclusions.

We also consider it appropriate to make corresponding changes to the prominence of calories on the Supplement Facts label, when ''Calories'' is declared. Although the majority of dietary supplement products contain a negligible amount of calories, and therefore calories are not declared on most Supplement Facts labels, we note that some dietary supplement products may contain a significant amount of calories and macronutrients. We are concerned that a small number of dietary supplement products, especially those in liquid form, could contribute a significant amount of calories and other macronutrients to the diet when consumed regularly. For such products, our tentative view is that it may be necessary for the Supplement Facts label to have a format similar to the format being proposed for the Nutrition Facts label with respect to increasing the prominence of information for calories. We invite comment on whether any of the changes that are being proposed to the Nutrition Facts label in the following sections should also be required for certain products with Supplement Facts labels that list calories and/or other macronutrients, and if so, under what conditions and for which dietary supplement products should such labeling be required.

2. Changing the Order of the ''Serving Size'' and ''Servings Per Container'' Declarations and Increasing the Prominence of ''Servings Per Container''

Current regulations specify that information on serving size, consisting of a statement of the serving size (§ 101.9(d)(3)(i)) and the number of servings per container (§ 101.9(d)(3)(ii)), shall immediately follow the identifying heading of ''Nutrition Facts.'' In addition, ''Serving Size'' and ''Servings Per Container'' must be in a type size no smaller than 8 point (§ 101.9(d)(1)(iii)). As mentioned previously, we are interested in taking steps to increase consumer attention to the calorie content in packaged foods, such as by increasing the prominence of this information as suggested by the OWG. Consumer research on information displays suggests that accuracy of judgments and quality of decisions are improved when information displays closely match the judgment and decision needs of consumers (Refs. 172 and 173). With respect to the Nutrition Facts label, an important consumer need is to identify the number of servings per container of a packaged food. Therefore, placing ''Servings Per Container'' above ''Serving Size'' would be expected to help consumers find the number of servings per container with less effort than is now needed. Listing ''____ servings per container'' with the blank filled in with the actual number of servings directly beneath the ''Nutrition Facts'' heading, and highlighting it in bold or extra bold type would also help increase awareness that the information presented in the Nutrition Facts label does not refer to the contents of the entire package when the label indicates that there is more than one serving per container. Further, listing ''Serving size'' in the same proximity to where the actual nutrient information is located on the label would help consumers understand that this nutrient information pertains to the particular serving size that is declared. Proximity is a graphic design principle that asserts that items closer together are perceived to be more related (Ref. 167). This, in turn, would help consumers grasp the relative significance of a particular food product in the context of their daily diet.

Therefore, based on the available data and information discussed previously, including graphic design principle, of proximity we tentatively conclude that reversing the order of the declarations of ''Servings Per Container'' and ''Serving Size'' would help consumers more readily observe and comprehend the nutrition information appearing in the Nutrition Facts label, allow consumers to search for information with a minimum of effort, and assist consumers in their food purchasing decisions and in maintaining healthy dietary practices. Accordingly, we are proposing to re-designate § 101.9(d)(3)(i) as § 101.9(d)(3)(ii), re-designate § 101.9(d)(3)(ii) as § 101.9(d)(3)(i), and

make changes in how the serving size information is capitalized on the label so that no capital letters are used, except for the first letter in ''Serving size.'' (Current § 101.9(d)(3)(i) and (d)(3)(ii) specify that information on serving size be capitalized and listed as ''Serving Size'' and ''Servings Per Container.'') We also are proposing to require that the declaration of ''____ servings per container'' (with the blank filled in with the actual number of servings) be highlighted in bold or extra bold type, and be in a type size no smaller than 11 point (except for the tabular and linear displays for small packages) (proposed § 101.9(d)(3)(i)) and that the serving size information must be in a type size no smaller than 8 point (except for the linear display for small packages) (proposed § 101.9(d)(3)(ii)). We tentatively conclude that these proposed changes would lessen the effort of consumers to locate this information, and assist them in accurately identifying the calorie amounts and nutrient contents of packaged food products.

Current regulations regarding serving size information for dietary supplements is described in § 101.36(b)(1). When taking dietary supplements, consumers need to know how much of the product to take (e.g., 1 capsule, 2 tablets, 1 packet). This information, which is currently provided in the ''Serving Size'' line of the Supplement Facts label, is more important for the consumer to know than the number of servings (e.g., 100 tablets) contained in the package. We received no comments recommending that the serving size or servings per container information on the Supplement Facts label should be made more prominent or noticeable. Therefore, our tentative conclusion is that there is no need to propose changing the order of how serving size and servings per container are listed on the Supplement Facts label, or to make amendments in the type size or capitalization corresponding to our proposed changes for this information on the Nutrition Facts labels. We invite comment on these tentative conclusions.

3. Right-Justifying the Quantitative Amounts Declared in the ''Serving size'' Statement

We have also tentatively concluded, based on design considerations, that the label statement for ''Serving size'' in both household unit (§ 101.9(b)(5), refers to a common household measure such as a cup, tablespoon, piece or slice) and gram amounts must be right-justified on the same line that ''Serving size'' is listed. Currently, this numerical information is stated immediately adjacent to the ''Serving Size'' declaration, as seen in current § 101.9(d)(12). By keeping the proposed ''Serving size'' declaration left-justified while right-justifying the corresponding numerical values, the proposed change would create white space on the Nutrition Facts label that would result in a less cluttered appearance, heightened focus and emphasis, and improved readability (Ref. 160). This design feature would provide enhanced emphasis to the information about serving size, allowing this information to be more noticeable and thereby facilitating its access and use by consumers. We invite comment on this tentative conclusion.

4. Changing the ''Amount Per Serving'' Statement

Current regulations specify that the Nutrition Facts label shall include a subheading designated as ''Amount Per Serving'' and that this subheading shall be separated from the serving size information by a bar (§ 101.9(d)(4)) and be highlighted in bold or extra bold type or other highlighting (§ 109(d)(1)(iv)). We are proposing, based in part on the consumer research previously cited (Refs. 172 and 173), to change the ''Amount Per Serving'' declaration to ''Amount per ____'' with the blank filled in with the actual serving size expressed in household units, and to increase the type size. These changes would make it easier for label users to judge the amounts of nutrients per serving because it removes the need for label users to refer back to the unit of the serving size which is currently declared just below the Nutrition Facts heading and which would be declared under the number of servings per container in the proposed label formats.

Other studies suggest that consumers are often confused by serving size information as it is currently presented on the Nutrition Facts label (Refs. 174 and 175). Therefore, specifying the actual serving size in the listing of ''Amount per ____'' declaration would be expected to help consumers more readily observe and comprehend the nutrition information appearing in the label. Based on the reasons provided, we tentatively conclude that changing the ''Amount Per Serving'' statement to ''Amount per ____'' with the blank filled in with the actual serving size and increasing the type size would assist consumers in using the information and may lessen the time and effort needed to locate the target information. Accordingly, we are proposing to amend § 101.9(d)(4) by requiring that the Nutrition Facts label specify what the serving size actually is by declaring ''Amount per ____'' with the blank filled in with the actual serving size in household units as indicated in the ''Serving size'' declaration. To further facilitate use of the Nutrition Facts label, as mentioned in section 2, we are proposing to move the ''Serving size'' declaration closer to the proposed ''Amount per ____'' listing. We also are proposing to require that the ''Amount per ____'' information be highlighted in semi-bold, rather than in bold or extra bold, in order not to detract from the calories information. In addition, we are proposing that the type size of the ''Amount per ____'' declaration be no smaller than 8 point (except for the linear display for small packages). We invite comment on our tentative conclusions.

5. Declaration of ''Calories from Fat''

We have tentatively concluded that a declaration of calories from fat on the Nutrition Facts label is not necessary to assist consumers in maintaining healthy dietary practices and, consequently, we are proposing to remove the current requirement for declaration of ''Calories from fat'' (see section II.A.1.). Our Consumer research (Ref. 164), which evaluated a label format that did not contain the ''Calories from fat'' statement, found that the lack of this information had no effect on consumers' judgments of product healthfulness, accuracy in identifying nutrient contents of products, or perceptions of the label. These findings support our proposal to remove the ''Calories from fat'' declaration from the Nutrition Facts label.

6. Presentation of Percent DVs

The format for listing nutrients with DRVs on the Nutrition Facts label, including the quantitative amount by weight and percent DVs, is described in § 101.9(d)(7). In establishing the requirements for percent DV declaration, we considered that this information would help consumers evaluate the nutrient characteristics of a single product (e.g., how high or low a particular product is in certain nutrients or the extent to which it contributes toward daily nutritional goals) and assist them in making choices between products (58 FR 2079 at 2121). Consumer research at that time of rulemaking for the Nutrition Facts label (Ref. 162) indicated that the percent DV information improved consumers' abilities to make correct dietary judgments about a food in the context of a total daily diet. Research also indicated that percent DV information helped consumers to verify the accuracy

of front-panel claims (Ref. 163). We received comments on the format of the Nutrition Facts label in response to the 2007 ANPRM (Ref. 47) that suggested modifying the way percent DV is presented to facilitate greater use of this information, although one comment suggested that the percent DV should not be used on the label. Other comments noted the need for additional consumer research and a comprehensive consumer education program.

We continue to believe that the percent DV information on the Nutrition Facts label can serve a number of useful purposes, including helping consumers to compare foods; determine if a serving of food is high or low in a particular nutrient; and make dietary trade-offs among food choices throughout the day. As such, we do not agree that the percent DV declarations should be eliminated from the Nutrition Facts label. We are proposing to switch using the ''% Daily Value'' to the ''% DV'' in the column that is above the nutrient listings. The ''% DV'' is used on some of nutrition facts labels for smaller packages and we think this will help with maintaining consistency among the labels. In addition we are adding a hairline rule (see discussion in this document) to differentiate the DVs from the nutrients and using ''% DV'' as the header which maintains the alignment of the heading over the DV column. Therefore based on the graphic design principle of alignment (Ref. 167) and in order to promote consistency of the labels we tentatively conclude to use ''% DV'' as the column header over the numerical listing of the nutrients DVs (proposed § 101.9(d)(7)(ii)) .

We have considered alternative terms that may be more readily understandable than Daily Value, such as Daily Guide or Daily Need, and invite comment on these or other terms. The issue of using an appropriate single term to refer to all of the reference values in the nutrition label was previously discussed in the format rule (58 FR 2079 at 2124), in which we explained our rationale for deciding upon the single term ''Daily Value.'' We also request comment on whether the word ''percent'' (or the % symbol) should precede whatever term is used in the column heading where the percent DVs are listed, as specified in current § 101.9(d)(6). Since the % symbol is currently included next to the numerical values that are listed in this column, including the word ''percent'' or the % symbol in the column heading may be redundant and, after considering comments, we may remove that requirement in a final rule. For the reasons explained previously, we are not proposing to change the requirements for the declaration of percent DV for all nutrients, as specified in § 101.9(c)(8) and § 101.9(d)(7).

As discussed previously, percent DV is intended to help consumers make dietary decisions. Therefore, we tentatively conclude that making the percent DV more prominent may make the information even more useful to consumers than it is now. One potential approach to making the percent DV more prominent is to rearrange the positions of the columns listing the percent DV information. As currently described in § 101.9(d)(6), and § 101.9(d)(7) the percent should be arranged on the right of certain Nutrition Facts label formats. For labels displaying the tabular format (proposed § 101.9(d)(11)(iii)), the standard format (proposed § 101.9(d)(12)), the format for infants 7 to 12 months of age (proposed § 101.9(j)(5)(i)), the tabular format for small packages, (proposed § 101.9(j)(13)(ii)(A)(*1*)), the linear display (proposed § 101.9(j)(13)(ii)(A)(*2*)), and the simplified format (as described in current § 101.9(f)), we propose to list percent DVs in a column to the left of the names of the nutrients and their quantitative amounts, with a thin vertical line separating the ''% DV'' column from the list of nutrients.

The rearrangement is based on the graphic design principles of primacy (which asserts that initial items in a list are stored more efficiently in memory than items listed later), proximity (which asserts that elements positioned close together are perceived as a single group), and the importance of white space (which, among other things, is used by designers to isolate an element that demands attention) (Ref. 160 and 167), and the fact that English text is read from left to right. The addition of a vertical hairline rule to the right of the ''% DV'' column assists in chunking this information, thereby accentuating it and further distinguishing it from the nutrient name and the quantitative weight information. Chunking is a technique for combining multiple units of information into a limited number of units or chunks so that the information is easier to process and remember) (Ref. 167). Based on these design principles, positioning the % DV to the left of the label should increase consumers focus on the % DV. Displaying the % DV in this manner would assist consumers in understanding the relevant contribution of a nutrient in a food to the diet by highlighting the % DV information on the label more than on the current label format (where % DV is listed on the right of the label).

We tentatively conclude that the proposed rearrangement would assist consumers by helping them to understand the nutrition information on the label in the context of a total daily diet. We are unaware of any consumer survey data concerning this particular proposed change related to consumer understanding and use of the information. Although, we are aware that the prevalence of inadequate numeracy (defined as ''the ability to comprehend, use, and attach meaning to numbers'' (Ref. 176) and low literacy in the population have been persistent concerns regarding the ability of consumers to comprehend health-related information, it is unclear to what extent the changes we are proposing to the positioning of the % DV from its current placement would have on overall consumer use or understanding. We are also aware that the prominence of the percent DV first could potentially make the Nutrition Facts label appear less user-friendly particularly to frequent users of Nutrition Facts labels, who have grown accustomed to the format and organization of the existing Nutrition Facts label. In addition, we acknowledge that moving the % DVs to the left could potentially draw consumer attention from nutrients that do not have a DV. We invite comment and data on the tentative conclusion to shift the ''% DV'' to the left of the Nutrition Facts label.

On all dual column labels, including those (1) for two or more forms of the same food (proposed § 101.9(e)(5)); (2) displaying nutrition information per container and per unit, in addition to nutrition information per serving (proposed § 101.9(e)(6)(i); (3) using the tabular display (proposed § 101.9(e)(6)(ii)), and; (4) that provide the aggregate display (proposed § 101.9(d)(13)(ii)), we propose to list the names of nutrients on the right side of the % DV column, followed by the quantitative (weight) amounts of each nutrient. In each of these labels, we propose to use thin vertical lines to separate the information in the ''% DV'' column from the information in the column containing the quantitative weights. Further, we propose to use the same style of thin vertical lines to separate each of the dual columns and aggregate display columns from each other. The use of these vertical lines helps to differentiate the columns and make the information easier for consumers to read and identify (Ref. 167). We invite comment on this tentative conclusion.

As described in the Dietary Supplement Health and Education Act of 1994, dietary supplements are

products taken by mouth containing ''dietary ingredients'' that are intended to supplement the diet. They may contain not only vitamins and minerals, but also herbs or other botanicals and amino acids, as well as concentrates, metabolites, constituents, and extracts of these dietary ingredients (section 201(ff) of the FD&C Act). Thus, many dietary supplement products contain few or no dietary ingredients with DRVs or RDIs, and therefore would not list any percent DVs on the Supplement Facts label. Further, consumers taking dietary supplements may find information about the quantitative amounts of dietary ingredients in the product to be of equal or greater importance than a percent DV listing, even if a DV existed for an ingredient contained in the dietary supplement. Therefore, we are not proposing any changes in the position of the percent DV listing on the Supplement Facts label relative to the position of the nutrient and dietary ingredient information. As mentioned previously, we are proposing to require that the Nutrition Facts labels that include dual columns contain vertical lines separating the percent DV information from the quantitative amounts per weight listings in each of the dual columns, and to separate the dual columns from each other. We invite comment on whether there is a need to include vertical lines that are similarly placed on Supplement Facts labels for multiple vitamins in packets (§ 101.36(e)(11)(iii)) and for dietary supplements that list ''per serving'' and ''per day'' information (§ 101.36(e)(11)(viii)).

Current § 101.9(j)(5)(ii)(A), (j)(5)(ii)(C), and (j)(5)(ii)(D) include certain provisions for the presentation of percent DV for nutrients on the Nutrition Facts label of foods represented or purported to be specifically for infants and children less than 4 years of age. In particular, the percent DVs for protein, vitamins, and minerals are listed in a separate section of the Nutrition Facts label below the quantitative information by weight for protein. As discussed in section II.K., we are proposing changes to the nutrition labeling of foods represented or purported to be specifically for infants 7 through 12 months, children 1 through 3 years of age, and pregnant and lactating women. These include, among other things: (1) Establishing RDIs and DRVs that are used in determining the percent DVs declared on the label; and (2) allowing for certain percent DV declarations that are currently excluded in § 101.9(j)(5)(ii)(A). Given these proposed amendments that would require percent DV declarations for macronutrients, we invite comment on the appropriate placement of percent DVs in the labeling of foods for infants 7 through 12 months, children 1 through 3 years of age, and pregnant and lactating women. We are considering listing the percent DV to the left of the name of any nutrient that has a DV, as shown in proposed § 101.9(j)(5)(i), similar to the placement of the declaration of percent DVs in the labeling of foods for the general population. Therefore, we are proposing that the percent DV for protein would no longer be listed with the vitamins and minerals at the bottom of the label as currently required.

7. Placement of ''Added Sugars''

As discussed in section II.D.3., we are proposing to require the declaration of added sugars as an indented line item underneath the declaration of total sugars on the Nutrition Facts label. If finalized, added sugars would be the first mandatory nutrient required to be listed in a double indentation format on the Nutrition Facts label. FDA regulations permit the voluntary declaration of ''soluble fiber'' and ''insoluble fiber'' as double indented listings under ''dietary fiber'' (§ 101.9(c)(6)(i)). We are planning to conduct a consumer study (78 FR 32394, May 30, 2013) that will include, among other things, questions regarding the declaration of added sugars on the Nutrition Facts label. The results of this study will help enhance our understanding of how consumers would comprehend and use this new information. We will publish the results of the study when they become available. We are interested in receiving, as part of any comment, other available research data and other factual information relevant to this issue, including the proposed double indented placement of added sugars below total sugars.

8. Declaration of Absolute Amounts of Vitamins and Minerals

A declaration of the quantitative amount by weight is required for both mandatory and voluntary nutrients that are declared on the Nutrition Facts label, except for vitamins and minerals (other than sodium and potassium) which must be declared only as percent DVs. As discussed in section II.I.6., we are proposing to require the declaration of the absolute amounts for all mandatory and voluntary vitamins and minerals, in addition to the requirement for percent DV declaration. An exception to this proposed requirement would be Nutrition Facts labels for foods in small packages that have a total surface area available to bear labeling of 40 or less square inches. Because of space limitations, we are not proposing any changes to the tabular display (§ 101.9(j)(13)(ii)(A)(*1*)) and the linear display (§ 101.9(j)(13)(ii)(A)(*2*)) on packages that have a total surface area available to bear labeling of 40 or less square inches, where vitamins and minerals (other than sodium) would have to be declared only as percent DVs.

9. Single and Dual Column Labeling

There are currently multiple provisions for voluntary dual column labeling. For example, there is dual column labeling that presents nutrition information per serving size and per 100 g or 100 mL, or per 1 oz. or 1 fl oz. of the food as packaged or purchased (§ 101.9(b)(10)(i)). Dual column labeling is mandatory for products that are promoted on the label, or in advertising, for a use that differs in quantity by twofold or greater from the use upon which the reference amount was based (e.g., liquid cream substitutes promoted for use with breakfast cereals) (§ 101.9(b)(11)). We are also proposing for foods that are commonly combined with other ingredients or that are cooked otherwise prepared before eating to present the percent DVs and the quantitative amounts for both the food in the ''as purchased'' form and for the ''as prepared'' form in § 101.9(h)(4).

We are proposing under certain conditions (i.e., when the package contains at least 200 percent and up to and including 400 percent of the applicable reference amount customarily consumed) to require dual column labeling where nutrition information would be presented based both on the serving size and on the entire package or unit of food. This is described in a proposed rule entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' (serving size proposed rule) that is published elsewhere in this issue of the **Federal Register**.

In addition to proposing dual-column labeling per serving and per container (or unit, as applicable) for all nutrition information on the label, we are considering two additional options that would require nutrition information per serving and per container for only certain declarations but not all label declarations for containers of food or units of food, as applicable, containing

at least 200 percent and up to and including 400 percent of the applicable RACC. The first option is for a label that includes calorie information per serving and per container (or unit, as applicable) following the serving size information in the Nutrition Facts label. With this option, the remaining nutrition information would be listed on a per serving basis only and in a single column below the calorie information per serving and per container. The second option is to provide nutrition information per serving and per container (or unit, as applicable) for calories, saturated fat and sodium following the serving size information in the Nutrition Facts label and the remaining nutrition information would be listed on a per serving basis in a single column below the dual column provided for calories, saturated fat and sodium declarations. These options may specifically highlight the calorie content alone, and the calorie content, saturated fat content, and sodium content, respectively, for both the serving size and the entire container of food (or unit, as applicable). These options would focus on a smaller number of nutrients presented per serving and per container of food (or unit, applicable) that the U.S. population should limit for those foods with at least 200 percent and up to and including 400 percent of the RACC. We question whether consumers would be more inclined to use dual column labeling for a smaller set of nutrients. We invite comment and data on dual column labeling as proposed in this rule as well as the options presented for providing nutrition information per serving and per container (or unit, as applicable) for only certain declarations.

We will consider whether to require one of these options in the serving size final rule after considering comments on the serving size proposed rule.

10. The Footnote

The Nutrition Facts label requires an asterisk following the ''% Daily Value'' declaration that refers to a footnote statement that reads: ''*Percent Daily Values are based on a 2,000 calorie diet. Your Daily Values may be higher or lower depending on your calorie needs'' (§ 101.9(d)(9)(i)). Below this footnote, a table that lists DRVs for total fat, saturated fat, cholesterol, sodium, total carbohydrate, and dietary fiber based on 2,000 and 2,500 calorie diets must be provided (§ 101.9(d)(9)(i)). This table was originally included in the Nutrition Facts label to assist consumers in estimating their own quantitative dietary needs relative to the reference DVs (58 FR 2079 at 2127). It was also intended to communicate that some DVs vary with caloric intake whereas others do not. Specifically, only the DRVs for the macronutrients (i.e., total fat, saturated fat, total carbohydrate, dietary fiber, and protein) differ according to calorie needs while the current DRVs for cholesterol, sodium, and potassium, as well as the RDIs for essential vitamins and minerals, do not vary according to caloric intake, and therefore are the same for both the 2,000 and 2,500 calorie levels listed in the footnote. Finally, a statement indicating that the kcal/g for fat, carbohydrate, and protein are 9, 4, and 4, respectively, is permitted to be declared below the DRVs table (§ 101.9(d)(10)).

Several comments to the 2007 ANPRM suggested deleting either the entire footnote or the DRVs table from the footnote, and stated that the footnote information is not readily useable or understood by consumers and may be potentially confusing. Other comments recommended replacing the footnote with a short, simple statement that directs consumers to the USDA's MyPyramid Web site (which has now been replaced with *ChooseMyPlate.gov*) for further information. We do not agree with these latter comments, as information on the Nutrition Facts label should be available to the consumer at the time of product purchase or consumption.

The percent DV is not described in the footnote or anywhere else on the Nutrition Facts label and we are interested in whether such a description would help improve consumer understanding of the percent DV information. In addition, as one comment pointed out, a recent study by the International Food Information Council Foundation entitled ''Food Label and Consumer Research Project'' showed that some consumers did not understand what was being conveyed in the percent DV explanatory footnote and others thought that the DRVs table changed according to the content of each food and beverage product. Therefore, although data indicate that the DRVs table is not well understood by consumers, it also appears unlikely that consumers would understand this information any better if calorie values were lowered or if a separate listing for men and women were provided, as was suggested by some comments. Therefore, we are proposing to remove the requirement for the footnote table listing the DRVs for total fat, saturated fat, cholesterol, sodium, total carbohydrate, and dietary fiber for 2,000 and 2,500 calorie diets that is specified in § 101.9(d)(9)(i).

We also note that consumers are better able to discriminate between more and less healthful products when they are given an explanation about percent DVs than when they are not (Ref. 177). Therefore, it is our tentative view that a new footnote statement containing informational text to help consumers interpret the meaning of the percent DV and use the DVs is needed. Such information may include a definition of the percent DV, a succinct statement regarding calorie intake, and/or an explanation of when the percent DV signifies a relatively high or low level of a nutrient, such as the ''5/20 rule,'' which we describe in this document. In addition, it is our tentative view that such a footnote statement should be simple and easy to understand, as simplified information is more useful and accessible to consumers than complex information (Ref. 178).

We also recognize that the footnote appearing in small type size at the bottom of the label may have made it less noticeable to consumers and therefore of less use than if it had been larger and otherwise more noticeable. Therefore, it is our tentative view that increasing the type size, bolding key elements of the footnote (space permitting), and adding a bar clearly separating it from the micronutrient information directly above will assist consumers in using the information. Again, we request comment on the impact such changes would have on enhancing consumers' use of the percent DV. We will consider comments we receive and whether to include such changes in the final rule.

We also consider that a succinct statement about daily calorie intake (2,000 calories) is a necessary part of the footnote because 2,000 calories is consistent with widely used food plans (76 FR 19192 at 19209), the percent DV of certain nutrients (e.g., total fat, total carbohydrate, and dietary fiber) is based on 2,000 calories, and 2,000 calories approximates the estimated energy need for adults who are sedentary to moderately active. However, we recognize that a succinct statement about daily calorie intake should not suggest that the percent DV of all nutrients is linked to a 2,000 calorie diet.

As previously discussed in section II.M.7, we are planning to conduct consumer research on various format issues, including percent DV information in the footnote area. We agree that consumer education programs are important, and have offered such programs on our Web site to a variety of audiences, including young individuals (Ref. 179). We will consider additional efforts, as appropriate. In an

effort to provide consumers with a general approach for using the percent DV to evaluate the nutrient content in foods, we have explained on our Web site that, as a general frame of reference, a 5 percent DV or less is low and a 20 percent DV or more is high (often called the ''5/20 rule'') (Ref. 180). Even though this general frame of reference has been publicized and advocated by the 2010 DGA (Ref. 6) and various Web sites (Ref. 181), it is unclear whether consumers are aware of the ''5/20 rule,'' and to what extent it can improve consumer judgments about what constitutes high or low levels of nutrients in foods since quantitative information about food constituents is difficult for consumer to interpret (Ref. 180). The ''5/20 rule'' also closely approximates FDA regulations for nutrient content claims that provide criteria for the terms ''low'' (§§ 101.61 and 101.62) and the terms ''rich in'' and ''excellent source'' (§ 101.54). Thus, the ''5/20 rule'' could assist consumers in choosing foods that are high in specific nutrients they want to consume more of (e.g., calcium) and/or low in nutrients they want to eat less of (e.g., saturated fat). To inform our decision on how best to construct the new footnote, including its content and format, we plan to conduct consumer research during this rulemaking that will test consumer reactions to a definition of percent DV, a succinct statement on calories, and several statements related to the ''5/20 rule'' (77 FR 32120, May 31, 2012, and 78 FR 32394). We will make the results of this study available for public review and comment. We request comments, including available data and information (such as experimental evidence) related to this issue.

We are not aware of data gathered since the NLEA's implementation on whether listing information about converting gram amounts of fat, carbohydrate, and protein to calories has been useful to consumers. We are not proposing changes to this aspect of the footnote specified in § 101.9(d)(10). However, we request comments and supporting data on whether or not this calorie conversion information should continue to be optional on the Nutrition Facts label, and whether there are any data suggesting that consumers do or do not use this information. We may consider deleting this optional requirement in the final rule if we determine the information is not useful. We will consider corresponding changes to the footnote requirements for the Supplement Facts label consistent with any changes to the footnote on the Nutrition Facts label.

11. Use of Highlighting With a Type Intermediate Between Bold or Extra Bold and Regular Type

Currently, only nutrients that are not indented (i.e., ''Calories,'' ''Total Fat,'' ''Cholesterol,'' ''Sodium,'' ''Total Carbohydrate,'' and ''Protein'') on the Nutrition Facts label are required to be highlighted in bold or extra bold type or other highlighting (§ 101.9(d)(1)(iv)). We have tentatively concluded, based on design considerations of highlighting information in Bold type (Ref. 167) would help differentiate the name of the nutrient from its absolute amount, that all of the other nutrients listed on the Nutrition Facts label, including those that are indented and the vitamins and minerals, should also be highlighted in order to set them apart from other information that appears in the Nutrition Facts label. The key nutrients that are not indented above would still be highlighted in a font that is bolder than the indented nutrients, so the overall style of the Nutrition Facts label will not change. Accordingly, we are proposing to amend § 101.9(d)(1)(iv) to remove the restriction that prohibits any other information on the label to be highlighted, and to require that all voluntary nutrients specified in § 101.9(c), including the vitamins and minerals listed in § 101.9(c)(8)(iv), appear in a type intermediate between bold and regular type (if bold type is used) or between extra bold and regular type (if extra bold type is used) on the Nutrition Facts label.

12. Addition of a Horizontal Line Beneath the Nutrition Facts Heading

The current label requires that the Nutrition Facts heading be set in a type size larger than all other print size in the nutrition label (§ 101.9(d)(2)) but does not require that this heading be set apart from the rest of the label with a horizontal hairline rule, which is a thin line. Horizontal lines are used throughout the Nutrition Facts label as a key graphic element to divide space, direct the eye, and give the label a unique and identifiable look. The repeated use of horizontal lines helps develop the organization of the label, strengthens the label's unity, accentuates width, and promotes stability (Ref. 182). The addition of a hairline rule immediately below the Nutrition Facts heading directs the reader's eye to the serving size information, further emphasizes the information about servings, and helps break the information into small chunks, thus making it easier to process and remember the information (Ref. 167). Accordingly, we have tentatively concluded that a 0.25 point hairline rule shall be inserted directly beneath the Nutrition Fact heading on all label formats, with the exception of the linear display for small packages. We invite comment on this tentative conclusion.

13. Replacing ''Total Carbohydrate'' With ''Total Carbs''

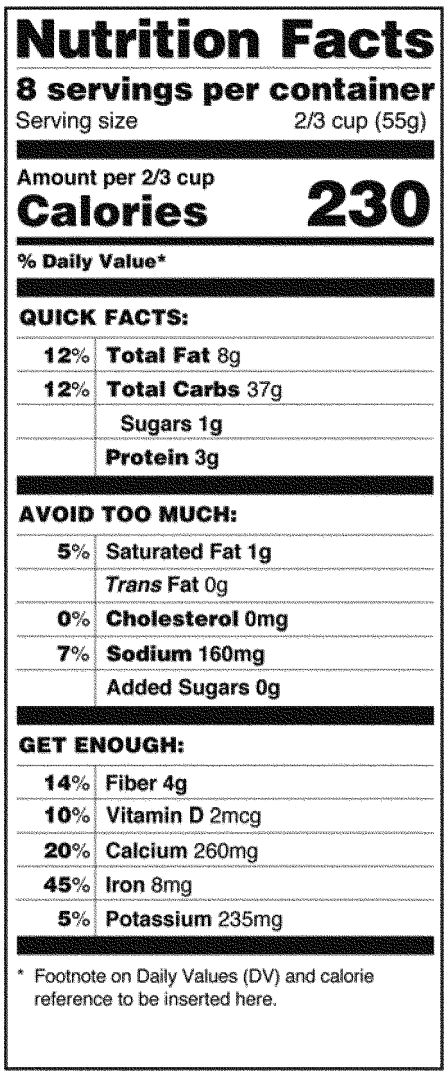
Nutrition information declared on the Nutrition Facts label must be presented using the nutrient names specified in § 101.9(c) or § 101.9(j)(13)(ii)(B). According to § 101.9(c)(6), the nutrient name used for listing information about the carbohydrate content of a product is ''Total Carbohydrate.'' Certain abbreviations, as specified in § 101.9(j)(13)(ii)(B), may be used on the Nutrition Facts label on packages that have a total surface area available to bear labeling of 40 or less square inches. In addition, the term ''carb'' is commonly used as a shortened term or acronym for ''carbohydrate'' (Ref. 183). Although the current abbreviation for ''Total carbohydrate'' is ''Total carb,'' we found that ''total carbs'' was extensively preferred over ''total carb'' as a Google search term during the past 15 years, suggesting that ''carbs'' is the more commonly used term by the general public (Ref. 184). As previously discussed, we are interested in maximizing the amount of white space on the Nutrition Facts label and in maintaining a simple format that minimizes clutter and enables the public to readily observe and comprehend the nutrition information that is presented. For the reasons set forth previously, we tentatively conclude that using the term ''Total Carbs'' instead of ''Total Carbohydrate'' would help achieve these objectives. Accordingly, we are proposing to amend § 101.9(c)(6) and § 101.9(j)(13)(ii)(B) by requiring that the total carbohydrate content in a serving be listed as ''Total Carbs'' instead of ''Total Carbohydrate'' or ''Total Carb'' and that this listing be used on all label formats. We invite comment on this tentative conclusion.

14. Alternative Visual Formats/Fonts

We considered the utility of alternative visual presentation formats, in response to some comments that suggested using charts or graphs to facilitate consumer understanding (Ref. 47). During the development of the current label format, we examined alternative graphic designs, including graphs, and determined that the current format was optimal (Ref. 185). Since 1993, we reviewed two published studies that explored alternative graphical formats (Refs. 172 and 186). These studies provided limited and

mixed evidence in support of the tested formats. For example, one study (Ref. 186) did not investigate how graphical formats would perform when individuals have to compare the healthfulness of more than one product simultaneously. The other study (Ref. 172) demonstrated that when participants used the test labels to compare two products, the alternative graphical format was not unequivocally superior to a format resembling the standard Nutrition Facts format, and indeed the graphical display appeared to be inferior to the Nutrition Facts-type format in supporting consumers' ability to calculate the number of servings of a food that would provide the daily value of particular nutrients. Therefore, in the absence of conclusive evidence to support alternative graphical layouts, we are not proposing any changes to the basic format of the Nutrition Facts label as specified in § 101.9(d)(12). However, we invite comment on an alternative concept for the Nutrition Facts label format that indicates ''quick facts'' (e.g., amount of total carbohydrate, fat and protein) about a product's nutrient content first, and then explicitly points out nutrients to ''avoid too much'' of as well as nutrients to ''get enough'' of as a way to categorize the nutrient declarations in the Nutrition Facts label. We previously considered this concept of separating nutrients out on the label and would like to reconsider it (Ref. 163). We request comment on how this display may or may not convey the information in a manner which enables the public to readily observe and comprehend such information and whether separating and placing nutrients such as ''''Total Fat and ''Saturated Fat'' under different headings would help or hinder consumer's understanding of the Nutrition Facts label. We are also interested in comments on what headings could be used and how to categorize all of the nutrients.

Additionally, we are seeking comment on whether a specific type style should be required for the Nutrition Facts label. Currently, we specify in § 101.9(d)(1)(ii)(A) that the type style should be a ''single easy-to-read type style'' but no specific type style is required. However, in § 101.9(d)(1) we urge that certain type styles (i.e., Helvetica Black, Helvetica Regular, Franklin Gothic Heavy) and other graphic design features be used, as described in appendix B to title 21, part 101, of the Code of Federal Regulations. We request comment on whether a specific font should be required to ensure the readability of the Nutrition Facts label.



Nutrition Facts

8 servings per container

Serving size 2/3 cup (55g)

Amount per 2/3 cup

Calories 230

% Daily Value*

QUICK FACTS:

12%	**Total Fat** 8g
12%	**Total Carbs** 37g
	Sugars 1g
	Protein 3g

AVOID TOO MUCH:

5%	**Saturated Fat** 1g
	***Trans* Fat** 0g
0%	**Cholesterol** 0mg
7%	**Sodium** 160mg
	Added Sugars 0g

GET ENOUGH:

14%	**Fiber** 4g
10%	**Vitamin D** 2mcg
20%	**Calcium** 260mg
45%	**Iron** 8mg
5%	**Potassium** 235mg

* Footnote on Daily Values (DV) and calorie reference to be inserted here.

N. Compliance

Section 101.9(g) provides information about how we determine compliance with our nutrition labeling requirements, including the methods of analysis used to determine compliance, reasonable excesses and deficiencies of nutrients, and acceptable levels of variance from declared values. Based on the proposed changes to other sections of § 101.9 (discussed in sections II.A. to II.M.) and taking into account comments in response to the 2007 ANPRM, we are proposing several changes to § 101.9(g), which we discuss in this document.

1. Level of Variance Allowed for the Label Declaration of Specific Nutrients

Section 101.9(g)(5) establishes that a food with a label declaration of calories, sugars, total fat, saturated fat, *trans* fat, cholesterol, or sodium shall be deemed to be misbranded under section 403(a) of the FD&C Act if the nutrient content of the composite is greater than 20 percent in excess of the value for that nutrient declared on the label. In addition, no regulatory action will be based on a determination of a nutrient value that falls above this level by a factor less than the variability generally recognized for the analytical method used in that food at the level involved.

One comment to the 2007 ANPRM asked us to reevaluate the level of variance permitted for nutrient content declarations, particularly for added nutrients of concern such as sodium, sugar, and fat. Expressing concern that the current practice could result in the provision of inaccurate and misleading information to consumers, the comment recommended that if we are unable to reduce the amount of permitted variability, we should, at a minimum, require food processors to include a disclosure on the food label.

In determining the allowances for variability in § 101.9(g), we considered variability in the nutrient content of foods, analytical variability inherent to test methods used to determine compliance, and statistical probability (38 FR 2125 at 2128, January 19, 1973). In addition, we evaluated compliance procedures and found them to be statistically sound and adequate. The comment provided no information to support a change to the current level of variance or the use of a disclosure statement in this context.

Therefore, we are not proposing to change the level of variance allowed in § 101.9(g)(5) in response to the comment.

2. Methods Used To Determine Compliance

Under § 101.9(g)(2), a composite of 12 subsamples, each taken from 12 different randomly chosen shipping cases are analyzed by appropriate methods as given in the ''Official Methods of Analysis of the AOAC International,'' 15th Ed. (1990) to determine compliance with the requirements in § 101.9, unless a particular method of analysis is specified in § 101.9(c). If no AOAC method is available or appropriate, we use other reliable and appropriate analytical procedures (see § 101.9(g)(2)). The current edition (19th Ed.) of the ''Official Methods of Analysis of the AOAC International'' includes many updates to the 15th Edition.

When we issued § 101.9(g) related to compliance with nutrition labeling requirements, the most current version of the AOAC methods was its 15th edition and, therefore, we identified the 15th edition in our regulation. Newer and better methods of analysis have

been subsequently validated and recognized as ''official'' methods in the current 19th edition (2012) of the *Official Methods of Analysis of the AOAC International.* Accordingly, we are proposing to amend § 101.9(g)(2) by removing ''15th Ed. (1990)'' and adding in its place ''19th Ed. (2012)'' to specify that we will analyze composites ''by appropriate methods as given in the ''Official Methods of Analysis of the AOAC International,'' 19th Ed. (2012).'' If a newer edition of the Official Methods of the AOAC International is published before issuance of a final rule, and assuming that we issue a final rule, we intend to finalize this rule with the newer edition, as appropriate, provided there are no substantive changes in the newer edition requiring additional comment.

3. Records Requirements

Current § 101.9(g)(2) sets forth requirements for composite sampling and analysis to determine compliance with labeling declarations. Specifically, unless a specific analytical method is identified by regulation, composites are analyzed by the appropriate AOAC method (15th Edition) or, if no AOAC method is available or appropriate, by other reliable and appropriate analytical procedures. For certain nutrients subject to this proposed rule, however, there is no AOAC official method of analysis or other reliable or appropriate analytical procedure that is available for us to verify the amount of the declared nutrient on the Nutrition Facts label and ensure that the declared nutrient amount is truthful, accurate and complies with all applicable labeling requirements, including the requirements in § 101.9(g). Specifically, there is no suitable analytical procedure available to measure the quantity of: (1) Added sugars (when a food product contains both naturally occurring sugars and added sugars and for specific foods containing added sugars, alone or in combination with naturally occurring sugars, where the added sugars are subject to fermentation); (2) dietary fiber (when a food product contains both non-digestible carbohydrate(s) that meets the proposed definition of dietary fiber and non-digestible carbohydrate(s) that does not meet the definition of dietary fiber); (3) soluble fiber (when a mixture of soluble fiber and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber are present in a food); (4) insoluble fiber (when a mixture of insoluble fiber and non-digestible carbohydrate(s) that does not meet the definition of dietary fiber are present in a food); (5) vitamin E (when a food product contains both *RRR*-α-tocopherol and *all rac*-α-tocopherol acetate); and (6) folate (when a food product contains both folate and folic acid). As discussed in sections II.D.3. (added sugars), II.D.5.a. (dietary fiber), II.D.5.b. (soluble and insoluble fiber), II.J.2. (folate), and II.J.3. (vitamin E)

Under current § 101.9(g)(9), FDA may permit the use of an alternative means of compliance or additional exemptions when it is not technologically feasible, or some other circumstance makes it impracticable, for firms to comply with the requirements of § 101.9. In such a case, under § 101.9(g)(9), firms must submit a request in writing to FDA for the use of an alternative means of compliance or for a labeling exemption. We are proposing an alternative approach for assessing compliance of the declared amount of each of the nutrients identified previously under the circumstances we describe, given the nature of the information necessary to determine compliance and the number of foods potentially affected, because there is no suitable analytical method available to measure the quantity of each such nutrient as declared on the label or in labeling. We are proposing to require the manufacturer to make and keep records, identified in proposed § 101.9(g)(10), that are necessary to verify the declared amount of each of these nutrients on the Nutrition Facts label. In proposed § 101.9(g)(10) and (g)(11), we are proposing that manufacturers must make and keep written records, as specified for each of the nutrients and under the circumstances described in proposed § 101.9(g)(10)(i–vii), that are necessary to verify the declared amount. We tentatively conclude that the records will provide the manufacturer and FDA with the necessary means to determine compliance with § 101.9(g) requirements related to nutrient declaration.

The manufacturer is in the best position to know which of its records provide the documentation required under the circumstances described previously for us to determine compliance. Some of the required records may appropriately include one or more of the following: Analyses of databases, recipes or formulations, or batch records. We recognize that the nutrient profile of processed foods that have added sugars, dietary fiber, soluble fiber, insoluble fiber, vitamin E, or folate/folic acid can vary depending on the recipe or formulation, the suppliers of ingredients, etc. Therefore, the amount of nutrients in a food may change if a manufacturer changes ingredient suppliers or changes a recipe. In order to verify the nutrient composition of a packaged food, the manufacturer would need to ensure that the records it provides to us to verify the declared amount of each of these nutrients, under the circumstances described, substantiate the nutrient composition of the specific food and, as appropriate, can distinguish among the same or similar product the manufacturer has in the marketplace that may contain differing amounts of the declared nutrient. For example, the manufacturer may have to distinguish among different fruit juice products with different amounts of added sugars or the same fruit juice product with different formulations. Most manufacturers should already have the type of records needed to validate the declared amount of each of these nutrients. The records requirements provide flexibility in what records the manufacturer makes available to us to verify the declared amount of these nutrients for a particular marketed product. In the absence of an accurate and reliable analytical method for quantifying the amount of these nutrients for nutrition labeling under the circumstances described, only the manufacturer will have the information required to determine the accuracy of the declared amount. The information contained in manufacturers' records is an accurate and practical method for assuring that the nutrient declarations comply with section 403(q) of the FD&C Act. Under section 403(q) of the FD&C Act, a food must bear, in its label or labeling, the amount of the nutrient the food contains. The purpose of providing the nutritional value of the food is to assist consumers in maintaining health dietary practices. Moreover, the nutrient declaration must be truthful and not misleading under sections 403(a)(1) and 201(n) of the FD&C Act.

Under section 701(a) of the FD&C Act, we may issue regulations for the efficient enforcement of the FD&C Act in order to ''effectuate a congressional objective expressed elsewhere in the Act'' (*Association of American Physicians and Surgeons, Inc.* v *FDA,* 226 F. Supp. 2d 204 (D.D.C. 2002) (citing *Pharm. Mfrs. Ass'n.* v *FDA,* 484 F. Supp. 1179, 1183 (D. Del. 1980). The proposed record requirements for these nutrients, under the circumstances described, are designed to ensure that the nutrient declarations are accurate, truthful and not misleading, based on information known only to the manufacturer, and to facilitate efficient and effective action to enforce the requirements when necessary. Our authority to establish records

requirements has been upheld under other provisions of the FD&C Act where we have found such records to be necessary (*National Confectioners Assoc.* v. *Califano,* 569 F.2d 690, 693–94 (D.C. Cir. 1978). The records we propose to require are only for foods for which an AOAC or other reliable and appropriate analytical method is not available. They allow us to verify the declared amount of each of these nutrients and that such amount is truthful and not misleading. Thus, the proposed records requirements assist in the efficient enforcement of the FD&C Act.

The authority granted to us under sections 701(a), 403(q), 403(a)(1) and 201(n) of the FD&C Act not only includes authority to establish records requirements, but also includes access to such records. Without such authority, the nutrient declarations for these specific nutrients that we have determined are necessary to assist consumers in maintaining healthy dietary practices under section 403(q)(2)(A) of the FD&C Act are, practically speaking, not enforceable. Without access to such records, we would not know whether the amount declared on the label or in the labeling of each of these nutrients, under the circumstances described, is truthful and not misleading under sections 403(a)(1) and 201(n). The introduction or delivery for introduction into interstate commerce of a misbranded food is a prohibited act under section 301(a) of the FD&C Act. Thus, in order for us to determine whether the food is misbranded and the manufacturer has committed a prohibited act, we must have access to the manufacturer's records that we are requiring be kept under sections 403(q), 403(a) and 201(n) of the FD&C Act.

We anticipate that manufacturers may have concerns about the confidentiality of the information inspected by us under this proposal. We would protect confidential information from disclosure, consistent with applicable statutes and regulations, including 5 U.S.C. 552(b)(4), 18 U.S.C. 1905, and 21 CFR part 20.

Finally, it is necessary for the aforementioned records to be made available for review and copying while the product is available for purchase in the marketplace. The shelf life of packaged foods varies by product. Due to the significant number of packaged food products in the marketplace, there could be a wide variety of shelf lives among packaged foods. Some foods are subject to specific records requirements, such as dietary supplements (§ 111.605 (21 CFR 111.605)), low acid canned foods (21 CFR 113.100), acidified foods (21 CFR 114.100), fruit juice (§ 111.120), and seafood (§ 111.123). Therefore, the record retention period we propose to require to verify certain nutrient declarations may include records that manufacturers are required to make and keep for the same or longer periods under other requirements. The proposed record requirements for purposes of verifying nutrient declarations of such nutrients are separate and distinct from other record requirements. Generally, manufacturers are required to make and keep records for a minimum of 2 years (21 CFR 1.360(d)), which the Agency considers a reasonable period of time for most foods to be available for purchase in the marketplace.

Thus, we are proposing to require that manufacturers must make and keep written records to verify the declaration of: (1) The amount of added sugars when both naturally occurring and added sugars are present in a food (in § 101.9(c)(6)(iii)); (2) the amount of added non-digestible carbohydrate(s) that does not meet the proposed definition of dietary fiber when the dietary fiber present in a food is a mixture of non-digestible carbohydrates that do and that do not meet the definition of dietary fiber (in § 101.9(c)(6)(i)); (3) the amount of added soluble non-digestible carbohydrate(s) that does not meet the proposed definition of dietary fiber when the soluble dietary fiber present in a food is a mixture of soluble non-digestible carbohydrates that do and that do not meet the definition of dietary fiber (in § 101.9(c)(6)(i)(A)); (4) the amount of added insoluble non-digestible carbohydrate(s) that do not meet the proposed definition of dietary fiber when the insoluble dietary fiber present in a food is a mixture of insoluble non-digestible carbohydrates that do and that do not meet the definition of dietary fiber (in § 101.9(c)(6)(i)(B)); (5) the amount of *all rac*-α-tocopherol acetate added to the food and *RRR*-α-tocopherol in the finished food when a mixture of both forms of vitamin E are present in a food (in § 101.9(g)(10)(i)); and (6) and the amount of folic acid added to the food and the amount of folate in the finished food when a mixture of both forms are present in a food (in § 101.9(g)(10)(ii)). We are also proposing, in § 101.9(g)(11), that such records must be kept for a period of 2 years after introduction or delivery for introduction of the food into interstate commerce. In addition, we are proposing to require that such records must be provided upon request, during an inspection, for official review and photocopying or other means of reproduction, and that records required may be retained either as original records, true copies (such as photocopies, pictures scanned copies, microfilm, microfiche, or other accurate reproductions of the original records) or electronic records. Where reduction techniques, such as microfilming are used, suitable reader and photocopying equipment would need to be readily available. All electronic records maintained under § 101.9 would need to comply with part 11 of this chapter (§ 101.9(g)(11)). We note that Part 11 would apply to any electronic records that are maintained to comply with the proposed requirements. We advise that the use of electronic records is voluntary and thus, a paper record system could be used to comply with these proposed recordkeeping requirements. The proposed requirements for electronic records extend to electronic signatures. We issued final guidance for industry on this topic. The guidance, entitled ''Part 11, Electronic Records; Electronic Signatures Scope and Application,'' sets out the Agency's enforcement policies with respect to certain aspects of part 11. The guidance is available at *http://www.fda.gov/RegulatoryInformation/Guidances/ucm125067.htm*. This guidance would apply to any electronic record, including electronic signatures, established or maintained to meet a proposed requirement in this rule, if finalized as proposed. We request comment on the proposed requirements for the types of records that must be made and kept and the length of time that the records must be kept.

4. Inclusion of Potassium as a Mineral

Potassium is specified as a Class I and Class II nutrient in § 101.9(g)(4)(i) and (g)(4)(ii), respectively. This nutrient is the only vitamin or mineral that is specifically listed under the description of both Class I and Class II nutrients. Potassium is a mineral for which an RDI is being proposed (§ 101.9(c)(8)(iv)) and the absolute amount would be required to be declared along with a percent DV on the Nutrition Facts label. We tentatively conclude that there is no need to separately list potassium under the description of Class I and Class II nutrients because it is encompassed within the category, mineral. Therefore, we are proposing to remove specific inclusion of the term ''potassium'' within § 101.9(g)(4), (g)(4)(i), (g)(4)(ii), and (g)(6) such that it would be covered under ''mineral'' and any listing of potassium on the Nutrition Facts label would have to meet the specific compliance requirements for minerals

under § 101.9(g)(4), (g)(4)(i), (g)(4)(ii), and (g)(6).

5. Requirements for Other Carbohydrate, Soluble and Insoluble Fiber, Added Sugars, and Sugar Alcohols

The labeling requirements for Class I and Class II nutrients are provided in section § 101.9(g)(4). For the reasons discussed in section II.D.6., we are proposing to revise § 101.9(c)(6)(iv) to remove the provision for voluntary declaration of ''Other carbohydrate.'' Accordingly, we are proposing to remove compliance requirements related to ''Other carbohydrate'' in § 101.9(g)(4) and (g)(6).

Dietary fiber is included as both a Class I and Class II nutrient because food products may contain only non-digestible carbohydrates that meet the definition of dietary fiber and that may be naturally occurring or that may be added to fortified or fabricated foods. The same is true for soluble and insoluble fiber, yet these nutrients are not specifically listed as Class I or Class II nutrients. Therefore, we are proposing to include soluble and insoluble fiber in § 101.9(g)(4) as both Class I and Class II nutrients.

Section § 101.9(g)(5) specifies that a food with a label declaration of calories, sugars, total fat, saturated fat, *trans* fat, cholesterol or sodium shall be deemed to be misbranded under section 403(a) of the FD&C Act if the nutrient content of the composite is greater than 20 percent in excess of the value for that nutrient declared on the label. The nutrients listed in this section can have a negative impact on health in the general U.S. population if consumed in excess and/or there are current dietary recommendations to reduce the consumption of these nutrients. Therefore, we are ensuring in § 101.9(g)(5) that foods do not contain excessive amounts of these nutrients of which the consumer is not aware. Current dietary recommendations acknowledge that Americans consume excess amounts of added sugars and encourage reducing intake of calories from added sugars. As discussed in section II.D.3., added sugars, like naturally occurring sugars, can contribute to dental caries. As with the other nutrients listed in § 101.9(g)(5), we have an interest in ensuring that foods do not contain excessive amounts of added sugars that are not declared on the label. Therefore, we are proposing to include added sugars in § 101.9(g)(5). In some food products, the only source of sugars may be added sugars. In such cases, an analytical method could be used to determine the amount of added sugars in the food product and the permitted analytical variability would be applicable. Accordingly, we are proposing to amend § 101.9(g)(5) to include ''added sugars (when the only source of sugars in the food is added sugars)'' among the list of nutrients.

In § 101.9(g)(6), reasonable excesses of certain nutrients over labeled amounts are acceptable within current good manufacturing practice. In addition, reasonable deficiencies of certain other nutrients under labeled amounts are acceptable within current good manufacturing practice. Consistent with this approach, we are proposing to allow, in § 101.9(g)(6), reasonable excesses over the labeled amount of soluble and insoluble fiber and sugar alcohols when they are acceptable within current good manufacturing practice, and reasonable deficiencies under labeled amounts of added sugars when they are acceptable within current good manufacturing practice. As with other nutrients added to fortified or fabricated foods, we expect that when a food product contains added sugars, when all of the dietary fiber (both soluble and insoluble) is added non-digestible carbohydrate that meets the definition of dietary fiber, when all of the vitamin E is *all rac*-α-tocopherol acetate, and when only folic acid is present in a food, the declared amount must be a least equal to the amount of the nutrient added to the food.

In summary, we are proposing the following changes related to compliance: (1) Amend § 101.9(g)(2) to cite the 19th edition of the Official Methods of Analysis of the AOAC International as the reference for appropriate methods used to determine compliance with amounts of nutrients declared on the Nutrition Facts label; (2) amend § 101.9(c)(6)(i), (c)(6)(iii), (g)(10), (g)(10)(i), and (g)(10)(ii) to establish general recordkeeping requirements when records are necessary to verify information related to dietary fiber, added sugars, folate, and vitamin E provided on the label; (3) remove specific inclusion of the term ''potassium'' within § 101.9(g)(4), (g)(4)(i), (g)(4)(ii), and (g)(6) such that potassium would covered under ''mineral'' and any listing of potassium on the Nutrition Facts label would meet the specific compliance requirements for minerals under § 101.9(g)(4), (g)(4)(i), (g)(4)(ii), and (g)(6); (4) when all of dietary fiber in a food product meets the proposed definition of dietary fiber, include soluble and insoluble fiber as both Class I and Class II nutrients under § 101.9(g)(4); (5) include added sugars within § 101.9(g)(5) such that the label declaration of added sugars will be deemed misbranded under section 403(a) of the FD&C Act if the nutrient composite is greater than 20 percent in excess of the added sugars value declared on the label, and within § 101.9(g)(6) such that reasonable deficiencies of added sugars would be permitted; (6) include soluble and insoluble fiber and sugar alcohols within § 101.9(g)(6) such that reasonable excesses of these nutrients would be permitted; and (7) consistent with the tentative conclusion in section II.D.6., remove references to ''Other carbohydrates'' in § 101.9(g).

O. Technical Amendments

1. Changing the Name of the Program Office

Since publication of the regulations for nutrition labeling, the name of the office at the Center for Food Safety and Applied Nutrition that is responsible for developing regulations and answering questions related to nutrition labeling as well as for maintaining some of the references discussed throughout § 101.9 has changed. The Office of Nutritional Products, Labeling and Dietary Supplements is now called the Office of Nutrition, Labeling and Dietary Supplements. We are proposing to update the name of the office throughout § 101.9.

2. Changing the Publication Date of Report Incorporated by Reference

Section § 101.9(c)(7)(ii) provides that the protein digestibility-corrected amino acid score ''shall be determined by methods given in sections 5.4.1, 7.2.1, and 8.00 in ''Protein Quality Evaluation, Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation,'' Rome, 1990, except that when official AOAC procedures described in section (c)(7) of this paragraph require a specific food factor other than 6.25, that specific factor shall be used.'' We incorporated the ''Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation'' by reference in § 101.9(c)(7)(ii). Although the referenced report was written in 1989, it was published in 1991. We are, therefore, proposing to change the publication date of the report that is incorporated by reference from 1990 to 1991.

3. Plain Language Edits

On October 13, 2010, the President signed the Plain Writing Act of 2010 requiring that Federal Agencies use ''clear Government communication that the public can understand and use.'' On January 18, 2011, the President issued an Executive Order (E.O. 13563 (75 FR 3821)—Improving Regulation and

Regulatory Review) that requires that the government must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. In an effort to make the requirements of § 101.9 easier to understand, we are proposing to make editorial changes that do not change the meaning or intent of the language in § 101.9(g)(3)(ii); (g)(4)(i); (g)(4)(ii); and (g)(5).

In § 101.9(g)(3)(ii), we are revising the current language to clarify that when a nutrient or nutrients are not naturally occurring (exogenous) in an ingredient that is added to a food, the total amount of such nutrient(s) in the final food product is subject to Class I requirements rather than Class II requirements. It is not explicitly stated in the current regulation that such a nutrient would be subject to Class I requirements.

In § 101.9(g)(4)(i) and (g)(4)(ii), the definitions include a list of vitamins and minerals that are being defined as Class I or Class II vitamins and minerals followed by compliance requirements for those nutrients. This differs from the definition provided in § 101.9(g)(3)(i) and (g)(3)(ii) in that the definitions provided in § 101.9(g)(3)(i) and (g)(3)(ii) are about whether a nutrient is added or naturally occurring. We are proposing to remove ''Class I'' and ''Class II'' from the beginning of sections § 101.9(g)(4)(i) and (g)(4)(ii) and to state instead that when the list of nutrients provided in those sections meets the definition of a Class I or Class II nutrient provided for in § 101.9(g)(3)(i) and (g)(3)(ii), the declaration of those nutrients must meet certain requirements. The proposed change is being made to prevent confusion by having two different definitions of a ''Class I'' and ''Class II'' nutrient for compliance with nutrition labeling requirements.

In § 101.9(g)(5), we are proposing to remove the words ''*Provided,* That''. These words do not provide further clarification and they add additional complexity to the section that is not necessary.

III. Proposed Effective and Compliance Dates

We intend that any final rule resulting from this rulemaking, as well as any final rule resulting from the proposed rule entitled ''Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' become effective 60 days after the date of the final rule's publication in the **Federal Register** with a compliance date 2 years after the effective date. We recognize that it may take industry time to analyze products for which there may be new mandatory nutrient declarations, make any required changes to the Nutrition Facts label (which may be coordinated with other planned label changes), review and update their records of product labels, and print new labels. A compliance date that is 2 years after the effective date is intended to provide industry time to revise labeling to come into compliance with the new labeling requirements while balancing the need for consumers to have the information in a timely manner. We invite comment on the proposed compliance date.

IV. Analysis of Impacts

We have examined the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520). Executive Orders 12866 and 13563 direct us to assess all 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, and other advantages; distributive impacts; and equity). We are publishing two proposed rules on nutrition labeling in the **Federal Register**. We have developed one comprehensive Preliminary Regulatory Impact Analysis (PRIA) (Ref. 187) that presents the benefits and costs of the two proposed nutrition labeling rules taken together; the PRIA is available at *http://www.regulations.gov* (Docket No. FDA–2012–N–1210). The full economic impact analyses of FDA regulations are no longer (as of April 2012) published in the **Federal Register** but are submitted to the docket and are available on this site. We believe that the cumulative impact of the proposed rules on nutrition labeling, taken as a whole, represent a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires Agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Additional costs per entity of the proposed rule are small, but not negligible, and as a result we conclude that the proposed rules on nutrition labeling, taken as a whole, would have a significant economic impact on a substantial number of small entities.

Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that we prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2012) Implicit Price Deflator for the Gross Domestic Product. We have determined that the proposed rules on nutrition labeling, taken as a whole, meet this threshold.

The analysis that we have performed to examine the impacts of the proposed rules under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act, and the PRA (see section V.) are included in the PRIA (Ref. 187) and are available at *http://www.regulations.gov* (Docket No. FDA–2012–N–1210). We invite comment on the PRIA.

V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the PRA. A description of these provisions is given in the PRIA (Ref. 187) available at *http://www.regulations.gov* (Docket No. FDA–2012–N–1210) with an estimate of the annual reporting, recordkeeping, and third-party disclosure burden. Included in the burden estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

We invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

To ensure that comments on information collection are received,

OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the title ''Record Retention, Reporting, and Third-Party Disclosure Requirements for the Declaration of Added Sugars, Dietary Fiber, Soluble Fiber, Insoluble Fiber, Vitamin E, and Folate/Folic Acid.''

In compliance with the PRA, we have submitted the information collection provisions of this proposed rule to OMB for review. These requirements will not be effective until we obtain OMB approval. We will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

VI. Analysis of Environmental Impact

We have carefully considered the potential environmental effects of this action. We have concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required (Refs. 188 and 189). Our finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Division of Dockets Management (see **ADDRESSES**) between 9 a.m. and 4 p.m., Monday through Friday.

VII. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive Order requires Agencies to ''construe * * * a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.''

Section 403A of the FD&C Act (21 U.S.C. 343–1) is an express preemption provision. Section 403A(a) of the FD&C Act provides that: ''* * * no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—(4) any requirement for nutrition labeling of food that is not identical to the requirement of section 403(q) * * *.''

The express preemption provision of section 403A(a) of the FD&C Act does not preempt any State or local requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food (section 6(c)(2) of the Nutrition Labeling and Education Act of 1990, Pub. L. 101–535, 104 Stat. 2353, 2364 (1990)). If this proposed rule is made final, the final rule would create requirements that fall within the scope of section 403A(a) of the FD&C Act.

VIII. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

We invite comment on all aspects of the proposed rule, including the need for, and appropriateness of, the various provisions proposed in this rule and our accompanying rationale. Specifically:

(1) We invite comment on our use of the most recent consensus reports and whether the information and data on which FDA relies from such reports for proposed changes is consistent with current scientific information, the factors for considering mandatory and voluntary declaration of non-statutory nutrients, and whether there is an appropriate alternative analysis to application of these factors regarding (a) no longer permitting mandatory declaration (i.e., vitamins A and C); (b) requiring the declaration of a nutrient that is currently voluntary (e.g., vitamin D), and; (c) continuing the voluntary labeling of macronutrients (e.g., monounsaturated and polyunsaturated fats);

(2) We invite comment on the tentative conclusion to no longer permit the declaration of ''Calories from fat'' on the Nutrition Facts label and on the tentative conclusion not to establish a DRV for calories and include a percent DV for the declaration of calories, which are discussed in section II.A;

(3) In section II.B., we addressed various issues related to the declaration of total fat and related nutrients. We invite comment on the proposed definition of fatty acids, as well as on our tentative conclusion that acetic, propionic, and butyric acids should not be excluded from the definition of total fat;

(4) We invite comment on various issues related to the declaration of carbohydrates and related nutrients, which are discussed in section II.D.: (a) With respect to added sugars, we request comments on our tentative conclusions and proposed provisions for mandatory declaration of added sugars, the placement of this information as double indented line below total sugars, and means to verify compliance. We also invite comment, including the submission of available research, on whether calories from added sugars should be declared on the Nutrition Facts label in lieu of a gram declaration of added sugars to aid consumers in maintaining healthy dietary practices. We also invite comment on products that are subjected to non-enzymatic browning reactions and fermentation, and the amount of variability that occurs among various types of products where added sugars are transformed into other compounds as a result of chemical reactions during food processing; (b) with respect to dietary fiber, we invite comment on the proposed definition of dietary fiber and retaining the term ''dietary fiber.'' We invite comment, including the submission of information on consumer understanding of the term ''dietary fiber'' relative to other relevant terms; and (c) we are proposing to eliminate the provision for voluntary declaration of ''Other carbohydrate'' on the Nutrition Facts label, and tentatively conclude that the proposed amendment is unlikely to have a significant impact on industry or consumers. We invite comment on this issue, including the submission of any other data or factual information that we should consider in making a final determination.

(5) We invite comment on our tentative conclusions related to sodium discussed in section II.G., including the proposed DRV. In particular, we invite comment on: (a) The rationale for the proposed DRV of 2,300 for sodium; (b) whether a RDI of 1,500j mg would be more appropriate and why, and; (c) alternative approaches for selecting a DV for sodium and their public health basis for these approaches. We are also interested in comment, including data and factual information on consumer understanding, interpretation, and use of the percent DV of sodium declared on food labels, and the understanding and potential influences of a DV that reflects an RDI based on an AI (an intake level to not consume less of), instead of a DRV based on a UL (an intake level not to exceed);

(6) In section II.H., we are proposing to: (a) Retain mandatory declaration of calcium and iron; (b) provide for voluntary declaration of vitamins A and C; (c) require the declaration of potassium and vitamin D; and (d) retain voluntary declaration of several other

vitamins and minerals. We are also proposing to require that all vitamins and minerals declared on the Nutrition Facts label must include their quantitative amounts (in addition to the requirements for corresponding percent DV declaration). We invite comment on these tentative conclusions, including the appropriate placement of the quantitative amounts of nutrients on the Nutrition Facts label, including data and other available information on the impact of mandatory labeling of vitamins and minerals on food fortification. We invite comment on the proposed mandatory declaration of vitamin D, potassium, calcium and iron on the label, including how we consider the public health significance of each. We also invite comment on whether the presence of these nutrients presents concerns related to label space or the need for consumer education. We also invite comment on whether the presence of these nutrients presents concerns related to label space or the need for consumer education.

(7) In section II.I., we are proposing to use population-coverage RDAs, when available, or AIs as the basis for establishing RDIs. We invite comment on our analysis and rationale, including available data and information related to our analysis, and any available data on what role, if any, the basis of the DV (EAR or RDA) has on consumption of nutrients above the UL and in discretionary fortification of foods; we request comment on lowering the RDI of B_{12} to 2.4 µg.

(8) In section II.I.6, whether quantitative amounts for nutrients with RDI values that contain three or four digits should be rounded, what the rounding increments should be, and data to support suggested rounding increments for such vitamins and minerals.

(9) We invite comment on issues related to units of measure, nomenclature, and analytical methods, which are discussed in section II.J.;

(10) We invite comment on issues related to nutrition labeling for foods represented or purported to be specifically for infants 7 through 12 months of age, children 1 through 3 years of age, and pregnant and lactating women, which are addressed in section II.K., including (a) any available relevant empirical research as to whether the proposed declaration of saturated fat and cholesterol for infants and children 1 through 3 years of age is likely to be confusing to consumers or otherwise result in restriction of fat intakes among these subpopulations; (b) how consumers would understand and use the information on amounts of saturated fat and cholesterol in the nutrition labeling of foods for infants and young children and whether there is a need for an explanatory footnote to accompany such proposed mandatory declaration; (c) our tentative conclusion that declaration of added sugars should be mandatory on foods represented or purported to be specifically for infants 7 through 12 months of age, children 1 through 3 years of age, and pregnant and lactating women; and (d) adequacy of the proposed RDIs for vitamins and minerals for older infants and children 1 through 3 years of age.

(11) We invite comment, including available data and other information on the reformulation of dietary supplement products that may result from proposed changes to the DVs, as well as information on the potential consequences of such reformulations;

(12) We invite comment on whether we should consider changes to the footnote statement ''Percent Daily Values are based on a 2,000 calorie diet'' used on dietary supplement labels to be consistent with any changes to the footnote statement in the Nutrition Facts label.

(13) We invite comment on (a) including the use of an alternative format design or requiring the use of a specific font; (b) our tentative conclusion that emphasizing both the number of calories per serving and the number of servings per container will serve as an anchor to highlight this information and grab the reader's attention, and therefore will assist consumers to effectively use this information in the Nutrition Facts label; (c) whether any of the changes that are being proposed to the Nutrition Facts label should also be required for certain products with Supplement Facts labels that list calories and/or other macronutrients, and if so, under what conditions and for which dietary supplement products should such labeling be required; (d) our tentative view that there is no need to propose changing the order of how serving size and servings per container are listed on the Supplement Facts label, or to make amendments in the type size or capitalization corresponding to our proposed changes for this information on the Nutrition Facts labels; (e) our tentative conclusion that, based on design considerations, the label statement for ''Serving size'' in both household units and gram amounts should be right-justified on the same line that ''Serving size'' is listed; (f) our tentative conclusion that changing the ''Amount Per Serving'' statement to ''Amount per___'' with the blank filled in with the actual serving size would assist consumers in using the information and may lessen the time and effort needed to locate the target information and improve the accuracy of judgments about the calorie amounts and nutrient contents of packaged food products; (g) the double indented placement of added sugars below total sugars and invite available research data formation; (h) our tentative view that increasing the type size, bolding key elements of the footnote (space permitting), and adding a bar clearly separating it from the micronutrient information directly above will assist consumers in using the information; (i) our tentative view on the need for a footnote statement for enhancing consumers' use and understanding of the percent DV; (j) using data provided consumer research we plan to conduct during this rulemaking that will test consumer reactions to a definition of percent DV, a succinct statement on calories, and several statements related to the ''5/20 rule''; (k) whether or not this calorie conversion information should continue to be optional on the Nutrition Facts label, and whether there are any data suggesting that consumers do or do not use this information; (l) alternative terms that may be more readily understandable than Daily Value, such as Daily Guide or Daily Need; (m) whether the word ''percent'' (or the % symbol) needs to precede whatever term is used in the column heading where the percent DVs are listed; (n) whether there is a need to include vertical lines that are similarly placed on Supplement Facts labels for multiple vitamins in packets (§ 101.36(e)(11)(iii)) and for dietary supplements that list ''per serving'' and ''per day'' information (§ 101.36(e)(11)(viii)); (o) the appropriate placement of percent DVs in the labeling of foods for infants 7 through 12 months, children 1 through 3 years of age, and pregnant and lactating women; (p) our tentative conclusion to insert a 0.25 point hairline rule directly beneath the Nutrition Fact heading on all label formats, with the exception of the linear display for small packages; (q) listing the total carbohydrate content in a serving as ''Total Carbs'' instead of ''Total Carbohydrate'' or ''Total Carb'' and its listing used on all label formats; (r) an alternative concept for the Nutrition Facts label format that indicates ''quick facts'' about a product's nutrient content and explicitly points out nutrients to ''avoid too much'' of as well as nutrients to ''get enough'' of, and; (s) whether a specific font should be required for the Nutrition

Facts label. We request comment on how this display may or may not convey the information in a manner which enables the public to readily observe and comprehend such information and whether separating and placing nutrients such as ''Total Fat'' and ''Saturated Fat'' under different headings would help or hinder consumer's understanding of the Nutrition Facts label. We also are interested in comments on what headings could be used and how to categorize all of the nutrients.

IX. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday, and are available electronically at *http://www.regulations.gov.* (FDA has verified all the Web site addresses in this reference section, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

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List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

■ 1. The authority for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 2. In § 101.9:
■ a. Revise paragraphs (c) introductory text, (c)(1)(i)(A), (c)(1)(i)(C) through (E) (c)(2) introductory text, (c)(5), (c)(6)(i), (c)(6)(iii) and (iv), (c)(7), (c)(8) introductory text, (c)(8)(i), (c)(8)(ii) introductory text, (c)(8)(iii) through (v), (c)(9), (d)(1) introductory text, (d)(1)(ii)(C), (d)(1)(iii) through (v), (d)(2), (d)(3)(i) and (ii), (d)(4) through (8), (d)(10) through (12), (d)(13)(ii), (e), (f) introductory text, (f)(2)(ii), (f)(4) and (5), (g) introductory text, (g)(2), (g)(3)(ii), (g)(4) through (8), (h)(3)(iv), (h)(4) introductory text, (j)(5)(i), (j)(5)(ii) introductory text, (j)(5)(ii)(A), (j)(13)(ii)(A)(*1*) and (*2*), (j)(13)(ii)(B) and (C), and (j)(18)(iv) introductory text.
■ b. Remove paragraph (c)(1)(ii), redesignate paragraph (c)(1)(iii) as (c)(1)(ii), and revise newly designated paragraph (c)(1)(ii);
■ c. Remove paragraph (c)(6)(iv), redesignate paragraph (c)(6)(iii) as (c)(6)(iv), and add new paragraph (c)(6)(iii);
■ d. Add paragraphs (c)(1)(i)(F), (c)(8)(vii), (g)(10), and (g)(11);
■ e. Remove and reserve paragraph (d)(9);
■ f. Remove paragraphs (e)(3)(i) and (e)(3)(ii); and
■ j. Remove paragraphs (j)(5)(ii)(B) through (j)(5)(ii)(D), and redesignate paragraph (j)(5)(ii)(E) as (j)(5)(ii)(B).

The revisions read as follows:

§ 101.9 Nutrition labeling of food.

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(c) The declaration of nutrition information on the label and in labeling of food for adults and children over the age of 4 years, and on foods (other than infant formula) purported to be specifically for infants 7 through 12 months, children 1 through 3 years of age, and pregnant and lactating women, shall contain information about the level of the following nutrients, except for those nutrients whose inclusion, and the declaration of the amounts, is voluntary as set forth in this paragraph. No nutrients or food components other than those listed in this paragraph as either mandatory or voluntary may be included within the nutrition label. Except as provided for in paragraphs (f) or (j) of this section, nutrient information shall be presented using the nutrient names specified and in the following order in the formats specified in paragraphs (d) or (e) of this section.

(1) * * *

(i) * * *

(A) Using specific Atwater factors (i.e., the Atwater method) given in table 13, ''Energy Value of Foods—Basis and Derivation,'' by A. L. Merrill and B. K. Watt, United States Department of Agriculture (USDA) Handbook No. 74 (slightly revised, 1973), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is available from the Office of Nutrition, Labeling, and Dietary Supplements (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, or may be inspected 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.;*

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(C) Using the general factors of 4, 4, and 9 calories per gram for protein, total carbohydrate (less the amount of non-digestible carbohydrates and sugar alcohols), and total fat, respectively, as described in USDA Handbook No. 74 (slightly revised 1973) pp. 9–11, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 (the availability of this incorporation by reference is given in paragraph (c)(1)(i)(A) of this section). A general factor of 2 calories per gram for soluble non-digestible carbohydrates shall be used. The general factors for caloric value of sugar alcohols provided in paragraph (c)(1)(i)(F) of this section shall be used;

(D) Using data for specific food factors for particular foods or ingredients approved by the Food and Drug Administration (FDA) and provided in parts 172 or 184 of this chapter, or by other means, as appropriate;

(E) Using bomb calorimetry data subtracting 1.25 calories per gram protein to correct for incomplete digestibility, as described in USDA Handbook No. 74 (slightly revised 1973) p. 10, which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 (the availability of this incorporation by reference is given in paragraph (c)(1)(i)(A) of this section);

or

(F) Using the following general factors for caloric value of sugar alcohols: Isomalt—2.0 calories per gram, lactitol—2.0 calories per gram, xylitol—2.4 calories per gram, maltitol—2.1 calories per gram, sorbitol—2.6 calories per gram, hydrogenated starch hydrolysates—3.0 calories per gram, and mannitol—1.6 calories per gram.

(ii) ''Calories from saturated fat'' or ''Calories from saturated'' (VOLUNTARY): A statement of the caloric content derived from saturated fat as defined in paragraph (c)(2)(i) of this section in a serving may be declared voluntarily, expressed to the nearest 5-calorie increment, up to and including 50 calories, and the nearest 10-calorie increment above 50 calories, except that amounts less than 5 calories may be expressed as zero. This statement shall be indented under the statement of calories as provided in paragraph (d)(5) of this section.

(2) ''Fat, total'' or ''Total fat'': A statement of the number of grams of total fat in a serving defined as total lipid fatty acids and expressed as triglycerides where fatty acids are aliphatic carboxylic acids consisting of a chain of alkyl groups and characterized by a terminal carboxyl group. Amounts shall be expressed to the nearest 0.5 (1/2) gram increment below 5 grams and to the nearest gram increment above 5 grams. If the serving contains less than 0.5 gram, the content shall be expressed as zero.

* * * * *

(5) ''Fluoride'' (VOLUNTARY): A statement of the number of milligrams of fluoride in a specified serving of food may be declared voluntarily, except that when a claim is made about fluoride content, label declaration shall be required. Fluoride content shall be expressed as zero when the serving contains less than 0.1 milligrams of fluoride, to the nearest 0.1-milligram increment when the serving contains less than or equal to 0.8 milligrams of fluoride, and the nearest 0.2 milligram-increment when a serving contains more than 0.8 milligrams of fluoride.

(6) * * *

(i) ''Dietary fiber'': A statement of the number of grams of total dietary fiber in a serving, indented and expressed to the nearest gram, except that if a serving contains less than 1 gram, declaration of dietary fiber is not required or, alternatively, the statement ''Contains less than 1 gram'' or ''less than 1 gram'' may be used, and if the serving contains less than 0.5 gram, the content may be expressed as zero. Dietary fiber is defined as non-digestible soluble and insoluble carbohydrates (with 3 or more monomeric units) and lignin that are intrinsic and intact in plants; isolated and synthetic non-digestible carbohydrates (with 3 or more monomeric units) that FDA has granted be included in the definition of dietary fiber, in response to a petition submitted to FDA under § 10.30 (21 CFR 10.30) demonstrating that such carbohydrates have a physiological effect(s) that is beneficial to human health; or isolated and synthetic non-digestible carbohydrates (with 3 or more monomeric units) that are the subject of an authorized health claim. Except as provided for in paragraph (f) of this section, if dietary fiber content is not required, and as a result not declared, the statement ''Not a significant source of dietary fiber'' shall be placed at the bottom of the table of nutrient values in the same type size. Dietary fiber content may be determined by subtracting the amount of non-digestible carbohydrates added during processing that do not meet the definition of dietary fiber from the value obtained using AOAC 2009.01, AOAC 2011.25, or an equivalent method of analysis as given in the ''Official Methods of Analysis of the AOAC International,'' 19th Ed. (2012), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 in paragraph (g)(2). The following isolated and synthetic non-digestible carbohydrate(s) have been determined by FDA to have physiological effects that are beneficial to human health and, therefore, shall be included in the calculation of the amount of dietary fiber: β-glucan soluble fiber (as described in § 101.81(c)(2)(ii)(A)) and barley β-fiber (as described in § 101.81(c)(2)(ii)(A)(*6*)). Manufacturers may submit a citizen petition in accordance with the requirements of § 10.30 to request that FDA allow for the declaration of the gram amount of an isolated and synthetic non-digestible carbohydrate or a health claim petition in accordance with the requirements of § 101.70 for an isolated and synthetic non-digestible carbohydrate. The manufacturer must make and keep records in accordance with paragraphs (g)(10) and (g)(11) of this section to verify the declared amount of dietary fiber in the label and labeling of food when a mixture of dietary fiber, and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber, is present in the food.

(A) ''Soluble fiber'' (VOLUNTARY): A statement of the number of grams of soluble dietary fiber in a serving may be declared voluntarily except that when a claim is made on the label or in labeling about soluble fiber, label declaration shall be required. Soluble fiber must meet the definition of dietary fiber in this paragraph (c)(6)(i). Soluble fiber may be determined using AOAC 2011.25 or an equivalent method of analysis as given in the ''Official Methods of Analysis of the AOAC International,'' 19th Ed. (2012), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 in paragraph (g)(2). The manufacturer must make and keep records in accordance with paragraphs (g)(10) and (g)(11) of this section to verify the declared amount of soluble fiber in the label and labeling of food when a mixture of soluble fiber and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber is present in the food. Soluble fiber content shall be indented under dietary fiber and expressed to the nearest gram, except that if a serving contains less than 1 gram, the statement ''Contains less than 1 gram'' or ''less than 1 gram'' may be used as an alternative, and if the serving contains less than 0.5 gram, the content may be expressed as zero.''

(B) ''Insoluble fiber'' (VOLUNTARY): A statement of the number of grams of insoluble dietary fiber in a serving may be declared voluntarily except that when a claim is made on the label or in labeling about insoluble fiber, label declaration shall be required. Insoluble fiber must meet the definition of dietary fiber in this paragraph (c)(6)(i). Insoluble fiber may be determined using AOAC 2011.25 or an equivalent method of analysis as given in the ''Official Methods of Analysis of the AOAC International,'' 19th Ed. (2012), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 in paragraph (g)(2) of this section. The manufacturer must make and keep records in accordance with paragraphs (g)(10) and (g)(11) of this section to verify the declared amount of insoluble fiber in the label and labeling of food when a mixture of insoluble and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber is present in the food. Insoluble fiber content shall be indented under dietary

fiber and expressed to the nearest gram, except that if a serving contains less than 1 gram, the statement ''Contains less than 1 gram'' or ''less than 1 gram'' may be used as an alternative, and if the serving contains less than 0.5 gram, the content may be expressed as zero.''

* * * * *

(iii) ''Added Sugars'': A statement of the number of grams of added sugars in a serving, except that label declaration of added sugars content is not required for products that contain less than 1 gram of added sugars in a serving if no claims are made about sweeteners, sugars, added sugars, or sugar alcohol content. If a statement of the added sugars content is not required and, as a result, not declared, the statement ''Not a significant source of added sugars'' shall be placed at the bottom of the table of nutrient values in the same type size. Added sugars shall be defined as sugars that are either added during the processing of foods, or are packaged as such, and include sugars (free, mono- and disaccharides), syrups, naturally occurring sugars that are isolated from a whole food and concentrated so that sugar is the primary component (e.g., fruit juice concentrates), and other caloric sweeteners. Added sugars content shall be indented under sugars and expressed to the nearest gram, except that if a serving contains less than 1 gram, the statement ''Contains less than 1 gram'' or ''less than 1 gram'' may be used as an alternative, and if the serving contains less than 0.5 gram, the content may be expressed as zero. When a mixture of naturally occurring and added sugars is present in the food, and for specific foods containing added sugars, alone or in combination with naturally occurring sugars, where the added sugars are subject to fermentation, the manufacturer must make and keep records in accordance with paragraphs (g)(10) and (g)(11) of this section to verify the declared amount of added sugars in the label and labeling of food.

(iv) ''Sugar alcohol'' (VOLUNTARY): A statement of the number of grams of sugar alcohols in a serving may be declared voluntarily on the label, except that when a claim is made on the label or in labeling about sugar alcohol or sugars when sugar alcohols are present in the food, sugar alcohol content shall be declared. For nutrition labeling purposes, sugar alcohols are defined as the sum of saccharide derivatives in which a hydroxyl group replaces a ketone or aldehyde group and whose use in the food is listed by FDA (e.g., mannitol or xylitol) or is generally recognized as safe (e.g., sorbitol). In lieu of the term ''sugar alcohol,'' the name of the specific sugar alcohol (e.g., ''xylitol'') present in the food may be used in the nutrition label provided that only one sugar alcohol is present in the food. Sugar alcohol content shall be indented and expressed to the nearest gram, except that if a serving contains less than 1 gram, the statement ''Contains less than 1 gram'' or ''less than 1 gram'' may be used as an alternative, and if the serving contains less than 0.5 gram, the content may be expressed as zero.

(7) ''Protein'': A statement of the number of grams of protein in a serving, expressed to the nearest gram, except that if a serving contains less than 1 gram, the statement ''Contains less than 1 gram'' or ''less than 1 gram'' may be used as an alternative, and if the serving contains less than 0.5 gram, the content may be expressed as zero. When the protein in foods represented or purported to be for adults and children 4 or more years of age has a protein quality value that is a protein digestibility-corrected amino acid score of less than 20 expressed as a percent, or when the protein in a food represented or purported to be for children greater than 1 but less than 4 years of age has a protein quality value that is a protein digestibility-corrected amino acid score of less than 40 expressed as a percent, either of the following shall be placed adjacent to the declaration of protein content by weight: The statement ''not a significant source of protein,'' or a listing aligned under the column headed ''Percent Daily Value'' of the corrected amount of protein per serving, as determined in paragraph (c)(7)(ii) of this section, calculated as a percentage of the Daily Reference Value (DRV) or Reference Daily Intake (RDI), as appropriate, for protein and expressed as a Percent of Daily Value. When the protein quality in a food as measured by the Protein Efficiency Ratio (PER) is less than 40 percent of the reference standard (casein) for a food represented or purported to be specifically for infants 7 through 12 months, the statement ''not a significant source of protein'' shall be placed adjacent to the declaration of protein content. Protein content may be calculated on the basis of the factor 6.25 times the nitrogen content of the food as determined by the appropriate method of analysis as given in the ''Official Methods of Analysis of the AOAC International,'' 19th Ed. (2012), which is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51, except when the official procedure for a specific food requires another factor. Copies may be obtained from AOAC INTERNATIONAL, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877, or may be inspected at the National Archives and Records Administration (NARA). For more 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.*

(i) A statement of the corrected amount of protein per serving, as determined in paragraph (c)(7)(ii) of this section, calculated as a percentage of the RDI or DRV for protein, as appropriate, and expressed as Percent of Daily Value, may be placed on the label, except that such a statement shall be given if a protein claim is made for the product, or if the product is represented or purported to be specifically for infants 7 through 12 months or children 1 through 3 years of age. When such a declaration is provided, it should be placed on the label adjacent to the statement of grams of protein and aligned under the column headed ''Percent Daily Value,'' and expressed to the nearest whole percent. However, the percentage of the RDI for protein shall not be declared if the food is represented or purported to be specifically for infants 7 through 12 months and the protein quality value is less than 40 percent of the reference standard.

(ii) The ''corrected amount of protein (gram) per serving'' for foods represented or purported for adults and children 1 or more years of age is equal to the actual amount of protein (gram) per serving multiplied by the amino acid score corrected for protein digestibility. If the corrected score is above 1.00, then it shall be set at 1.00. The protein digestibility-corrected amino acid score shall be determined by methods given in sections 5.4.1, 7.2.1, and 8.00 in ''Protein Quality Evaluation, Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation,'' Rome, 1991, except that when official AOAC procedures described in this paragraph (c)(7) require a specific food factor other than 6.25, that specific factor shall be used. The ''Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation'' as published by the Food and Agriculture Organization of the United Nations/World Health Organization is incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 and is available from the Office of Nutrition, Labeling, and Dietary Supplements (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug

Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, or may be inspected at the National Archives and Records Administration (NARA). For more 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*. For foods represented or purported to be specifically for infants 7 through 12 months, the corrected amount of protein (grams) per serving is equal to the actual amount of protein (grams) per serving multiplied by the relative protein quality value. The relative protein quality value shall be determined by dividing the subject food protein PER value by the PER value for casein. If the relative protein value is above 1.00, it shall be set at 1.00.

(iii) For the purpose of labeling with a percent of the DRV or RDI, a value of 50 grams of protein shall be the DRV for adults and children 4 or more years of age, a value of 11 grams of protein shall be the RDI for infants 7 through 12 months, a value of 13 grams shall be the DRV for children 1 through 3 years of age, and a value of 71 grams of protein shall be the RDI for pregnant and lactating women.

(8) Vitamins and minerals: A statement of the amount per serving of the vitamins and minerals as described in this paragraph, expressed as a quantitative amount by weight using the appropriate unit of measure provided in paragraph (c)(8)(iv) of this section and as a percent of Daily Value calculated as a percent of the RDI provided in paragraph (c)(8)(iv) of this section.

(i) For purposes of declaration of percent of Daily Value as provided for in paragraphs (d), (e), and (f) of this section, foods represented or purported to be specifically for infants 7 through 12 months, children 1 through 3 years, and pregnant and lactating women shall use the RDIs that are specified for the intended group. For foods represented or purported to be specifically for both infants 7 through 12 months and children 1 through 3 years of age, the percent of Daily Value shall be presented by separate declarations according to paragraph (e) of this section based on the RDI values for infants 7 through 12 months and children 1 through 3 years of age. When such dual declaration is used on any label, it shall be included in all labeling, and equal prominence shall be given to both values in all such labeling. The percent Daily Value based on the RDI values for pregnant and lactating women shall be declared on food represented or purported to be specifically for pregnant and lactating women. All other foods shall use the RDI for adults and children 4 or more years of age.

(ii) The declaration of vitamins and minerals as a quantitative amount by weight and percent of the RDI shall include vitamin D, calcium, iron, and potassium in that order, for infants 7 through 12 months, children 1 through 3 years of age, pregnant and lactating women, and adults and children 4 or more years of age. The declaration of vitamins and minerals as a quantitative amount by weight and percent of the RDI shall include any of the other vitamins and minerals listed in paragraph (c)(8)(iv) of this section when they are added as a nutrient supplement, or when a claim is made about them. Other vitamins and minerals need not be declared if neither the nutrient nor the component is otherwise referred to on the label or the labeling or advertising and the vitamins and minerals are:

* * * * *

(iii) The percentages for vitamins and minerals shall be expressed to the nearest 2-percent increment above 10 percent and up to and including the 50-percent level. Quantitative amounts and percentages of vitamins and minerals present at less than 2 percent of the RDI are not required to be declared in nutrition labeling but may be declared by a zero or by the use of an asterisk (or other symbol) that refers to another asterisk (or symbol) that is placed at the bottom of the table and that is followed by the statement ''Contains less than 2 percent of the Daily Value of this (these) nutrient (nutrients)'' or ''Contains < 2 percent of the Daily Value of this (these) nutrient (nutrients).'' Alternatively, except as provided for in paragraph (f) of this section, if vitamin D, calcium, iron, or potassium is present in amounts less than 2 percent of the RDI, label declaration of the nutrient(s) is not required if the statement ''Not a significant source of ____ (listing the vitamins or minerals omitted)'' is placed at the bottom of the table of nutrient values. Either statement shall be in the same type size as nutrients that are indented. The quantitative amounts of vitamins and minerals, excluding sodium, shall be the amount of the vitamin or mineral included in one serving of the product, using the units of measurement and the levels of significance given in paragraph (c)(8)(iv) of this section, except that zeros following decimal points may be dropped, and additional levels of significance may be used when the number of decimal places indicated is not sufficient to express lower amounts (e.g., the RDI for zinc is given in whole milligrams, but the quantitative amount may be declared in tenths of a milligram).

(iv) The following RDIs, nomenclature, and units of measure are established for the following vitamins and minerals which are essential in human nutrition:

Nutrient	Unit of measure	RDI			
		Adults and children ≥ 4 years	Infants 7 through 12 months	Children 1 through 3 years	Pregnant and lactating women
Vitamin A	Micrograms RAE[1] (mcg)	900	500	300	1,300
Vitamin C	Milligrams (mg)	90	50	15	120
Calcium	Milligrams (mg)	*1,300*	*260*	*700*	*1,300*
Iron	Milligrams (mg)	*18*	*11*	*7*	*27*
Vitamin D	Micrograms (mcg)	*20*	*10*	*15*	*15*
Vitamin E	Milligrams (mg)	15	5	6	19
Vitamin K	Micrograms (mcg)	120	2.5	30	90
Thiamin	Milligrams (mg)	1.2	0.3	0.5	1.4
Riboflavin	Milligrams (mg)	1.3	0.4	0.5	1.6
Niacin	Milligrams NE[2] (mg)	16	4	6	18
Vitamin B_6	Milligrams (mg)	1.7	0.3	0.5	2.0
Folate[3]	Micrograms DFE[4] (mcg)	400	80	150	600
Vitamin B_{12}	Micrograms (mcg)	2.4	0.5	0.9	2.8
Biotin	Micrograms (mcg)	30	6	8	35
Pantothenic acid	Milligrams (mg)	5	1.8	2	7

Nutrient	Unit of measure	RDI			
		Adults and children ≥ 4 years	Infants 7 through 12 months	Children 1 through 3 years	Pregnant and lactating women
Phosphorous	Milligrams (mg)	1,250	275	460	1,250
Iodine	Micrograms (mcg)	150	130	90	290
Magnesium	Milligrams (mg)	420	75	80	400
Zinc	Milligrams (mg)	11	3	3	13
Selenium	Micrograms (mcg)	55	20	20	70
Copper	Milligrams (mg)	0.9	0.2	0.3	1.3
Manganese	Milligrams (mg)	2.3	0.6	1.2	2.6
Chromium	Micrograms (mcg)	35	5.5	11	45
Molybdenum	Micrograms (mcg)	45	3	17	50
Chloride	Milligrams (mg)	2,300	570	1500	2300
Potassium	Milligrams (mg)	*4,700*	*700*	*3000*	*5100*
Choline	Milligrams (mg)	550	150	200	550
Protein	Grams (g)	*N/A*	*11*	*N/A*	*[5] 71*

A percent daily value must be declared on the label for *bolded* nutrients.

[1] RAE = Retinol activity equivalents; 1 RAE = 1 microgram retinol, 12 micrograms β-carotene, or 24 micrograms α-carotene, or 24 micrograms β-cryptoxanthin.

[2] NE = Niacin equivalents, 1 milligram niacin = 60 milligrams of tryptophan.

[3] "Folic Acid" must be used for purposes of declaration in the labeling of dietary supplements. It must also be declared in mcg DFE.

[4] DFE = Dietary folate equivalents; 1 DFE = 1 microgram food folate = 0.6 micrograms folic acid from fortified food or as a supplement consumed with food = 0.5 micrograms of a supplement.

[5] Based on the reference caloric intake of 2,000 calories for adults and children aged 4 years and older, and for pregnant and lactating women.

(v) The following synonyms may be added in parentheses immediately following the name of the nutrient or dietary component:

Calories—Energy

Vitamin C—Ascorbic acid

Thiamin—Vitamin B_1

Riboflavin—Vitamin B_2

* * * * *

(vii) When the amount of folate is declared in the labeling of a conventional food, the nutrient name ''folate'' shall be listed for products containing either folate alone or a mixture of folate and folic acid. The name of the synthetic form of the nutrient, ''folic acid'' shall be used when the nutrient is declared in the labeling of dietary supplements.

(9) The following DRVs, nomenclature, and units of measure are established for the following food components:

Food component	Unit of measurement	DRV			
		Adults and children ≥ 4 years	Infants 7 through 12 months	Children 1 through 3 years	Pregnant and lactating women
Fat	Grams (g)	[1] 65	30	[2] 39	[1] 65
Saturated fatty acids	Grams (g)	[1] 20	N/A	[2] 10	[1] 20
Cholesterol	Milligrams (mg)	300	N/A	300	300
Total carbohydrate	Grams (g)	[1] 300	95	[2] 150	[1] 300
Sodium	Milligrams (mg)	2,300	N/A	1,500	2,300
Dietary fiber	Grams (g)	[1] 28	N/A	[2] 14	[1] 28
Protein	Grams (g)	[1] 50	N/A	[2] 13	N/A

[1] Based on the reference caloric intake of 2,000 calories for adults and children aged 4 years and older, and for pregnant and lactating women

[2] Based on the reference caloric intake of 1,000 calories for children 1 through 3 years of age.

(d)(1) Nutrient information specified in paragraph (c) of this section shall be presented on foods in the following format, as shown in paragraph (d)(12) of this section, except on foods where the tabular display is permitted as provided for in paragraph (d)(11) of this section, on which dual columns of nutrition information are declared as provided for in paragraph (e) of this section, on those food products on which the simplified format is required to be used as provided for in paragraph (f) of this section, on foods for infants 7 months to 12 months of age and children 1 through 3 years of age as provided for in paragraph (j)(5) of this section, and on foods in small or intermediate-sized packages as provided for in paragraph (j)(13) of this section. In the interest of uniformity of presentation, FDA strongly recommends that the nutrition information be presented using the graphic specifications set forth in appendix B to part 101.

* * * * *

(ii) * * *

(C) At least nine points leading (i.e., space between two lines of text) except that at least 12 points leading shall be utilized for the information required by paragraphs (d)(7) and (d)(8) of this section as shown in paragraph (d)(12), and

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(iii) Information required in paragraphs (d)(7) and (d)(8) of this section shall be in type size no smaller than 8 point, except the type size for this information required in the linear display for small packages as shown in paragraph (j)(13)(ii)(A)(*2*) of this section shall be no smaller than 7 point. Information required in the footnote statement shall be no smaller than 7 point, except the type size for this information required in the tabular display for small packages as shown in paragraph (j)(13)(ii)(A)(*1*) of this section, for the linear display for small packages as shown in paragraph (j)(13)(ii)(A)(*2*) of this section, and for the simplified format as shown in paragraph (f)(5) of

this section shall be no smaller than 6 point. Information required in paragraph (d)(5) of this section for the ''Calories'' declaration shall be highlighted in bold or extra bold and shall be in a type size no smaller than 16 point except the type size for this information required in the tabular display for small packages as shown in paragraph (j)(13)(ii)(A)(*1*) of this section, the linear display for small packages as shown in paragraph (j)(13)(ii)(A)(*2*) of this section, and the required information shown in paragraphs (d)(11)(iii) and (e)(6)(ii) of this section shall be in a type size no smaller than 12 point. The numeric amount for the information required in paragraph (d)(5) of this section shall also be highlighted in bold or extra bold type and shall be in a type size no smaller than 24 point, except the type size for this information required in the tabular display for small packages as shown in paragraph (j)(13)(ii)(A)(*1*) of this section, the linear display for small packages as shown in paragraph (j)(13)(ii)(A)(*2*) of this section, and for the required information shown in paragraph (e)(6)(ii) of this section shall be in a type size no smaller than 20 point. The information required in paragraph (d)(6) of this section shall be in a type size no smaller than 7 point. When provided, the information described in paragraph (d)(10) of this section shall be in a type size no smaller than 6 point.

(iv) The headings required by paragraphs (d)(2), (d)(3)(i), and (d)(6) of this section (i.e., ''Nutrition Facts,'' ''____ servings per container,'' and ''% DV*''), the calorie information, and the names of all nutrients that are not indented according to requirements of paragraph (c) of this section (i.e., ''Calories,'' ''Total Fat,'' ''Cholesterol,'' ''Sodium,'' ''Total Carbs'' and ''Protein''), and the percentage amounts required by paragraph (d)(7)(ii) of this section shall be highlighted in bold or extra bold type or other highlighting (reverse printing is not permitted as a form of highlighting) that prominently distinguishes it from other information. The names of all nutrients that are indented according to the requirements of paragraph (c) of this section (i.e., ''Saturated Fat,'' ''Trans Fat,'' ''Dietary Fiber,'' ''Sugars,'' and ''Added Sugars'') and the mandatory and any voluntary vitamins and minerals (except sodium), shall be highlighted in a type that is intermediate between bold or extra bold type and the type for all other information.

(v) A hairline rule that is centered between the lines of text shall separate ''Nutrition Facts'' from the servings per container statement required in paragraph (d)(3)(i) of this section and shall separate each nutrient and its corresponding percent Daily Value required in paragraphs (d)(7)(i) and (d)(7)(ii) of this section from the nutrient and percent Daily Value above and below it, as shown in paragraph (d)(12) of this section.

(2) The information shall be presented under the identifying heading of ''Nutrition Facts'' in the nutrition label and, except for labels presented according to the format provided for in paragraphs (d)(11)(iii), (d)(13)(ii), (e)(6)(ii), (j)(13)(ii)(A)(*1*), and (j)(13)(ii)(A)(*2*) of this section, unless impractical, shall be set the full width of the information provided under paragraph (d)(7) of this section, as shown in paragraph (d)(12) of this section.

(3) * * *

(i) ''____servings per container'': The number of servings per container, except that this statement is not required on single serving containers as defined in paragraph (b)(6) of this section or on other food containers when this information is stated in the net quantity of contents declaration. The information required in this paragraph shall be highlighted in bold or extra bold and be in a type size no smaller than 11 point except the type size shall be no smaller than 10 point for this information as shown in paragraph (j)(13)(ii)(A)(*1*) and no smaller than 7 point as shown in paragraph (j)(13)(ii)(A)(*2*) of this section. This information shall be set the full width of the label as shown in paragraph (d)(12) of this section.

(ii) ''Serving size'': A statement of the serving size as specified in paragraph (b)(7) of this section. The serving size as specified in paragraph (b)(7) of this section must be right justified as shown in paragraph (d)(12) of this section. The information required in this paragraph shall be in a type size no smaller than 8 point except the type size shall be no smaller than 7 point for this information as shown in paragraph (j)(13)(ii)(A)(*2*) of this section.

(4) A subheading ''Amount per'' followed by the serving size shall be separated from the serving size information by a bar as shown in paragraph (d)(12) of this section and shall be highlighted in a type that is intermediate between bold or extra bold type and the type for all other information, and be in a type size no smaller than 8 point, except the type size for this information required in the linear display for small packages as shown in paragraph (j)(13)(ii)(A)(*2*) and the tabular display for small packages as shown in paragraph (j)(13)(ii)(A)(*1*) of this section shall be no smaller than 6 point, and there shall be no bar separating this information from the serving size information in both of these displays for small packages.

(5) Information on calories shall immediately follow the heading ''Amount per'' followed by the serving size and shall be declared in one line. If ''Calories from saturated fat'' is declared, it shall be indented under ''Calories'' and shall be in a type size no smaller than 8 point.

(6) The column heading ''% DV,'' followed by an asterisk (e.g., ''% DV*''), shall be separated from information on calories by a bar as shown in paragraph (d)(12) of this section. The position of this column heading shall allow for a list of nutrient names and amounts as described in paragraph (d)(7) of this section to be to the right of, and below, this column heading, except for labels with a dual or multiple column format as shown in paragraphs (d)(13)(ii), (e)(5), (e)(6)(i), and (e)(6)(ii) the ''% DV'' column will appear to the right of the list of nutrient names. The column heading described in this paragraph shall not appear on the linear display for small packages as shown in paragraph (j)(13)(ii)(A)(*2*) of this section.

(7) Except as provided for in paragraphs (d)(13)(ii), (e)(5), (e)(6)(i), (e)(6)(ii), and (j)(13) of this section, nutrient information for both mandatory and any voluntary nutrients listed in paragraph (c) of this section that are to be declared in the nutrition label shall be declared as follows:

(i) The name of each nutrient, as specified in paragraph (c) of this section, shall be given in a column and followed immediately by the quantitative amount by weight for that nutrient appended with a ''g'' for grams, ''mg'' for milligrams, or ''mcg'' for micrograms as shown in paragraph (d)(12) of this section. The symbol ''>'' may be used in place of ''less than.''

(ii) A listing of the percent of the DRV as established in paragraphs (c)(7)(iii) and (c)(9) of this section shall be given in a column aligned under the heading ''% DV'' established in paragraph (d)(6) of this section with the percent expressed to the nearest whole percent for each nutrient declared in the column described in paragraph (d)(7)(i) of this section for which a DRV has been established, except that the percent for protein may be omitted as provided in paragraph (c)(7) of this section. The percent shall be calculated by dividing either the amount declared on the label for each nutrient or the actual amount of each nutrient (i.e., before rounding) by the DRV for the nutrient, except that the percent for protein shall be

calculated as specified in paragraph (c)(7)(ii) of this section. The numerical value shall be followed by the symbol for percent (i.e., %).

(8) Nutrient information for vitamins and minerals (except sodium) shall be separated from information on other nutrients by a bar and may be arrayed vertically as shown in paragraph (d)(12) of this section (e.g., Vitamin D 2mcg (10%), Calcium 260mg (20%), Iron 8mg (45%), Potassium 235mg (5%)) or may be listed in two columns. When listed horizontally in two columns, vitamin D and calcium should be listed on the first line and iron and potassium should be listed on the second line.

(9) [Reserved]

(10) Caloric conversion information on a per gram basis for fat, carbohydrate, and protein may be presented beneath the information required in the footnote statement, separated from that information by a hairline. This information may be presented horizontally as shown in paragraph (d)(12) of this section (i.e. ''Calories per gram: fat 9, carbohydrate 4, protein 4'') or vertically in columns.

(11)(i) If the space beneath the information on vitamins and minerals is not adequate to accommodate the information required in the footnote statement, the information required in the footnote statement may be moved to the right of the column required in paragraph (d)(7)(ii) of this section and set off by a line that distinguishes it and sets it apart from the percent Daily Value information. The caloric conversion information provided for in paragraph (d)(10) of this section may be presented beneath either side or along the full length of the nutrition label.

(ii) If the space beneath the mandatory declaration of potassium is not adequate to accommodate any remaining vitamins and minerals to be declared or the information required in the footnote statement, the remaining information may be moved to the right and set off by a line that distinguishes it and sets it apart from the nutrients and the percent DV information given to the left. The caloric conversion information provided for in paragraph (d)(10) of this section may be presented beneath either side or along the full length of the nutrition label.

(iii) If there is not sufficient continuous vertical space (i.e., approximately 3 in) to accommodate the required components of the nutrition label up to and including the mandatory declaration of potassium, the nutrition label may be presented in a tabular display as shown in the following sample label.

Nutrition Facts

10 servings
Serving size 2 slices (56g)

170 Calories Per 2 slices

% DV* amount per 2 slices		% DV* amount per 2 slices	
2%	**Total Fat** 1.5g	**12%**	**Total Carbs** 36g
3%	**Saturated Fat** 0.5g	**7%**	**Dietary Fiber** 2g
	***Trans* Fat** 0.5g		**Sugars** 1g
0%	**Cholesterol** 0mg		**Added** 1g
12%	**Sodium** 280mg		**Protein** 4g

0% **Vitamin D** 0mcg • 6% **Calcium** 80mg • 6% **Iron** 1mg • 10% **Potassium** 470mg
15% **Thiamin** 0.2mg • 8% **Riboflavin** 0.1mg • 10% **Niacin** 1.6mg

* Footnote on Daily Values (DV) and calories reference to be inserted here.

(12) The following sample labels illustrate the mandatory provisions and mandatory plus voluntary provisions of paragraph (d) of this section.

Nutrition Facts

8 servings per container

Serving size 2/3 cup (55g)

Amount per 2/3 cup	
Calories	**230**
% DV*	
12%	**Total Fat** 8g
5%	Saturated Fat 1g
	Trans Fat 0g
0%	**Cholesterol** 0mg
7%	**Sodium** 160mg
12%	**Total Carbs** 37g
14%	Dietary Fiber 4g
	Sugars 1g
	Added Sugars 0g
	Protein 3g
10%	**Vitamin D** 2mcg
20%	**Calcium** 260mg
45%	**Iron** 8mg
5%	**Potassium** 235mg

* Footnote on Daily Values (DV) and calories reference to be inserted here.

Nutrition Facts

17 servings per container

Serving size 3/4 cup (28g)

Amount per 3/4 cup	
Calories	**140**
% DV*	
2%	**Total Fat** 1.5g
0%	Saturated Fat 0g
	Trans Fat 0g
	Polyunsaturated Fat 0.5g
	Monounsaturated Fat 0.5g
0%	**Cholesterol** 0mg
7%	**Sodium** 160mg
7%	**Total Carbs** 22g
7%	Dietary Fiber 2g
	Soluble Fiber <1g
	Insoluble Fiber 1g
	Sugars 9g
	Added Sugars 8g
18%	**Protein** 9g
10%	**Vitamin D** 2mcg
10%	**Calcium** 130mg
25%	**Iron** 4.5mg
2%	**Potassium** 115mg
10%	**Vitamin A** 90mcg
10%	**Vitamin C** 9mg
25%	**Thiamin** 0.3mg
25%	**Riboflavin** 0.3mg
25%	**Niacin** 4mg
25%	**Vitamin B_6** 0.4mg
50%	**Folic Acid** 200mcg DFE
25%	**Vitamin B_{12}** 0.6mcg
8%	**Phosphorus** 100mg
6%	**Magnesium** 25mg
25%	**Zinc** 3mg

Calories per gram:
Fat 9 • **Carbohydrate** 4 • **Protein** 4

* Footnote on Daily Values (DV) and calories reference to be inserted here.

(13) * * *

(ii) Aggregate displays shall comply with the format requirements of paragraph (d) of this section to the maximum extent possible, except that the identity of each food shall be specified immediately to the right of the ''Nutrition Facts'' heading, and both the quantitative amount by weight (i.e., g/mg/mcg amounts) and the percent Daily Value for each nutrient shall be listed in separate columns under the name of each food. The following sample label illustrates an aggregate display.

Nutrition Facts	Wheat Squares Sweetened		Corn Flakes Not Sweetened		Mixed Grain Flakes Sweetened	
1 serving per container	**Amount per box**		**Amount per box**		**Amount per box**	
Serving size 1 box	(35g)		(19g)		(27g)	
Calories (amount per box)	**130**		**70**		**100**	
	% DV*		**% DV***		**% DV***	
Total Fat	**0%**	0g	**0%**	0g	**0%**	0g
Saturated Fat	**0%**	0g	**0%**	0g	**0%**	0g
***Trans* Fat**		0g		0g		0g
Cholesterol	**0%**	0mg	**0%**	0mg	**0%**	0mg
Sodium	**0%**	0mg	**9%**	200mg	**5%**	120mg
Total Carbs	**10%**	29g	**6%**	17g	**8%**	24g
Dietary Fiber	**11%**	3g	**4%**	1g	**4%**	1g
Sugars		8g		6g		13g
Added Sugars		8g		5g		13g
Protein		4g		1g		1g
* Footnote on Daily Values (DV) and calories reference to be inserted here.						
Vitamin D	10%	2mcg	10%	2mcg	0%	0mcg
Calcium	0%	0mg	0%	0mg	0%	0mg
Iron	10%	2mg	6%	1mg	20%	4mg
Potassium	4%	125mg	0%	25mg	0%	30mg
Vitamin A	0%	0mcg	10%	90mcg	10%	90mcg
Vitamin C	0%	0mg	15%	14mg	90%	80mg
Thiamin	35%	0.4mg	15%	0.2mg	25%	0.3mg
Riboflavin	30%	0.4mg	15%	0.2mg	25%	0.3mg
Niacin	30%	5mg	15%	2mg	20%	3mg
Vitamin B_6	30%	0.5mg	20%	0.3mg	20%	0.3mg

* * * * *

(e) Nutrition information may be presented for two or more forms of the same food (e.g., both ''as purchased'' and ''as prepared'') or for common combinations of food as provided for in paragraph (h)(4) of this section, for different units (e.g., slices of bread or per 100 grams) as provided for in paragraph (b) of this section, or for two or more groups for which RDIs are established (e.g., both infants 7 through 12 months and children 1 through 3 years of age) as shown in paragraph (e)(5) of this section. When such dual labeling is provided, equal prominence shall be given to both sets of values. Information shall be presented in a format consistent with paragraph (d) of this section, except that:

(1) Following the serving size information there shall be two or more column headings accurately describing the amount per serving size of the form of the same food (e.g., ''Per ¼ cup mix'' and ''Per prepared portion''), the combinations of food, the units, or the RDI groups that are being declared as shown in paragraph (e)(5) of this section.

(2) The information required in paragraph (d)(7)(ii) and the quantitative information by weight as required in paragraph (d)(7)(i) of this section shall be presented for the form of the product as packaged and for any other form of the product (e.g., ''as prepared'' or combined with another ingredient as shown in paragraph (e)(5) of this section).

(3) When the dual labeling is presented for two or more forms of the same food, for combinations of food, for different units, or for two or more groups for which RDIs are established, the percent DV and quantitative information shall be separated by vertical lines as shown in paragraph (e)(5) of this section.

(4) Nutrient information for vitamins and minerals (except sodium) shall be separated from information on other nutrients by a bar and shall be arrayed vertically in the following order: Vitamin D, calcium, iron, potassium as shown in paragraph (e)(5) of this section.

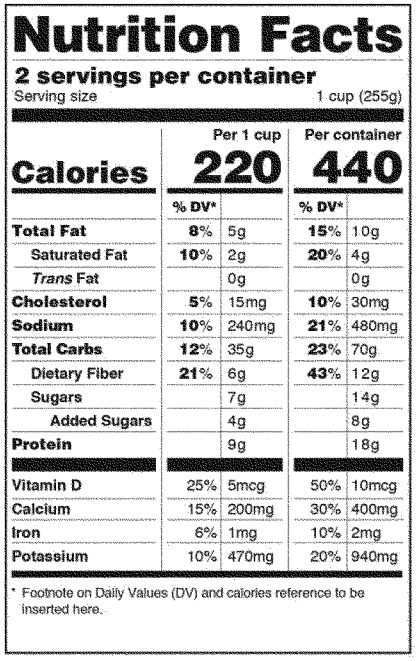
(5) The following sample label illustrates the provisions of paragraph (e) of this section:

Nutrition Facts		Per 1/4 cup dry mix		Per baked portion	
12 servings per container					
Serving size 1/12 package (44g, about 1/4 cup dry mix)					
Calories		**170**		**300**	
		% DV*		**% DV***	
Total Fat		**2%**	1.5g	**25%**	16g
Saturated Fat		**5%**	1g	**25%**	5g
***Trans* Fat**			0g		0g
Cholesterol		**0%**	0mg	**20%**	60mg
Sodium		**13%**	300mg	**16%**	375mg
Total Carbs		**12%**	36g	**12%**	36g
Dietary Fiber		**2%**	<1g	**2%**	<1g
Sugars			18g		18g
Added Sugars			18g		18g
Protein			2g		3g
Vitamin D		0%	0mcg	0%	0mcg
Calcium		8%	100mg	8%	100mg
Iron		6%	1mg	6%	1mg
Potassium		0%	45mg	0%	45mg
* Footnote on Daily Values (DV) and calories reference to be inserted here.					

(6) When dual labeling is presented for a food on a per serving basis and per container basis as required in paragraph (b)(12)(i) of this section or on a per serving basis and per unit basis as required in paragraph (b)(2)(i)(D) of this section, the percent Daily Value as required in paragraph (d)(7)(ii) and the quantitative information by weight shall be presented in two columns, and the percent DV and quantitative information shall be separated by vertical lines as

shown in the displays in paragraph (e)(6)(i) of this section.

(i) Nutrient information for vitamins and minerals shall be separated from information on other nutrients by a bar and shall be arrayed vertically in the following order: Vitamin D, calcium, iron, and potassium as shown in the following sample labels.



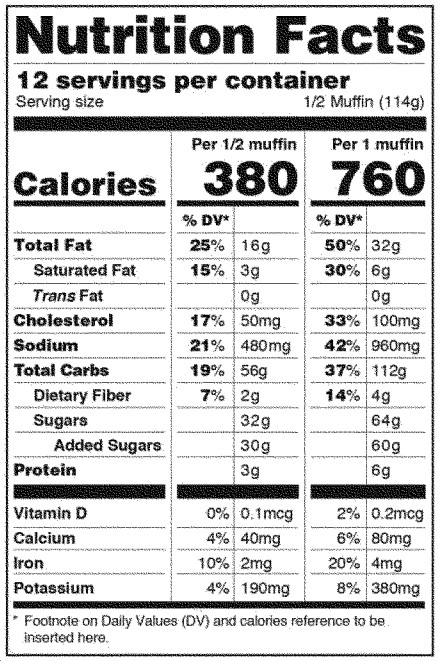
Nutrition Facts

2 servings per container

Serving size 1 cup (255g)

	Per 1 cup		Per container	
Calories	**220**		**440**	
	% DV*		**% DV***	
Total Fat	**8%**	5g	**15%**	10g
Saturated Fat	**10%**	2g	**20%**	4g
Trans Fat		0g		0g
Cholesterol	**5%**	15mg	**10%**	30mg
Sodium	**10%**	240mg	**21%**	480mg
Total Carbs	**12%**	35g	**23%**	70g
Dietary Fiber	**21%**	6g	**43%**	12g
Sugars		7g		14g
Added Sugars		4g		8g
Protein		9g		18g
Vitamin D	25%	5mcg	50%	10mcg
Calcium	15%	200mg	30%	400mg
Iron	6%	1mg	10%	2mg
Potassium	10%	470mg	20%	940mg

* Footnote on Daily Values (DV) and calories reference to be inserted here.



Nutrition Facts

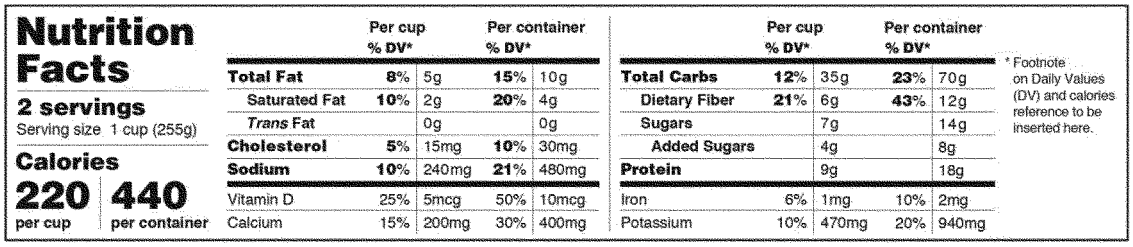
12 servings per container

Serving size 1/2 Muffin (114g)

	Per 1/2 muffin		Per 1 muffin	
Calories	**380**		**760**	
	% DV*		**% DV***	
Total Fat	**25%**	16g	**50%**	32g
Saturated Fat	**15%**	3g	**30%**	6g
Trans Fat		0g		0g
Cholesterol	**17%**	50mg	**33%**	100mg
Sodium	**21%**	480mg	**42%**	960mg
Total Carbs	**19%**	56g	**37%**	112g
Dietary Fiber	**7%**	2g	**14%**	4g
Sugars		32g		64g
Added Sugars		30g		60g
Protein		3g		6g
Vitamin D	0%	0.1mcg	2%	0.2mcg
Calcium	4%	40mg	6%	80mg
Iron	10%	2mg	20%	4mg
Potassium	4%	190mg	8%	380mg

* Footnote on Daily Values (DV) and calories reference to be inserted here.

(ii) The following sample label illustrates the provisions of paragraphs (b)(2)(i)(D) and (b)(12)(i) of this section for labels that use the tabular display.



Nutrition Facts

2 servings

Serving size 1 cup (255g)

Calories

220 per cup | **440** per container

	Per cup % DV*		Per container % DV*	
Total Fat	**8%**	5g	**15%**	10g
Saturated Fat	**10%**	2g	**20%**	4g
Trans Fat		0g		0g
Cholesterol	**5%**	15mg	**10%**	30mg
Sodium	**10%**	240mg	**21%**	480mg
Vitamin D	25%	5mcg	50%	10mcg
Calcium	15%	200mg	30%	400mg

	Per cup % DV*		Per container % DV*	
Total Carbs	**12%**	35g	**23%**	70g
Dietary Fiber	**21%**	6g	**43%**	12g
Sugars		7g		14g
Added Sugars		4g		8g
Protein		9g		18g
Iron	6%	1mg	10%	2mg
Potassium	10%	470mg	20%	940mg

* Footnote on Daily Values (DV) and calories reference to be inserted here.

(f) The declaration of nutrition information may be presented in the simplified format set forth herein when a food product contains insignificant amounts of eight or more of the following: Calories, total fat, saturated fat, *trans* fat, cholesterol, sodium, total carbohydrate, dietary fiber, sugars, added sugars, protein, vitamin D, calcium, iron, and potassium; except that for foods intended for infants 7 months to 12 months of age and children 1 through 3 years of age to which paragraph (j)(5)(i) of this section applies, nutrition information may be presented in the simplified format when a food product contains insignificant amounts of six or more of the following: Calories, total fat, sodium, total carbohydrate, dietary fiber, sugars, added sugars, protein, vitamin D, calcium, iron, and potassium.

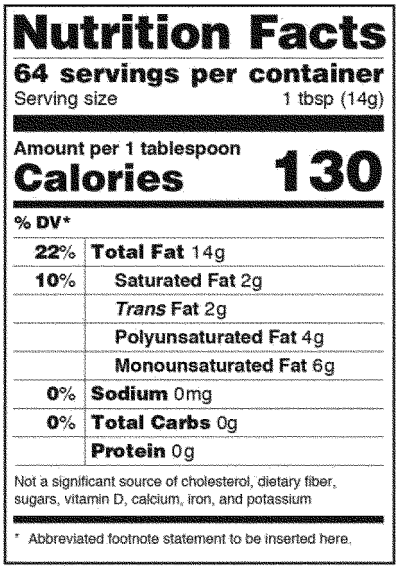
* * * * *

(2) * * *

(ii) Any other nutrients identified in paragraph (f) of this section that are present in the food in more than insignificant amounts; and

* * * * *

(4) If any nutrients are declared as provided in paragraphs (f)(2)(iii), (f)(2)(iv), or (f)(3) of this section as part of the simplified format or if any nutrition claims are made on the label or in labeling, the statement ''Not a significant source of _____'' (with the blank filled in with the name(s) of any nutrient(s) identified in paragraph (f) of this section that are present in insignificant amounts) shall be included at the bottom of the nutrition label.



Nutrition Facts

64 servings per container

Serving size 1 tbsp (14g)

Amount per 1 tablespoon

Calories 130

% DV*	
22%	**Total Fat** 14g
10%	**Saturated Fat** 2g
	***Trans* Fat** 2g
	Polyunsaturated Fat 4g
	Monounsaturated Fat 6g
0%	**Sodium** 0mg
0%	**Total Carbs** 0g
	Protein 0g

Not a significant source of cholesterol, dietary fiber, sugars, vitamin D, calcium, iron, and potassium

* Abbreviated footnote statement to be inserted here.

(5) Except as provided for in paragraphs (j)(5) and (j)(13) of this section, nutrient information declared in the simplified format shall be presented in the same manner as specified in paragraphs (d) or (e) of this section.

(g) Compliance with this section shall be determined as follows:

* * * * *

(2) The sample for nutrient analysis shall consist of a composite of 12 subsamples (consumer units), taken 1 from each of 12 different randomly chosen shipping cases, to be representative of a lot. Unless a particular method of analysis is specified in paragraph (c) of this section, composites shall be analyzed by appropriate methods as given in the ''Official Methods of Analysis of the AOAC International,'' 19th Ed. (2012), which is incorporated by reference in accordance with 5 U.S.C. 552(a) or 1 CFR part 51 or, if no AOAC method is available or appropriate, by other reliable and appropriate analytical procedures. The availability of this incorporation by reference is given in paragraph (c)(7) of this section.

(3) * * *

(ii) *Class II.* Naturally occurring (indigenous) nutrients. When a nutrient or nutrients are naturally occurring (indigenous) in an ingredient that is added to a food, the total amount of such nutrient(s) in the final food product is subject to class II requirements, except that when a nutrient or nutrients are not naturally occurring (exogenous) in an ingredient that is added to a food, the total amount of such nutrient(s) in the final food product is subject to class I requirements.

(4) A food with a label declaration of a vitamin, mineral, protein, total carbohydrate, dietary fiber, soluble fiber, insoluble fiber, polyunsaturated or monounsaturated fat shall be deemed to be misbranded under section 403(a) of the Federal Food, Drug, and Cosmetic Act (the act) unless it meets the following requirements:

(i) When a vitamin, mineral, protein, or non-digestible carbohydrate(s) (when the food contains only non-digestible carbohydrates (soluble or insoluble) that meet the definition of dietary fiber) meets the definition of a Class I nutrient, the nutrient content of the composite must be formulated to be at least equal to the value for that nutrient declared on the label.

(ii) When a vitamin, mineral, protein, total carbohydrate, polyunsaturated or monounsaturated fat, or non-digestible carbohydrate(s) (when the food contains only non-digestible carbohydrates (soluble or insoluble) that meet the definition of dietary fiber) meets the definition of a Class II nutrient, the nutrient content of the composite must be at least equal to 80 percent of the value for that nutrient declared on the label. No regulatory action will be based on a determination of a nutrient value that falls below this level by a factor less than the variability generally recognized for the analytical method used in that food at the level involved.

(5) A food with a label declaration of calories, sugars, added sugars (when the only source of sugars in the food is added sugars), total fat, saturated fat, *trans* fat, cholesterol, or sodium shall be deemed to be misbranded under section 403(a) of the act if the nutrient content of the composite is greater than 20 percent in excess of the value for that nutrient declared on the label. No regulatory action will be based on a determination of a nutrient value that falls above this level by a factor less than the variability generally recognized for the analytical method used in that food at the level involved.

(6) Reasonable excesses of vitamins, minerals, protein, total carbohydrate, dietary fiber, soluble fiber, insoluble fiber, sugar alcohols, polyunsaturated or monounsaturated fat over labeled amounts are acceptable within current good manufacturing practice. Reasonable deficiencies of calories, sugars, added sugars, total fat, saturated fat, *trans* fat, cholesterol, or sodium under labeled amounts are acceptable within current good manufacturing practice.

(7) Compliance will be based on the metric measure specified in the label statement of the serving size.

(8) Alternatively, compliance with the provisions set forth in paragraphs (g)(1) through (g)(6) of this section may be provided by use of an FDA approved database that has been computed following FDA guideline procedures and where food samples have been handled in accordance with current good manufacturing practice to prevent nutrition loss. FDA approval of a database shall not be considered granted until the Center for Food Safety and Applied Nutrition has agreed to all aspects of the database in writing. The approval will be granted where a clear need is presented (e.g., raw produce and seafood). Approvals will be in effect for a limited time, e.g., 10 years, and will be eligible for renewal in the absence of significant changes in agricultural or industry practices. Approval requests shall be submitted in accordance with the provisions of § 10.30 of this chapter. Guidance in the use of databases may be found in the ''FDA Nutrition Labeling Manual—A Guide for Developing and Using Data Bases,'' available from the Office of Nutrition, Labeling, and Dietary Supplements (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740 or by going to *http://www.fda.gov.*

* * * * *

(10) The manufacturer must make and keep written records (e.g., analyses of databases, recipes, formulations, or batch records) to verify the declared amount of that nutrient on the Nutrition Facts label as follows:

(i) When a mixture of dietary fiber, and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber, is present in the food, a manufacturer must make and keep written records of the amount of non-digestible carbohydrate(s) added to the food that does not meet the definition of dietary fiber.

(ii) When a mixture of soluble fiber and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber is present in the food, a manufacturer must make and keep written records necessary to verify the amount of the non-digestible carbohydrate(s) added to the food that does not meet the definition of dietary fiber.

(iii) When a mixture of insoluble fiber and added non-digestible carbohydrate(s) that does not meet the definition of dietary fiber is present in the food, a manufacturer must make and keep written records necessary to verify the amount of the non-digestible carbohydrate(s) added to the food that does not meet the definition of dietary fiber.

(iv) When a mixture of naturally occurring and added sugars is present in

the food, a manufacturer must make and keep written records of the amount of added sugars added to the food during the processing of the food, and if packaged as a separate ingredient, as packaged (whether as part of a package containing one or more ingredients or packaged as a single ingredient).

(v) When the amount of added sugars added to yeast-leavened bakery products, wines with less than 7 percent alcohol by volume, or beer that does not meet the definition of a ''malt beverage,'' as defined by the Federal Alcohol Administration Act (27 U.S.C. 211(a)(7)), is reduced through the process of fermentation, manufacturers must:

(A) Make and keep records of all relevant scientific data and information relied upon by the manufacturer that demonstrates the amount of added sugars in the food after fermentation and a narrative explaining why the data and information are sufficient to demonstrate the amount of added sugars declared in the finished food, provided the data and information used is specific to the type of fermented food manufactured; or

(B) Make and keep records of the amount of added sugars added to the food before and during the processing of the food, and if packaged as a separate ingredient, as packaged (whether as part of a package containing one or more ingredients or packaged as a single ingredient) and in no event shall the amount of added sugars declared exceed the amount of total sugars on the label.

(vi) When a mixture of *all rac*-α-tocopherol acetate and *RRR*-α-tocopherol is present in a food, manufacturers must make and keep written records of the amount of *all rac*-α-tocopherol acetate added to the food and *RRR*-α-tocopherol in the finished food.

(vii) When a mixture of folate and folic acid is present in a food, manufacturers must make and keep written records of the amount of folic acid added to the food and folate in the finished food.

(11) Records necessary to verify certain nutrient declarations that are specified in paragraph (g)(10) of this section must be kept for a period of at least 2 years after introduction or delivery for introduction of the food into interstate commerce. Such records must be provided to FDA upon request, during an inspection, for official review and photocopying or other means of reproduction. Records required to verify information on the label may be kept either as original records, true copies (such as photocopies, pictures, scanned copies, microfilm, microfiche, or other accurate reproductions of the original records), or electronic records which must be kept in accordance with part 11 of this chapter. These records must be accurate, indelible, and legible. Failure to make and keep the records or provide the records to appropriate regulatory authorities, as required by this subparagraph, would result in the food being misbranded under section 403(a)(1) of the act.

(h) * * *

(3) * * *

(iv) Nutrition information may be provided per serving for individual foods in the package, or, alternatively, as a composite per serving for reasonable categories of foods in the package having similar dietary uses and similar significant nutritional characteristics. Reasonable categories of foods may be used only if accepted by FDA. In determining whether a proposed category is reasonable, FDA will consider whether the values of the characterizing nutrients in the foods proposed to be in the category meet the compliance criteria set forth in paragraphs (g)(3) through (g)(6) of this section. Proposals for such categories may be submitted in writing to the Office of Nutrition, Labeling and Dietary Supplements (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740.

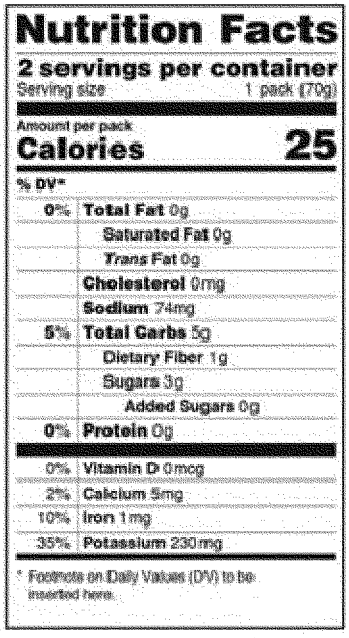
* * * * *

(4) If a food is commonly combined with other ingredients or is cooked or otherwise prepared before eating, and directions for such combination or preparations are provided, another column of figures may be used to declare nutrition information on the basis of the food as consumed in the format required in paragraph (e) of this section; e.g., a dry ready-to-eat cereal may be described with the percent Daily Value and the quantitative amounts for the cereal as sold (e.g., per ounce), and the percent Daily Value and the quantitative amounts for the cereal and milk as suggested in the label (e.g., per ounce of cereal and ½ cup of vitamin D fortified skim milk); and a cake mix may be labeled with the percent Daily Value and the quantitative amounts for the dry mix (per serving) and the percent Daily Value and the quantitative amounts for the serving of the final cake when prepared, as shown in paragraph (e)(5): *Provided,* that, the type and quantity of the other ingredients to be added to the product by the user and the specific method of cooking and other preparation shall be specified prominently on the label.

* * * * *

(j) * * *

(5)(i) Foods, other than infant formula, represented or purported to be specifically for infants 7 through 12 months and children 1 through 3 years of age shall bear nutrition labeling. The nutrients declared for infants 7 through 12 months and children 1 through 3 years of age shall include calories, total fat, saturated fat, *trans* fat, cholesterol, sodium, total carbohydrates, dietary fiber, sugars, added sugars, protein, and the following vitamins and minerals: Vitamin D, calcium, iron, and potassium.



(ii) Foods other than infant formula, represented or purported to be specifically for infants 7 through 12 months of age shall bear nutrition labeling, except that:

(A) Such labeling shall not declare a percent Daily Value for saturated fat, *trans* fat, cholesterol, sodium, dietary fiber, sugars, or added sugars.

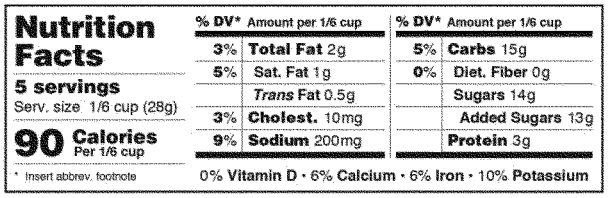
* * * * *

(13) * * *

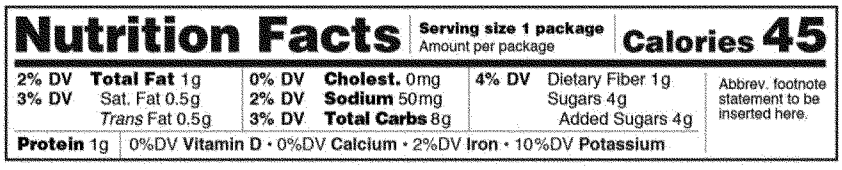
(ii) * * *

(A) * * *.

(*1*) The following sample label illustrates the tabular display for small packages.



(*2*) The following sample label illustrates the linear display.



(B) Using any of the following abbreviations:

Serving size—Serv size
Servings per container—Servings
Calories from saturated fat—Sat fat cal
Saturated fat—Sat fat
Monounsaturated fat—Monounsat fat
Polyunsaturated fat—Polyunsat fat
Cholesterol—Cholest
Total carbohydrate—Total carbs
Dietary fiber—Fiber
Soluble fiber—Sol fiber
Insoluble fiber—Insol fiber
Sugar alcohol—Sugar alc

(C) Omitting the footnote statement and placing another asterisk at the bottom of the label followed by the statement ''Percent Daily Values are based on a 2,000 calorie diet.''

* * * * *

(18) * * *

(iv) A notice shall be filed with the Office of Nutrition, Labeling, and Dietary Supplements (HFS–800), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740 and contain the following information, except that if the person is not an importer and has fewer than 10 full-time equivalent employees, that person does not have to file a notice for any food product with annual sales of fewer than 10,000 total units:

* * * * *

■ 3. In § 101.36:

■ a. Revise paragraphs (b)(1)(i), (b)(2)(i) introductory text, (b)(2)(i)(B), (b)(2)(ii)(A), (b)(2)(iii) introductory text, (b)(2)(iii)(D) through (G), (b)(3)(ii)(A), (c)(4), (e) introductory text, (e)(8), (e)(11)(i) through (viii), (e)(12), (f)(2), and (i)(1); and

■ b. Remove paragraph (i) introductory text.

The revisions read as follows:

§ 101.36 Nutrition labeling of dietary supplements.

* * * * *

(b) * * *

(1) *Serving size.* (i) The subheading ''Serving Size'' shall be placed under the heading ''Supplement Facts'' and aligned on the left side of the nutrition label. The subheading ''Servings Per Container'' and the actual number of servings shall be highlighted in bold or extra bold type. The serving size shall be determined in accordance with §§ 101.9(b) and 101.12(b), table 2. Serving size for dietary supplements shall be expressed using a term that is appropriate for the form of the supplement, such as ''tablets,'' ''capsules,'' ''packets,'' or ''teaspoonfuls.''

* * * * *

(2) * * * (i) The (b)(2)-dietary ingredients to be declared, that is, total calories, total fat, saturated fat, *trans* fat, cholesterol, sodium, total carbohydrate, dietary fiber, sugars, added sugars, protein, vitamin D, calcium, iron, and potassium, shall be declared when they are present in a dietary supplement in quantitative amounts by weight that exceed the amount that can be declared as zero in nutrition labeling of foods in accordance with § 101.9(c). Calories from saturated fat, polyunsaturated fat, monounsaturated fat, soluble fiber, insoluble fiber, and sugar alcohol may be declared, but they shall be declared when a claim is made about them. Any (b)(2)-dietary ingredients that are not present, or that are present in amounts that can be declared as zero in § 101.9(c), shall not be declared (e.g., amounts corresponding to less than 2 percent of the RDI for vitamins and minerals). Protein shall not be declared on labels of products that, other than ingredients added solely for technological reasons, contain only individual amino acids.

* * * * *

(B) The names of dietary ingredients that are declared under paragraph (b)(2)(i) of this section shall be presented in a column aligned on the left side of the nutritional label in the order and manner of indentation specified in § 101.9(c), except that calcium and iron shall follow pantothenic acid, and sodium and potassium shall follow chloride. This results in the following order for vitamins and minerals: Vitamin A, vitamin C, vitamin D, vitamin E, vitamin K, thiamin, riboflavin, niacin, vitamin B_6, folic acid, vitamin B_{12}, biotin, pantothenic acid, calcium, iron, phosphorous, iodine, magnesium, zinc, selenium, copper, manganese, chromium, molybdenum, chloride, sodium, potassium, and choline. The (b)(2)-dietary ingredients shall be listed according to the nomenclature specified in § 101.9 or in paragraph (b)(2)(i)(B)(*2*) of this section.

(*1*) When ''Calories'' are declared, they shall be listed first in the column of names, beneath a light bar separating the heading ''Amount Per Serving'' from the list of names. When ''Calories from saturated fat'' are declared, they shall be indented under ''Calories.''

(*2*) The following synonyms may be added in parentheses immediately following the name of these (b)(2)-dietary ingredients: Vitamin C (ascorbic acid), thiamin (vitamin B_1), riboflavin (vitamin B_2), and calories (energy). Energy content per serving may be expressed in kilojoule units, added in parentheses immediately following the statement of caloric content.

(*3*) Beta-carotene may be declared as the percent of vitamin A that is present as beta-carotene, except that the

declaration is required when a claim is made about beta-carotene. When declared, the percent shall be declared to the nearest whole percent, immediately adjacent to or beneath the name vitamin A (e.g., ''Vitamin A (90% as beta-carotene)''). The amount of beta-carotene in terms of micrograms (mcg) may be included in the parentheses following the percent statement (e.g., ''Vitamin A (90% (810 mcg) as beta-carotene)'').

(ii) * * *

(A) The amounts shall be expressed in the increments specified in § 101.9(c)(1) through (c)(7), which includes increments for sodium.

* * * * *

(iii) The percent of the Daily Value of all dietary ingredients declared under paragraph (b)(2)(i) of this section shall be listed, except that the percent of the Daily Value for protein may be omitted as provided in § 101.9(c)(7); no percent of the Daily Value shall be given for subcomponents for which DRVs or RDIs have not been established (e.g., sugars).

* * * * *

(D) If the percent of Daily Value is declared for total fat, saturated fat, total carbohydrate, dietary fiber, or protein, a symbol shall follow the value listed for those nutrients that refers to the same symbol that is placed at the bottom of the nutrition label, below the bar required under paragraph (e)(6) of this section and inside the box, that is followed by the statement ''Percent Daily Values are based on a 2,000 calorie diet.'' If the product is represented or purported to be for use by children 1 through 3 years of age, and if the percent of Daily Value is declared for total fat, total carbohydrate, dietary fiber, or protein, a symbol shall follow the value listed for those nutrients that refers to the same symbol that is placed at the bottom of the nutrition label, below the bar required under paragraph (e)(6) of this section and inside the box, that is followed by the statement ''Percent Daily Values are based on a 1,000 calorie diet.''

(E) The percent of Daily Value shall be based on RDI or DRV values for adults and children 4 or more years of age, unless the product is represented or purported to be specifically for infants 7 through 12 months of age, children 1 through 3 years of age, or pregnant and lactating women, in which case the column heading shall clearly state the intended group. If the product is for persons within more than one group, the percent of Daily Value for each group shall be presented in separate columns as shown in paragraph (e)(11)(ii) of this section.

(F) For declared subcomponents that have no DRVs or RDIs, a symbol (e.g., an asterisk) shall be placed in the ''Percent Daily Value'' column that shall refer to the same symbol that is placed at the bottom of the nutrition label, below the last heavy bar and inside the box, and followed by a statement ''Daily Value not established.''

(G) When calories or calories from saturated fat are declared, the space under the ''% DV'' column shall be left blank for these items. When there are no other (b)(2)-dietary ingredients listed for which a value must be declared in the ''% DV'' column, the column may be omitted as shown in paragraph (e)(11)(vii) of this section. When the ''% DV'' column is not required, but the dietary ingredients listed are subject to paragraph (b)(2)(iii)(F) of this section, the symbol required in that paragraph shall immediately follow the quantitative amount by weight for each dietary ingredient listed under ''Amount Per Serving.''

(3) * * *

(ii) * * *

(A) These amounts shall be expressed using metric measures in appropriate units.

* * * * *

(c) * * *

(4) The sample label shown in paragraph (e)(11)(v) of this section illustrates one method of nutrition labeling a proprietary blend of dietary ingredients.

* * * * *

(e) Except as provided for small and intermediate sized packages under paragraph (i)(2) of this section, information other than the title, headings, and footnotes shall be in uniform type size no smaller than 8 point. A font size at least two points greater shall be used for ''Calories'' and the heading ''Calories'' and the actual number of calories per serving shall be highlighted in bold or extra bold type. Type size no smaller than 6 point may be used for column headings (e.g., ''Amount Per Serving'' and ''% Daily Value'') and for footnotes (e.g., ''Percent Daily Values are based on a 2,000 calorie diet).

* * * * *

(8) If the product contains two or more separately packaged dietary supplements that differ from each other (e.g., the product has a packet of supplements to be taken in the morning and a different packet to be taken in the afternoon), the quantitative amounts and percent of Daily Value may be presented as specified in this paragraph in individual nutrition labels or in one aggregate nutrition label as illustrated in paragraph (e)(11)(iii) of this section.

* * * * *

(11) * * *

BILLING CODE 4160–01–P

(l) Multiple vitamins

(i) Multiple vitamins

Supplement Facts

Serving Size 1 Tablet
Servings Per Container 100

	Amount Per Serving	% Daily Value
Vitamin A (as retinyl acetate and 50% as beta-carotene)	900 mcg	100%
Vitamin C (as ascorbic acid)	90 mg	100%
Vitamin D (as cholecalciferol)	20 mcg	100%
Vitamin E (as dl-alpha tocopheryl acetate)	15 mg	100%
Thiamin (as thiamin mononitrate)	1.2 mg	100%
Riboflavin	1.3 mg	100%
Niacin (as niacinamide)	16 mg	100%
Vitamin B_6 (as pyridoxine hydrochloride)	1.7 mg	100%
Folic acid	400 mcg DFE	100%
Vitamin B_{12} (as cyanocobalamin)	2.4 mcg	100%
Biotin	3 mcg	10%
Pantothenic Acid (as calcium pantothenate)	5 mg	100%

Other ingredients: Gelatin, lactose, magnesium stearate, microcrystalline cellulose, FD&C Yellow No. 6, propylene glycol, propylparaben, and sodium benzoate.

(ii) Multiple vitamins for children and adults

Supplement Facts

Serving Size 1 Tablet
Servings Per Container 200

Amount Per Serving		% Daily Value for Children 1 through 3 Years of Age	% Daily Value for Adults and Children 4 or more Years of Age
Calories	5		
Total Carbohydrate	1 g	<1%**	<1%*
Sugars	1 g	†	†
Added Sugars	1 g	†	†
Vitamin A (50% as beta-carotene)	450 mcg	150%	50%
Vitamin C	60 mg	400%	67%
Vitamin D	20 mcg	133%	100%
Vitamin E	8 mg	133%	53%
Thiamin	0.9 mg	180%	75%
Riboflavin	0.9 mg	180%	69%
Niacin	11.2 mg	187%	70%
Vitamin B_6	0.9 mg	180%	53%
Folic acid	300 mcg DFE	200%	75%
Vitamin B_{12}	2.0 mcg	222%	83%

* Percent Daily Values are based on a 2,000 calorie diet.
** Percent Daily Values are based on a 1,000 calorie diet.
† Daily Value not established.

Other ingredients: Sucrose, sodium ascorbate, gelatin, maltodextrin, artificial flavors, dl-alpha tocopheryl acetate, niacinamide, magnesium stearate, Yellow 6, artificial colors, stearic acid, palmitic acid, pyridoxine hydrochloride, thiamin mononitrate, vitamin A acetate, cholecalciferol, and cyanocobalamin.

(iii) Multiple vitamins in packets

Supplement Facts

Serving Size 1 Packet
Servings Per Container 10

	AM Packet		PM Packet	
Amount Per Serving		% Daily Value		% Daily Value
Vitamin A	450 mcg	50%	450 mcg	50%
Vitamin C	90 mg	100%	90 mg	100%
Vitamin D	20 mcg	100%		
Vitamin E	15 mg	100%		
Thiamin	1.2 mg	100%	1.2 mg	100%
Riboflavin	1.3 mg	100%	1.3 mg	100%
Niacin	16 mg	100%	16 mg	100%
Vitamin B_6	1.7 mg	100%	1.7 mg	100%
Folic Acid	200 mcg DFE	50%	200 mcg DFE	50%
Vitamin B_{12}	1.2 mcg	50%	1.2 mcg	50%
Biotin			3 mcg	10%
Pantothenic Acid	2.5 mg	50%	2.5 mg	50%

Ingredients: Sodium ascorbate, ascorbic acid, calcium pantothenate, niacinamide, dl-alpha tocopheryl acetate, microcrystalline cellulose, artificial flavors, dextrin, starch, mono- and diglycerides, vitamin A acetate, magnesium stearate, gelatin, FD&C Blue #1, FD&C Red #3, artifical colors, thiamin mononitrate, pyridoxine hydrochloride, citric acid, lactose, sorbic acid, tricalcium phosphate, sodium benzoate, sodium caseinate, methylparaben, potassium sorbate, BHA, BHT, ergocalciferol, and cyanocobalamin.

(iv) Dietary supplement containing dietary ingredient with and without RDIs and DRVs

Supplement Facts

Serving Size 1 Capsule
Servings Per Container 100

Amount Per Capsule	% Daily Value
Calories 20	
Total Fat 2 g	3%*
Saturated Fat 0.5 g	3%*
Trans Fat 0 g	†
Polyunsaturated Fat 1 g	†
Monounsaturated Fat 0.5 g	†
Vitamin A 765 mcg	85%
Vitamin D 21 mcg	105%
Omega-3 fatty acids 0.5 g	†

* Percent Daily Values are based on a 2,000 calorie diet.
† Daily Value not established.

Ingredients: Cod liver oil, gelatin, water, and glycerin.

(v) A proprietary blend of dietary ingredients

Supplement Facts

Serving Size 1 tsp (3g) (makes 8 fl oz prepared)
Servings Per Container 24

	Amount Per Teaspoon	% Daily Value
Calories	10	
Total Carbohydrate	2 g	<1%*
Sugars	2 g	†
Added Sugars	2 g	†
Proprietary Blend	0.7 g	†
German Chamomile (flower)		†
Hyssop (leaves)		†

* Percent Daily Values are based on a 2,000 calorie diet.
† Daily Value not established.

Other ingredients: Fructose, lactose, starch, and stearic acid.

(vi) Dietary supplement of an herb

Supplement Facts

Serving Size 1 Capsule
Servings Per Container 100

Amount Per Capsule

Oriental Ginseng, powdered (root)	250 mcg*

* Daily Value not established.

Other ingredients: Gelatin, water, and glycerin.

(vii) Dietary supplement of amino acids

Supplement Facts

Serving Size 1 Tablet
Servings Per Container 50

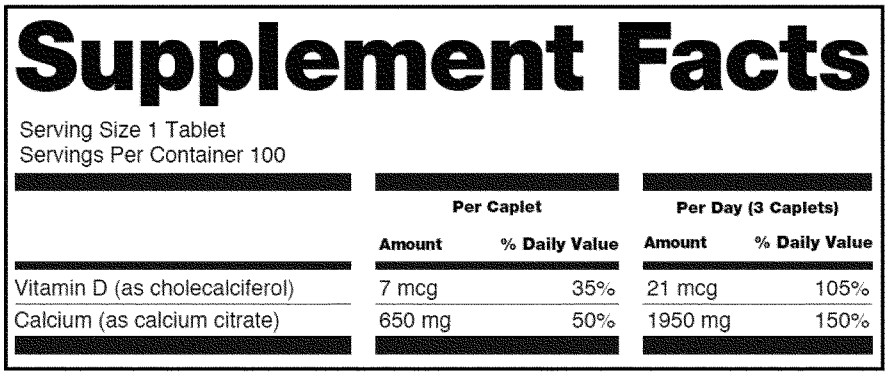
Amount Per Tablet

Calories	15
Isoleucine (as L-isoleucine hydrochloride)	450 mg*
Leucine (as L-leucine hydrochloride)	620 mg*
Lysine (as L-lysine hydrochloride)	500 mg*
Methionine (as L-methionine hydrochloride)	350 mg*
Cystine (as L-cystine hydrochloride)	200 mg*
Phenylalanine (as L-phenylalanine hydrochloride)	220 mg*
Tyrosine (as L-tyrosine hydrochloride)	900 mg*
Threonine (as L-threonine hydrochloride)	300 mg*
Valine (as L-valine hydrochloride)	650 mg*

* Daily Value not established.

Other ingredients: Cellulose, lactose, and magnesium stearate.

(viii) Dietary supplement illustrating "per serving" and "per day" information



Supplement Facts

Serving Size 1 Tablet
Servings Per Container 100

	Per Caplet		Per Day (3 Caplets)	
	Amount	% Daily Value	Amount	% Daily Value
Vitamin D (as cholecalciferol)	7 mcg	35%	21 mcg	105%
Calcium (as calcium citrate)	650 mg	50%	1950 mg	150%

Other ingredients: Hydroxypropylmethylcellulose (HPMC), microcrystalline cellulose, maltodextrin, and magnesium stearate.

(12) If space is not adequate to list the required information as shown in the sample labels in paragraph (e)(11) of this section, the list may be split and continued to the right as long as the headings are repeated. The list to the right must be set off by a line that distinguishes it and sets it apart from the dietary ingredients and percent of Daily Value information given to the left. The following sample label illustrates this display:

(12) Split display

Supplement Facts

Serving Size 1 Packet
Servings Per Container 10

Amount Per Packet		% Daily Value
Vitamin A (from cod liver oil)	900 mcg	100%
Vitamin C (as ascorbic acid)	250 mg	278%
Vitamin D (as ergocalciferol)	20 mcg	100%
Vitamin E (as dl-alpha tocopherol)	75 mg	500%
Thiamin (as thiamin mononitrate)	60 mg	5000%
Riboflavin	60 mg	4615%
Niacin (as niacinamide)	60 mg	375%
Vitamin B_6 (as pyridoxine hydrochloride)	60 mg	3529%
Folic acid	400 mcg DFE	100%
Vitamin B_{12} (as cyanocobalamin)	100 mcg	4167%
Biotin	100 mcg	333%
Pantothenic Acid (as calcium pantothenate)	60 mg	1200%
Calcium (from oystershell)	130 mg	10%
Iron (as ferrous fumarate)	10 mg	56%
Iodine (from kelp)	150 mcg	100%
Magnesium (as magnesium oxide)	63 mg	15%
Zinc (as zinc oxide)	11 mg	100%
Selenium (as sodium selenate)	25 mcg	45%
Copper (as cupric oxide)	0.5 mg	56%
Manganese (as manganese sulfate)	5 mg	217%
Chromium (as chromium chloride)	50 mcg	143%
Molybdenum (as sodium molybdate)	50 mcg	111%
Potassium (as potassium chloride)	10 mg	<1%
Choline (as choline chloride)	100 mg	18%
Betaine (as betaine hydrochloride)	25 mg	*
Glutamic Acid (as L-glutamic acid)	25 mg	*
Inositol (as inositol monophosphate)	75 mg	*
para-Aminobenzoic acid	30 mg	*
Deoxyribonucleic acid	50 mg	*
Boron	500 mcg	*

* Daily Value not established.

Other ingredients: Cellulose, stearic acid, and silica.

BILLING CODE 4160–01–C

(f) * * *

(2) When it is not technologically feasible, or some other circumstance makes it impracticable, for firms to comply with the requirements of this section, FDA may permit alternative means of compliance or additional exemptions to deal with the situation in accordance with § 101.9(g)(9). Firms in need of such special allowances shall make their request in writing to the Office of Nutrition, Labeling and Dietary Supplements (HFS–800), Food and Drug

Administration, 5100 Paint Branch Pkwy., College Park, MD 20740.

* * * * *

(i)(1) Dietary supplements are subject to the special labeling provisions specified in § 101.9(j)(5)(i) for foods other than infant formula, represented or purported to be specifically for infants and children less than 2 years of age.

* * * * *

Dated: February 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–04387 Filed 2–27–14; 8:45 am]

BILLING CODE 4160–01–C

FEDERAL REGISTER

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 101

Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2004–N–0258 (Formerly Docket No. 2004N–0456)]

RIN 0910–AF23

Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA or we) is proposing to amend the definition of a single-serving container; require dual-column labeling for certain containers; update and modify several reference amounts customarily consumed (RACCs or reference amounts); add several food products and food product categories to the reference amounts customarily consumed per eating occasion for the general food supply; amend the label serving size for breath mints; and make technical amendments to various aspects of the serving size regulations. These actions are being taken, in part, in response to recommendations of the 2003 FDA Obesity Working Group and FDA's recognition that portion sizes have changed since the original serving size regulations were published in 1993. This proposal also discusses six citizen petitions. The intended effect of this rulemaking is to provide consumers with more accurate and up-to-date information on serving sizes.

DATES: Submit either electronic or written comments on the proposed rule by June 2, 2014. Submit comments on information collection issues under the Paperwork Reduction Act of 1995 by April 2, 2014, (see the ''Paperwork Reduction Act of 1995'' section of this document).

ADDRESSES: You may submit comments, identified by Docket No. FDA–2004–N–0258 and/or RIN 0910–AF23, by any of the following methods, except that comments on information collection issues under the Paperwork Reduction Act of 1995 must be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) (see the ''Paperwork Reduction Act of 1995'' section of this document).

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

Written Submissions

Submit written submissions in the following ways:

- *Mail/Hand delivery/Courier (for paper or CD–ROM submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Agency name and Docket No. FDA–2004–N–0258 and Regulatory Information Number 0910–AF23 for this rulemaking. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided. For additional information on submitting comments, see the ''Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this proposed rule, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: With regard to the proposed rule: Cherisa Henderson, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–5429, *NutritionProgramStaff@fda.hhs.gov*.

With regard to the information collection: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Picard Dr., PI50–400T, Rockville, MD 20850, *domini.bean@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

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Executive Summary

Purpose of the Proposed Rule

Need for the Proposed Rule

Following the passage of the Nutrition Labeling and Education Act (NLEA) of 1990 (Pub. L. 101–535), which added section 403(q) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 343(q)) we issued various regulations related to serving size requirements (see 21 CFR 101.9 and 101.12). Since we established those regulations, there have been developments that have compelled us to re-evaluate our regulations on serving sizes and determine whether and what, if any, revisions are needed to ensure that the Nutrition Facts label meets its intended goal of helping consumers maintain healthy dietary practices. Specifically, such developments include the availability of newer consumption data; research showing that amounts of food consumed by the American public have changed; and the availability of recent consumer research on the use and understanding of the Nutrition Facts label.

In consideration of these new developments, this rule proposes a number of changes to our regulations in §§ 101.9 and 101.12. In consideration of the new consumption data, this rule proposes to amend the reference amounts customarily consumed (RACCs) that are used to determine serving sizes consistent with section 403(q)(1)(A)(i) of the FD&C Act, which states that a serving size is an amount of food customarily consumed. Additionally, in consideration of recent consumption data, research on consumption, and research on consumer understanding of the Nutrition Facts label, this rule proposes to amend some of the required procedures used to determine serving sizes, proposes to amend the definition of a single serving container, and also proposes to require that certain containers of foods bear an additional column of nutrition information to help consumers understand the nutritional significance of consuming an entire container of certain foods containing multiple servings. Overall, the proposals in this rule are designed to ensure that serving sizes are based on current consumption data, as well as to provide consumers with information on the nutrition facts label, related to the serving size, that will help them maintain healthy dietary practices.

Summary of the Legal Authority

The NLEA amended the FD&C Act to provide FDA with the authority to require nutrition labeling on most packaged foods regulated by the Agency. Specifically, section 403(q)(1)(A)(i) of the FD&C Act requires, with certain exceptions, that food that is intended for human consumption and offered for sale bear nutrition information that provides a serving size that reflects the amount of food customarily consumed and is expressed in a common household measure that is appropriate to the food, and is our primary legal authority to issue the regulations in this proposed rule. Additionally, we are relying on section 2(b)(1)(A) of NLEA, which states that requirements in regulations issued under the authority of the NLEA, including serving size requirements, shall be ''conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet.'' Finally, we are also relying on the authorities in sections 701(a), 403(a)(1), and 201(n) of the FD&C Act (21 U.S.C. 371(a), 343(a)(1), and 321(n)) for amendments in this proposed rule. Under section 701(a) of the FD&C Act, we have authority to issue regulations for the efficient enforcement of the FD&C Act. Under section 403(a) of the FD&C Act, a food is deemed misbranded if its labeling is deemed false or misleading in any particular. Additionally, under section 201(n) of the FD&C Act, in determining whether or not a food is misbranded because its labeling is misleading, we must take into account not only representations made or suggested, but also the extent to which the labeling fails to reveal facts that are material in light of such representations or material with respect to consequences that may result from the use of the food. All of these authorities listed in this paragraph give us the authority to issue this proposed rule related to serving size labeling.

Summary of the Major Provisions of the Proposed Rule

Single-Serving Containers and Dual-Column Labeling

Over the last 20 years, evidence has accumulated demonstrating that container sizes can influence the amount of food consumed. For containers of certain sizes, consumers are likely to eat the entire container in one sitting. For other container sizes, consumers may consume the container in one sitting or may consume the container over multiple sittings or share the container contents with other consumers. To address containers that may be consumed in a single-eating occasion, FDA is proposing that all containers, including containers of products with large RACCs (i.e., products with RACCs of at least 100 grams (g) or 100 milliliters (mL)), containing less than 200 percent of the RACC be labeled as a single-serving container. To address containers that may be consumed in one or more sittings, or shared, FDA is proposing that containers that contain at least 200 percent and up to and including 400 percent of the RACC be labeled with dual-column labels that include a column of nutrition information within the Nutrition Facts label that lists the quantitative amounts and percent Daily Values (percent DVs) for the entire container, as well as the preexisting required column listing the quantitative amounts and percent DVs for a serving that is less than the entire container (i.e., the serving size derived from the RACC).

Changing the Reference Amounts Customarily Consumed (RACCs)

FDA established RACCs in 1993 based, in part, on data from Nationwide Food Consumption Surveys (1977–1978 and 1987–1988) conducted by the U.S. Department of Agriculture (USDA). Over the last decade, there has been general recognition that consumption patterns have changed. To determine changes in serving sizes and whether the RACCs should be updated, FDA has analyzed recent food consumption data

from the National Health and Nutrition Examination Surveys (NHANES) (2003–2008 surveys).[1] Generally, changes to the RACCs are proposed in this rule if the NHANES median consumption data have increased or decreased by at least 25 percent compared to the 1993 RACCs. However, consistent with our regulations in § 101.12(a), we are also considering other factors, such as designating the same RACCs for products with similar consumption data and similar dietary usage or product characteristics.

In addition, since the final rule on serving sizes published in 1993, we have received requests from manufacturers to modify, establish and identify appropriate product categories within the tables in § 101.12(b), and change the serving size for various food products. Using the data currently available to us, we are also addressing these requests in this proposed rule.

Technical Amendments

We have been alerted to a number of technical amendments that should be made to the serving size regulations in §§ 101.9 and 101.12. This rule proposes a number of technical amendments to help clarify the serving size requirements in these regulations.

Effective Date

We are proposing an effective date of 60 days after the date of the final rule's publication in the **Federal Register** with a compliance date 2 years after the effective date.

Costs and Benefits

We have developed one comprehensive preliminary regulatory impact analysis (PRIA) that presents the benefits and costs of this proposed rule as well as the proposed rule entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels''. The PRIA analyzes the costs and benefits of both the major changes proposed by the rules (i.e., those proposals that would require the manufacturer to undertake a re-design of their label), as well as the minor changes proposed by the rules (i.e., those proposals that would not require a label re-design). The cumulative impact of these two nutrition labeling proposals, assuming a two-year compliance period and taken as a whole, is shown in the following table.

SUMMARY OF COSTS AND BENEFITS OVER 20 YEARS

[In billions of 2011 $]

	Benefits	Costs	Net benefits
Present Value (PV):			
3%	$31.4	$2.3	$29.1
7%	21.1	2.3	18.8
Annualized (3% PV Amount):			
3%	2.0	0.2	1.8
Annualized (7% PV Amount):			
7%	1.9	0.2	1.7

Notes: Compliance period is 24 months. Costs include relabeling and reformulation costs, which are one-time costs, as well as recordkeeping costs, which recur. Present values of relabeling and reformulation costs are equivalent at 3 or 7 percent because we conservatively assume that these one-time costs are incurred upon publication of the rule instead of at the end of the compliance period. Recordkeeping costs, because of their recurring nature, differ by discount rate; however, such costs comprise a very small percentage of total costs.

I. Background

A. The Serving Size Regulations

On November 8, 1990, the Nutrition Labeling and Education Act (the NLEA) was signed into law (Pub. L. 101–535). The NLEA amended the Federal Food, Drug, and Cosmetic Act (the FD&C Act), and together with FDA's implementing regulations, established mandatory nutrition labeling for packaged foods to enable consumers to make more informed and healthier food product choices in the context of their daily diet. Section 403(q)(1)(A)(i) of the FD&C Act (21 U.S.C. 343(q)(1)(A)(i)) requires that most foods under FDA's jurisdiction bear nutrition information that provides a serving size that reflects the amount of food customarily consumed per eating occasion and is expressed in a common household measure appropriate to the food. Section 2(b)(1)(B) of the NLEA also required that we issue regulations that establish standards to define serving size.

To implement the serving size requirements of the NLEA, FDA conducted notice-and-comment rulemaking (56 FR 60394, November 27, 1991 (the 1991 serving size proposed rule), and 58 FR 2229, January 6, 1993 (the 1993 serving size final rule)). FDA also published technical amendments to the 1993 serving size final rule on August 18, 1993 (58 FR 44039) (the 1993 technical amendments). Consistent with the FD&C Act, the serving size regulations established standards to define ''serving size'' that are composed of two basic elements: (1) Reference amounts customarily consumed (RACCs or reference amounts) per eating occasion for specific food product categories; and (2) procedures for determining serving sizes for use on product labels derived from the RACCs. The second element was necessary because the RACCs are provided primarily in metric units (based on data from national food consumption surveys that are expressed in grams); however, the FD&C Act requires that serving sizes be expressed in common household measures that are appropriate to the particular food.

Section 101.9(b)(1) (§ 101.9(b)(1)) defines the term ''serving or serving size'' to mean an amount of food customarily consumed per eating occasion by persons 4 years of age or older, which is expressed in a common household measure that is appropriate to the food. When the food is specially formulated or processed for use by infants or by toddlers, a serving or serving size means an amount of food customarily consumed per eating occasion by infants up to 12 months of age or by children 1 through 3 years of age, respectively.

Section 101.12(a) (§ 101.12(a)) describes the general principles and factors that we considered in arriving at the RACCs. Among these principles, we sought to ensure that foods that have similar dietary usage, product

[1] Hereinafter referred to as the NHANES 2003–2008 surveys or NHANES 2003–2008 consumption data, as applicable.

characteristics, and customarily consumed amounts have a uniform reference amount customarily consumed (RACC or reference amount) so that consumers could make nutritional comparisons of similar products in the marketplace. In § 101.12(b), we established RACCs (upon which label serving sizes are to be determined) for 129 product categories representing the general food supply and 11 product categories of foods for infants and children 1 through 3 years of age.

The current RACCs represent the amount of food customarily consumed per eating occasion for each product category, and were derived primarily from data obtained from the 1977–1978 and 1987–1988 Nationwide Food Consumption Surveys (NFCS) conducted by the U.S. Department of Agriculture (USDA) (58 FR 2229 at 2236–2237). We reviewed food consumption data for the foods in each product category and considered three statistical estimates: The mean (average), the median (50th percentile), and the mode (the most frequent value). For the 1993 serving size final rule we followed the procedures discussed in the 1991 serving size proposed rule (56 FR 60394 at 60403–60406) and the general principles discussed in § 101.12, and determined the RACC that was most likely to represent the amount customarily consumed for each product category.

Section 101.9(b) establishes procedures for converting RACCs into appropriate label serving sizes. Section 101.9(b)(6) defines the criteria for products to be labeled as single-serving containers. Generally, products packaged and sold individually that contain less than 200 percent of the applicable RACC must currently be labeled as one serving. An exception to this rule occurs for products that contain more than 150 but less than 200 percent of the RACC and that have a RACC of 100 grams (g) or 100 milliliters (mL) or larger. In this case, the product may be labeled as one or two servings, at the manufacturer's discretion. For example, the RACC for carbonated beverages is 240 mL (i.e., 8 fluid (fl) ounces (oz)). Containers of carbonated beverages that are 360 mL (i.e., 12 fl oz, 150 percent of 240 mL) or less must be labeled as a single serving. Containers of carbonated beverages weighing more than 360 mL and less than 480 mL (i.e., more than 12 fl oz, 150 percent of 240 mL, and less than 16 fl oz, 200 percent of 240 mL) may be labeled as ''1 serving'' or as ''2 servings'' per container. For products packaged and sold individually that contain 200 percent or more of the RACC, the manufacturer may currently label the product as a single-serving if the entire content of the container can reasonably be consumed at a single-eating occasion (§ 101.9(b)(6)).

Under § 101.9(b)(11), manufacturers must provide a second column of nutrition information for products that are promoted on the label, labeling, or advertising for a use that differs in quantity from the RACC by 200 percent or greater from the use upon which the reference amount was based (e.g., liquid cream substitutes promoted for use with breakfast cereals). The second column of nutrition information is based on the amount customarily consumed in the promoted use.

Manufacturers may also voluntarily provide a second column of nutrition information per 100g or 100 mL, or per 1 oz or 1 fl oz of the food as ''packaged'' or ''purchased'' (§ 101.9(b)(10)(i)) and per cup popped for popcorn in a multi-serving container (§ 101.9(b)(10)(iii)). Additionally, manufacturers may voluntarily provide a second column of nutrition information on the Nutrition Facts label per one unit if the serving size of a product in discrete units in a multi-serving container is more than one unit (§ 101.9(b)(10)(ii)). For example, the RACC for muffins is currently 55 g. Under § 101.9(b)(10)(ii), if three muffins in a multi-serving container of six muffins weigh 18 g each, there are two options for the serving size declaration: (1) A label showing the serving size as ''3 muffins (55 g),'' with the Nutrition Facts label listing nutrition information per serving (i.e., 3 muffins); or (2) a label with the Nutrition Facts label listing again the nutrition information per serving (i.e., 3 muffins), but also with an additional column listing the nutrition information per ''1 muffin (18 g),'' which would be less than one serving.

Dual-column labeling may also be used to present nutrition information for two or more forms of the same food (e.g., both ''as purchased'' and ''as prepared'') under § 101.9(e). Additionally, if a food is commonly combined with other ingredients or is cooked or otherwise prepared before eating, under certain circumstances an additional column may be used to declare nutrition information on the basis of the food as ''consumed'' (§ 101.9(h)(4)). For example a dry ready-to-eat cereal may be described with one set of Percent Daily Values for the cereal as sold per ounce, and may use another for the cereal with milk (e.g., per ounce of cereal plus 1/2 cup of vitamin D fortified skim milk).

B. The Obesity Working Group

In August 2003, the Commissioner of Food and Drugs created the Obesity Working Group (OWG) and charged it to develop an action plan covering the critical dimensions of the obesity problem in America to help consumers lead healthier lives through better nutrition. The OWG was composed of professionals across FDA who provided a range of expertise in areas such as food labels, communication and education efforts, the role of industry and restaurants, and therapeutic interventions for obesity. A docket was established in July of 2003 (Docket No. FDA–2003–N–0161 (formerly Docket No. 2003N–0338)) (the ''Obesity docket'') to accept comments on obesity-related issues. The OWG's final report entitled ''Calories Count'' (the ''Calories Count'' report) centered on the scientific fact that weight control is primarily a function of the balance of calories eaten and calories expended; and therefore, focused on a calories count emphasis for FDA actions (Ref. 1).

A principal aspect of the Commissioner's charge was for the OWG to develop an approach for enhancing and improving the food label to help consumers prevent weight gain and reduce obesity. To address this issue, among other actions, the OWG recommended that we reexamine our serving size regulations by inviting comment on: (1) Whether to require food packages that can reasonably be consumed at one-eating occasion to declare the whole package as a single serving; (2) which, if any, RACCs of food categories need to be updated; and (3) whether to provide for comparative calorie claims for smaller portions of identical foods.

C. The Advance Notice of Proposed Rulemaking

On April 4, 2005, we published an advance notice of proposed rulemaking (ANPRM) (70 FR 17010) entitled ''Food Labeling: Serving Sizes of Products That Can Reasonably Be Consumed At One Eating Occasion; Updating of Reference Amounts Customarily Consumed; Approaches for Recommending Smaller Portion Sizes.'' The ANPRM was published in response to the ''Calories Count'' report. The ANPRM focused on the following topics, which are also discussed in this proposed rule: (1) Single-serving containers and dual-column labeling; (2) updating the RACCs; and (3) calorie comparison claims. We used the three topics of the ANPRM to structure this proposed rule.

1. Single-Serving Containers

The ANPRM invited comment on topics that originated, in large part, from the OWG's activities. Several comments submitted to the Obesity docket strongly opposed the practice of individually packaged foods that appear to be single-serving containers, declaring two or more servings on the label—such as certain sodas and snack packages. In 2003, we initiated eight focus groups around the country and showed them examples of labels of a 20 fl oz soda and an individually packaged large muffin. Focus group participants thought these products should be labeled as single-serving products (Ref. 1). Many participants (though not all) did understand that if the entire package of food is eaten, the number of servings should be multiplied by the amount of the nutrient of interest; though some participants made mistakes when trying to calculate the total amount of nutrients (Ref. 2) To address problems identified from focus groups, the ANPRM discussed amending the definition of a single-serving container in § 101.9(b)(6) and providing an additional column in the Nutrition Facts label that would list the nutrition information for the entire package in addition to a column listing multiple servings for the package (70 FR 17010 at 17012).

In the 1993 serving size final rule, we used the mean, median, and mode from food consumption surveys to determine the RACCs. In addition to these three statistical estimates (i.e., the mean, median, and mode), food consumption surveys allow calculation of intake estimates for individuals who eat a greater amount of food than average (e.g., those in the 90th and 95th percentiles). Because estimates can be calculated for individuals that eat a greater amount of food than average, in the ANPRM, we invited comment on whether the 90th and 95th percentiles could be used to determine the cutoff points at or below which nutrition information should be provided for the entire package (70 FR 17010 at 17013).

We also sought comment in the ANPRM on the potential effects of requiring that manufacturers list the nutrient content for the entire package for certain package sizes (70 FR 17010 at 17013).

2. Updating the RACCs

Because there is evidence that the U.S. population is eating larger portion sizes than it did in the 1970s and 1980s (Refs. 3, 4, 5, and 6), the OWG recommended that FDA determine whether to update the RACCs, and, if so, how to update the RACCs. The ANPRM recognized that changes to the RACCs, in most instances, would require changes to the serving size on products, which in turn would require changes to the nutrient values listed on the Nutrition Facts label (70 FR 17010 at 17012).

Even if consumers are consuming larger amounts, we do not want consumers to confuse the serving size on the food label (which the FD&C Act requires to be based on the amount customarily consumed) with an amount that dietary guidance documents, such as the Dietary Guidelines for Americans (Ref. 7), recommend for consumption. For example, if data show that consumers are drinking larger amounts of carbonated beverages, and we increase the RACC for such beverages, which will likely increase the amount of the serving size on the label, additional educational efforts may be needed to reinforce to consumers that a larger serving size on the container is not a ''recommended'' serving size. The ANPRM invited comment on how recent consumption data should factor into the determination of which, if any, RACCs should be updated [2] and what criteria should be used as the basis for change (70 FR 17010 at 17012). We also invited comment on how we could make serving size information on the Nutrition Facts label easier for consumers to use when deciding what foods and how much of these foods to eat (70 FR 17010 at 17012).

3. Comparison of Calories in Foods of Different Portion Sizes

As noted in the ''Calories Count'' report, the Federal Trade Commission had suggested that we consider ''allowing food marketers to make truthful, non-misleading label claims comparing foods of different portion sizes (Ref. 1).'' Our regulations discuss requirements to use certain characterizing terms to make comparative nutrient content claims (called ''relative claims'') that compare the level of nutrients in two foods, including calorie comparisons, and require that all such comparisons be based on a uniform amount of food, i.e., per RACC for individual foods or per 100 g for meals and main dishes (see 21 CFR Part 101, Subpart D, and § 101.13(j)). Section 101.13(j) also requires that such comparisons made in ''relative claims'' reflect actual nutrient differences in the same quantity of similar foods (e.g., ''Reduced calorie chocolate ice cream, 25 percent fewer calories than the leading brand of chocolate ice cream. The leading brand contains 150 calories per ½ cup serving. Our ice cream contains 100 calories per ½ cup serving'') or dissimilar foods within a product category that can be substituted for one another (e.g., ''Reduced sodium pretzels, 33 percent less sodium than the leading brand of potato chips. Our pretzels contain 105 mg of sodium per serving. The leading brand of potato chips contains 320 mg of sodium per serving). The nutrient content claim regulations do not specifically discuss claims that compare the amount of calories based on different sized portions of the same food product. However, FDA's regulations do allow certain statements in the label or labeling of a food product about the amount or percentage of a nutrient in the food (see § 101.13(i)). As noted in the ''Calories Count'' report, ''using the food label to promote consumption of smaller portions may have merit, particularly if consumers understand that: (1) The calorie reduction is solely a function of the reduction in portion size and, (2) the smaller portion size is actually less than what they usually consume.'' Thus, the ANPRM invited comment regarding the appropriateness of label claims based on the amount of calories in a specified portion of a product (i.e., the amount of food specified by the claim, e.g., one 15 g cookie) versus claims based on the RACC and specified in the labeled serving size of a product (i.e., the amount specified on the Nutrition Facts label (e.g., two 15 g cookies)) (70 FR 17010 at 17013).

4. Overview of Comments on the Advance Notice of Proposed Rulemaking

The ANPRM resulted in approximately 850 comments from health advocacy groups, industry, trade associations, consumer groups, individual consumers, government, health professionals, and academia. Not all of the comments received addressed the questions posed in the ANPRM, and many comments were outside the scope of the rulemaking. We discuss the comments within the scope of the ANPRM later in this proposed rule.

[2] We note that in this proposed rule, when we speak of ''updates to'' or ''updating'' the RACCs established in 1993, we are referring to amendments to RACCs for products that are currently listed in the tables in § 101.12(b), and for which the NHANES 2003–2008 consumption data showed a significant change in consumption (as discussed in the proposed amendments section, we have determined that an increase or decrease in consumption by at least 25 percent from the amount listed in the tables in § 101.12(b) would be considered a significant change).

D. Requests for Changes to Serving Size Requirements

This section describes the six citizen petitions, as well as other documentation related to requests for changes to serving size requirements and requests for dual column labeling that will be addressed, in part, in this proposed rule.

1. Requests To Modify and Establish Certain RACCs and Add Products to Product Categories

We have received several requests (Ref. 8), and six citizen petitions that are discussed in this document, to modify [3] the current RACCs for specific products that are already listed in the tables in § 101.12(b). We have also received several requests to establish [4] ''new'' RACCs for food products that are not listed in the tables in § 101.12(b) by adding ''new'' product categories to a general category or ''new'' products to a product category (Refs. 8, 9, and 10). We discuss these requests in sections II.D.3.b., II.D.6 and II.E.

2. Adding Products to the List of Products for Each Product Category

In the 1991 serving size proposed rule, we provided as a reference (Ref. 20 of the 1991 serving size proposed rule) an extensive list that manufacturers could use, which included examples of products for a given product category (Ref. 11). The List of Products for Each Product Category was updated in the 1993 serving size final rule and we stated that we would revise the list as necessary (58 FR 2229 at 2241) and that those who were not sure about which product category their specific products belong to should refer to the list or consult us (58 FR 2229 at 2291). Copies of the list are available from the Office of Nutrition, Labeling and Dietary Supplements, Food and Drug Administration 5100 Paint Branch Parkway, College Park, MD 20740. Separately from this rulemaking, we are planning to update the list and make it available as draft guidance after the publication of this proposed rule. If finalized, the guidance document would be made available on our Web site.

[3] We note that in this rule, when we speak of ''modify'' or ''modifying'' RACCs, we are referring to changes to existing RACCs in the tables in § 101.12(b) for which the NHANES 2003–2008 consumption data did not show an increase or decrease in consumption by at least 25 percent.

[4] We note that in this rule, when we speak of ''establish'' or ''establishing'' RACCs, we are referring to the addition of products (and assigning RACCs for such products) that are not already listed in the tables in § 101.12(b).

3. Citizen Petitions

a. Petition for Food and Beverages Sold in Single-Serving Containers

On October 29, 2004, the Center for Science in the Public Interest (CSPI) submitted a citizen petition (Docket No. FDA–2004–P–0210, formerly Docket No. 2004P–0483) (the CSPI petition) (*http://www.regulations.gov/#!docketDetail;D=FDA-2004-P-0210*). The CSPI petition claimed that trends of increasing sizes of snack foods and beverages make the current Nutrition Facts label on some products misleading for the average consumer. The CSPI petition discussed three groups of products: Soft drinks, snack food products, and baked goods. The CSPI petition claimed that larger package sizes for snack food products and soft drinks have led to increased consumption of these items, which contributes to the obesity epidemic. The CSPI petition requested that we improve the nutrition labeling in three areas for foods and beverages. Specifically, the CSPI petition requested that we: (1) Amend the definition of a single-serving container by increasing the cutoff for single-serving containers to include 300 percent of the applicable RACC for soft drinks/beverages and muffins/pastries; (2) consider whether the cutoff level for the single-serving labeling of other food categories should be raised; (3) require dual columns on the Nutrition Facts label on a per serving and per package basis for snack packages that contain at least 200 percent and up to and including 400 percent of the applicable RACC, if the snack package can be consumed by one person, but is often consumed by multiple people; (4) require snack packages that contain at least 200 percent and up to and including 400 percent of the applicable RACC to be labeled as a single serving if the package is usually consumed by one person; and (5) require disclosure on the principal display panel (PDP) of food labels for products that contain at least 200 percent and up to and including 400 percent of the applicable RACC of the number of servings in the package. We discuss issues raised in the first four requests from the CSPI petition in sections II.C.2.b and II.C.3.b. The fifth request for requiring disclosure on the PDP of food labels on the number of servings in the package for certain size packages is outside the scope of this rulemaking.

b. Petition for a New RACC for Fruitcake

We received a citizen petition (the fruitcake petition) on September 15, 2008, from certain fruitcake manufacturing companies (Docket No. FDA–2008–P–0511) (*http://www.regulations.gov/#!docketDetail;D=FDA-2008-P-0511*), requesting that we exercise administrative discretion to establish 43 g (~1½ oz) as the RACC for fruitcake rather than the current RACC of 125 g. The fruitcake petition provided labels, order forms, and other documents establishing that the fruitcake industry has been using 1½ oz as a serving size. The fruitcake petition did not provide any consumption data to establish a RACC. We will be discussing issues raised in this citizen petition in section II.D.3.b.

c. Petition for a New RACC for Yogurt

On June 2, 2011, the National Yogurt Association (NYA) submitted a citizen petition (Docket No. FDA–2011–P–0440) (the NYA petition) (*http://www.regulations.gov/#!docketDetail;D=FDA-2011-P-0440*), requesting that we change the existing RACC for yogurt from 225 g (roughly 8 oz) to 170 g (6 oz). Nutrient content claims and health claims for yogurt are based on the 8-oz RACC (§ 101.12(g)). According to the petition, over half of the yogurt containers on the market today are sold in 6-oz containers. However, manufacturers cannot make nutrient content claims and health claims for yogurt based on a 6-oz amount, because the 8-oz RACC must be used to determine if the criteria for the claims has been met (see § 101.12(g)). The NYA petition used current consumption data to justify their request for a smaller RACC. We discuss the issues in the NYA petition in section II.D.3.b.

d. Petition for a New RACC for Mint Wafers and Similar Candy Products

On February 17, 1996, we filed a petition submitted by the Nutrition Research Group for Andes Candies, Inc., (the Andes petition) (Docket No. FDA–1996–P–0309, formerly Docket No. 96P–0023) *http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=FDA-1996-p-0309;fp=true;ns=true*. The petition requests that we amend the RACC for Andes mint wafers and products that are similar to Andes mint wafers. Specifically, the Andes petition requested that we: (1) Change the RACC for Andes mint wafers and similar products from 40 g (the current RACC for ''All other candies'') to 15 g; and (2) amend the ''Sugars and Sweets'' product category for ''Hard candies, others'' to read ''Hard candies, mint wafers and others''.

The Andes petition provided data from a 1995 consumer study conducted by Andes to support a RACC of 15 g for

Andes mint wafers. The Andes petition also stated that the USDA national food consumption data available at the time (1995) also supported a RACC of 15 g for Andes mint wafers. These data included the 1987–1988 NFCS and 1989–1991 Continuing Survey of Food Intake by Individuals (CSFII).

e. Petition for a New RACC for Certain Candies Weighing 20 g or Less per Piece

On May 30, 1996, the Chocolate Manufacturers Association (CMA) and the National Confectioners Association (NCA), trade associations representing chocolate and confectionary companies, jointly submitted a citizen petition (the CMA/NCA petition) to FDA (Docket No. FDA–1996–P–0246, formerly Docket No. 96P–0179) *http://www.regulations.gov/#!searchResults;rpp=25;po=0;s=FDA-1996-P-0246;fp=true;ns=true*. The CMA/NCA petition requested that we amend the ''Sugars and Sweets'' general category by establishing a new 25 g RACC for candies (other than hard candies or baking candies) weighing 20 g or less per piece.

The CMA/NCA petition pointed out that the current 40 g RACC for ''All other candies'' encompasses a large variety of candy products, ranging from very small pieces weighing only a few grams each, to king-size candy bars and novelty items that can weigh more than a pound. CMA/NCA submitted data from two consumer studies to support their request for a new 25 g RACC. The CMA/NCA petition concluded that a smaller RACC for chocolate and non-chocolate candies (other than hard candies or baking candies) weighing 20 g or less was warranted, and would result in labels that provide more useful nutrition information to consumers.

We discussed the Andes petition and the CMA/NCA petition in a proposed rule entitled ''Food Labeling; Serving Sizes; Reference Amounts for Candies'' on January 8, 1998 (63 FR 1078) (Docket Nos. FDA–1996–P–0309 and FDA–1996–P–0246 (formerly Docket Nos. 96P–0023 and 96P–0179)). Later, we announced the withdrawal of that proposed rule in the **Federal Register** on November 26, 2004 (69 FR 68831). Because we are updating, modifying, or establishing RACCs for all product categories in this proposed rule, we discuss the issues raised in the Andes petition and the CMA/NCA petition in this proposed rule. These issues are discussed in sections II.D.3.b and II.D.6., respectively.

f. Petition for a New Product Category and New RACC for Small Breath Mints Weighing 0.5 g or Less

We received a petition (the breath mints petition) dated April 20, 1994 (Docket No. FDA–1994–P–0314, formerly Docket No. 94P–0168) (*http://www.regulations.gov/#!documentDetail;D=FDA-1994-P-0314-0001*) from Ferrero USA, Inc. requesting that we amend the product category for ''Sugars and Sweets: Hard candies, breath mints'' to create a separate product category for small breath mints (weighing 0.5 g or less) having the same breath-freshening capacity as larger mints. The breath mints petition explained that small breath mints weigh about 0.4 g each, and therefore the current RACC of 2.0 g is unrealistic for this product category because it means the serving size would be 5 mints. The breath mints petition emphasized that because consumers typically eat one breath mint at a time, the serving size for small breath mints should be ''1 mint'' and that the RACC for this product category should be 0.5 g.

The breath mints petition contained study data collected from two telephone interviews with a randomly selected, nationally representative sample of consumers who acknowledged using breath mints during the past three months. The results of these studies, which included data on both small and large breath mint products, indicated that one breath mint was the amount customarily consumed per eating occasion by the majority of breath mint users. We also received two letters from breath mints manufacturers suggesting that breath mint products should have a ''one mint'' serving size (Refs. 12 and 13).

We discussed the breath mints petition in a proposed rule entitled ''Food Labeling; Serving Sizes: Reference Amount and Serving Size Declaration for Hard Candies, Breath Mints'' on December 30, 1997 (62 FR 67775) (the 1997 breath mints proposed rule) (Docket No. FDA–1994–P–0314, formerly Docket No. 94P–0168). This proposed rule also discussed changing the rounding rules for calories to allow the nutrition label on any product with less than 5 calories per serving to optionally declare the exact amount of calories in lieu of zero calories.

Because we are addressing issues related to the label serving size for breath mints, in conjunction with other serving size issues, in this proposed rule, we are withdrawing the 1997 breath mints proposed rule elsewhere in this issue of the **Federal Register**.

E. Technical Issues

Since the 1993 serving size final rule and the 1993 technical amendments were published, we have been alerted to several additional technical amendments that should be made. These technical amendments include: (1) Clarifying the rounding rules for products that have more than five servings when the number of servings fall exactly between two values; (2) clarifying options when the number of servings per container varies; (3) making minor corrections to the general and product category names; (4) making minor changes in the footnotes to the tables in § 101.12(b); (5) making minor changes to Table 2 in § 101.12(b); (6) making minor corrections and clarifications to the rules for reference amounts for products that require further preparation (e.g., mixes); and (7) clarifying the rules for reference amounts for products that consist of two or more separate foods that are packaged together and are intended to be eaten together (e.g., pancake and syrup). These amendments are discussed in section II.F.

II. The Proposed Rule

A. Legal Authority/Statutory Directive

Our primary legal authority to issue regulations that establish requirements for serving size is derived from section 403(q) of the FD&C Act. Specifically, section 403(q)(1)(A)(i) of the FD&C Act requires, with certain exceptions, that food that is intended for human consumption and offered for sale bear nutrition information that provides a serving size that reflects the amount of food customarily consumed and is expressed in a common household measure that is appropriate to the food.

The NLEA added section 403(q)(1)(A)(i) to the FD&C Act, and, under section 2(b)(1)(B) of NLEA, required that we issue regulations that establish standards to define serving size. We established those standards in the 1993 serving size final rule, and at this time we have determined that amendments to those regulations are needed. We have analyzed consumption data for various food products, and have determined that many of the RACCs established in 1993 have changed enough to warrant amending the current RACCs. Additionally, both on our own initiative and in response to various requests, we have analyzed data for products that are not currently listed in the tables in § 101.12(b), and are proposing to establish additional RACCs. Thus, in accordance with section 403(q)(1)(A)(i) of the FD&C Act, we are proposing to amend the RACCs

in § 101.12(b) to reflect the current amounts customarily consumed for products that are already listed in § 101.12(b), as well as those not currently listed in § 101.12(b). Additionally, under the same authority we are proposing to amend related regulations in §§ 101.9 and 101.12 that set forth procedures for determining serving sizes for use on product labels from the reference amounts. Included among these proposed amendments are revisions to the procedures for determining what products must be labeled as a single serving.

Further, in addition to requiring FDA to issue regulations that establish standards to define serving size, section 2(b)(1)(A) of NLEA states that the regulations shall require such information to be ''conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet.'' Under this authority, we are proposing to amend § 101.9 to require that certain products provide an additional column within the Nutrition Facts label that lists the quantitative amounts of the required nutrients and food components, and percent DVs for such nutrients and food components, for the entire container or unit of food as well as the preexisting columns listing the quantitative amounts and percent DVs for a serving of food that is less than the entire container. Section 2(b)(1)(A) of the NLEA provides authority for this proposed amendment because the additional column of information will help consumers to understand the nutritional significance of consuming an entire container or unit of certain foods containing multiple servings in the context of a total daily diet. As is discussed further in section II.C.1., research has shown that package and portion size play a role in influencing the amounts that consumers eat, and that consumers can be confused about the amount of nutrients they consume in packages containing more than one serving but that could be consumed in a single eating occasion. The proposed amendment is intended to help consumers understand the amounts of nutrients in certain containers and units of food, as well as the DVs for those nutrients, so that those amounts can be taken into consideration when evaluating a daily diet.

Other relevant authorities that we are relying on for the proposed amendments in this rule include sections 701(a), 403(a)(1), and 201(n) of the FD&C Act (21 U.S.C. 371(a), 343(a)(1), and 321(n)). Under section 701(a) of the FD&C Act, we have authority to issue regulations for the efficient enforcement of the FD&C Act. We may issue regulations for the efficient enforcement of the FD&C Act in order to ''effectuate a congressional objective expressed elsewhere in the Act'' (*Association of American Physicians and Surgeons, Inc.* v. *FDA,* 226 F. Supp. 2d 204 (D.D.C. 2002) (citing *Pharm. Mfrs. Ass'n.* v. *FDA,* 484 F. Sup. 1179, 1183 (D. Del. 1980). Under section 403(a) of the FD&C Act, a food is deemed misbranded if its labeling is deemed false or misleading in any particular. Additionally, under section 201(n) of the FD&C Act, in determining whether or not a food is misbranded because its labeling is misleading, we must take into account not only representations made or suggested, but also the extent to which the labeling fails to reveal facts that are material in light of such representations or material with respect to consequences that may result from the use of the food. These other authorities, in addition to the authorities described previously in this document, give us the authority to issue this proposed rule related to serving size labeling.

B. Need for This Regulation

Since we adopted the Nutrition Facts and Supplements Facts labels, there have been developments that have compelled us to re-evaluate our regulations on serving sizes and determine whether and what, if any, revisions are needed to ensure that the Nutrition Facts label meets its intended goal of helping consumers maintain healthy dietary practices. Specifically, such developments include the availability of newer consumption data; research showing that the amount of food consumed by the American public has changed; and the availability of recent findings of consumer research on the use and understanding of the Nutrition Facts label. In light of these factors, we propose to amend the serving size regulations to provide consumers with information, including the serving size, in order to help them maintain healthy dietary practices. These factors are discussed in sections II.C.1 and II.D.1.

The proposed amendments are important because poor dietary practices have public health impacts (Refs. 14, 15, 16, 17, 18, and 19). Since 1993, there has been a shift in the population prevalence of being overweight or obese among the U.S. population. The U.S. Centers for Disease Control and Prevention (CDC) identifies as overweight an adult whose body-mass index, or BMI (defined as weight in kilograms divided by the height in meters squared), is between 25 and 29.9. CDC defines an obese adult as a person 20 years of age or older whose BMI is 30 or above (Ref. 16). CDC data indicate that 68 percent of the adult U.S. population is overweight or obese, including 34 percent who are considered obese (Ref. 14). The prevalence of obesity in the United States has increased dramatically in the past 30 years. In the 1976–1980 NHANES II data, 15 percent of participants were obese, while in the 2007–2008 NHANES data, 34 percent of people were obese (Refs. 14 and 15). The primary risk factors for overweight and obesity in the general population are overconsumption of calories (i.e., eating more calories than are needed to maintain body weight) and physical inactivity (i.e., getting an amount of exercise below the amount required to burn excess calories consumed over the amount needed to maintain body weight) (Ref. 7). For adults, being overweight or obese increases the risk for a number of chronic diseases, including coronary heart disease, type 2 diabetes, stroke, hypertension, arthritis, and certain types of cancer (Ref. 16). A BMI over 35 is associated with excess mortality, primarily from cardiovascular disease, diabetes, and certain types of cancer (Refs. 14, 17, and 19). Heart disease, cancer, and, stroke account for more than 50 percent of all deaths in the United States each year (Ref. 18). In 2005, 133 million Americans (almost one out of every two adults) had at least one chronic illness (Ref. 18).

In addition, portion sizes of foods served at home and in restaurants have increased. The package or portion sizes of foods purchased at supermarkets, stores, fast food restaurants, and chain restaurants were two to eight times larger than serving size standards set by Federal Agencies, including the USDA's Food Guide Pyramid and FDA's serving size standards, based on RACCs (Ref. 4). This change has been especially true for portion sizes of salty snacks, soft drinks, fruit drinks, and some fast foods (Ref. 6).

Studies have shown that increases in package size and portion size are related to higher calorie intake among individual consumers and overconsumption in American culture (Refs. 20, 21, 22, 23, and 24). In a study conducted by Rolls et al., participants were given afternoon snacks in prepackaged containers with varying portion sizes. They were given dinner later in the day to determine the effects of varying snack sizes on the subsequent meal. Study results showed that snack intake increased significantly as the package size increased. In most cases, participants did not significantly reduce

intake at dinner to compensate for the increased calorie intake from the snack, and overall combined calorie intake from the dinner and snack increased when subjects were given larger snack packages (Ref. 21). The primary risk factors for overweight and obesity in the general population are overconsumption of calories and physical inactivity (Ref. 7). Therefore, it is significant that increased package and portion size may contribute to increase consumption of total calories.

In consideration of all of the previously-mentioned factors, amendments to the serving size requirements are necessary to help consumers maintain healthy dietary practices. These amendments are described in sections II.C.2.b, II.C.3.b, II.D.2.c, II.D.3.b, and II.F. We invite comments on all aspects of this proposed rule, including the amendments described in these sections.

C. Single-Serving Containers and Dual-Column Labeling

FDA regulations require that a product that is packaged and sold individually and that contains less than 200 percent of the applicable RACC be considered to be a single-serving container, and that the entire content of the product be labeled as one serving, except that, for products that have RACCs of 100 g or 100 mL or larger, manufacturers may decide whether a package that contains more than 150 percent, but less than 200 percent of the RACC, will be labeled as 1 or 2 servings (§ 101.9(b)(6)). In the 1991 serving size proposed rule, we proposed to set the upper limit of a single-serving container at ''less than 200 percent,'' in part, because products that contain 200 percent of the reference amount are, by definition, two servings. Thus, they are not single servings (56 FR 60394 at 60398). A reference amount is an amount customarily consumed (section 403(q)(1)(A)(i) of the FD&C Act). The RACCs we established are based primarily on nationally representative food consumption data and represent the amount of a food that a U.S. individual customarily consumes per eating occasion. Thus, if a product contains 200 percent or more of the applicable RACC, this amount would be twice as much as the customarily consumed amount per eating occasion.

Section 101.9 provides various provisions for types of voluntary dual-column labeling (e.g., § 101.9(b)(10)(i)) and one provision for mandatory dual-column labeling under certain circumstances (§ 101.9(b)(11)).

As explained in detail in this document, we are amending § 101.9(b) to change the criteria for when a food product must be labeled as a single serving, and to require the use of dual-column labeling that provides nutrition information per serving and per container, or per serving and per unit of food under certain circumstances.

1. Research Related to Single-Serving Containers and Dual-Column Labeling

a. Research on the Impact of Package and Portion Sizes on Consumption

Research has shown that package and portion sizes have a considerable impact on the amount of food consumed, and that the size of the unit of food or package can set a consumption norm for consumers (Refs. 25 and 26). In one study, moviegoers were given either medium or large containers of popcorn that were either fresh or stale (Ref. 25). Study results showed that moviegoers who were given fresh popcorn in larger containers ate 45.3 percent more popcorn than those given medium containers of fresh popcorn. Moviegoers who were given stale popcorn in large containers still ate 33.6 percent more popcorn than those given medium containers even though they reported that they disliked the popcorn (Ref. 25). In another study, subjects were given four different sizes of a deli sandwich, which were 4-inches, 6-inches, 8-inches and 12-inches. The results show that increasing the portion size of a food in a discrete unit, such as a sandwich had a significant effect on calorie intake (Ref. 26). These and other studies have demonstrated that the size of the package or unit may implicitly suggest what might be construed to be a ''normal,'' or ''appropriate,'' amount of food to consume (Refs. 20, 25, and 26). Using young adults enrolled at one university, another study found that participants experienced portion distortion (perceiving large portion sizes as appropriate amounts to eat at a single-eating occasion) and needed guidance in monitoring how much they ate (Ref. 27). Studies have also shown that some consumers may tend to experience a ''unit bias,'' and view intact units/packages of food as a marker of the appropriate amount of food to consume (Ref. 28).

b. Research on Consumer Use and Understanding of the Serving Size Labeling

Research also suggests that many consumers do not correctly calculate nutrient amounts in food products by multiplying the nutrient amount by the number of servings per container. A review article of studies on nutrition labels in the United States, Canada, and Northern Europe has found that although consumers could understand some information, they reported finding nutrition labeling confusing, especially the use of numerical information (Ref. 28). One study looked at participants of different socioeconomic backgrounds (Ref. 29). It found that only 32 percent of study participants could correctly calculate the amounts of carbohydrates in a 20 oz bottle of soda that had 2.5 servings in the bottle. Only 60 percent of participants could correctly calculate the amount of carbohydrates consumed if they ate half a bagel, when the serving size was a whole bagel (Ref. 29). Common errors found in the study were that participants: (1) Did not attempt to apply the serving size or servings per container information, or used it inappropriately; (2) were confused by complex information on the label; and (3) had calculation and other errors. Similar results were reported in the ''Calories Count'' report. Although some focus group participants knew how to correctly multiply by the number of servings to calculate nutrition information per package, others were confused or made mathematical mistakes (Ref. 2).

Other research conducted suggests that individuals might not make the distinction between serving size labeling and total package nutrition information, which could result in consumers considering the entire package as one serving despite the declaration of multiple (e.g., 2) servings per container on the Nutrition Facts label. For example, in one study, participants were interviewed to determine whether they could calculate the total calories in sample snack food packages that contained two to three servings (Ref. 30). Ninety percent of the subjects correctly identified the number of calories per individual serving, but only 37 percent were able to recognize the number of calories per package (Ref. 30). Some subjects tended to think of the multiple-serving package as one serving, and they underestimated and under-reported caloric intake from snack food sources (Ref. 30).

c. Research on Dual-Column Labeling

Other research has shown that dual-column labeling with the nutrition information given per serving and per package may help certain consumers recognize nutrient amounts per package in certain types of packaged foods (Ref. 31). In one study, participants were given a snack food product and either a single-column nutrition label or dual-column nutrition label (i.e., labeling

indicating the nutrition information per serving and per package). Participants were classified as either dieters or non-dieters based on self-reported dieting behavior. Study results found that a dual-column label reduces snack food consumption when compared to a single-column labeling for people who are not currently dieting. When the dual-column label was used, non-dieters in the study ate smaller portions that were closer to those portions consumed by dieters. The authors of this study speculated that a dual column label works as a contextual cue that raises awareness of the amount of food consumed in a package among certain consumers (Ref. 31).

We will be conducting consumer research throughout this rulemaking. The overall goal of the consumer research is to help enhance our understanding of whether and how much modifications to the label format may help consumers use the label. The research conducted thus far has examined the effects of modifications to the Nutrition Facts label on foods that could reasonably be consumed at a single-eating occasion, but were sometimes listed as having more than one serving per container, such as a grab bag of chips or a frozen meal. Participants were randomly assigned to one of ten label formats that could be classified into three groups: Listing two servings per container with a single column (''two-serving single-column labels''), listing two servings per container with a dual-column that listed the nutrients in both ''per serving'' and ''per container'' columns (''dual-column labels''), and declaring the entire package as one serving and listing all of the nutrients as a single serving (''single serving per container labels''). The study compared participants' ability to perform various tasks, such as evaluating product healthfulness and calculating the number of calories and other nutrients per serving and per container, when using the current label versus modified versions of the current label, and compared participants' overall attitudes toward these labels. The main findings are that single serving per container labels and dual-column labels resulted in more participants correctly identifying the number of calories per container and the amount of other nutrients per container and per serving compared to two-serving single-column labels (such as the current label). Overall, participants reported more positive attitudes toward single-serving and dual-column labels in comparison to two- serving single-column formats (Ref. 32).

2. Single-Serving Containers

a. Comments on the ANPRM Regarding Single-Serving Containers

Amending the Definition for Single-Serving Containers

The ANPRM invited comment on whether we should begin rulemaking to require packages that can reasonably be consumed at one-eating occasion to provide the nutrition information for the entire package (70 FR 17010 at 17013).

Most comments indicated that we need to address the labeling of packages that appear to be single-serving packages, but are actually labeled as containing multiple servings, which they considered to be ''fraudulent'' and ''deceitful.'' Many comments stated that manufacturers should not be allowed to list multiple servings for items that an average person would consume at one-eating occasion. Examples of such items consumed at one-eating occasion that commenters thought to be misleading included 16 and 20 oz bottles of carbonated beverages, canned soup, snack size packages of potato chips, corn chips and pretzels, individual packs and cans of fruit juice, microwave popcorn, canned chili and ravioli, packages of shelled nuts, iced tea, frozen entrees and meals, energy drinks, 5-inch pizzas, dairy beverages, pre-packaged lunches, vending machine items, pre-packed breakfast cereals, cookies, and crackers. Many comments also objected to the use of fractional portions when declaring the numbers of servings for these products (i.e., 2.5 servings) and noted that we should require nutrition labeling for the entire package for products that could reasonably be consumed at one-eating occasion. One comment understood the listed serving sizes to be recommendations, rather than amounts customarily consumed, and stated that serving sizes such as a single sandwich divided into 2 servings, a single muffin divided into 3 servings, or a single bag of chips sold as a side to sandwiches divided into 2 servings were very confusing and unrealistic.

We agree, in part, with comments that opposed individually packaged foods that appeared to be single-serving containers, but which declared two or more servings on their package labels. We agree that these types of packaged foods can be confusing to consumers; however, we do not agree that all of these products should be labeled as a single serving. As discussed in detail below, these types of products should provide nutrition information for the whole package, as the only column of nutrition information for some products, or with dual-column labeling for other products, which would provide nutrition information per serving and per container or per unit, as applicable. As discussed in section II.C.1.a., scientific evidence has shown that some consumers may tend to experience a ''unit bias,'' and view certain sizes of intact units/packages of food as a marker of the appropriate amount of food to consume, and thus consumers should be provided with nutrition information for the amount of calories and nutrients that they might reasonably consume in an individual package or unit (Refs. 25, 26, 30, and 33).

Several comments noted that requiring larger products that could be eaten in a single serving to include nutrition information for the entire package could be problematic or confusing to consumers in that the labels may encourage overconsumption.

We disagree with comments suggesting that providing nutrition information for the entire package would be problematic or confusing to consumers on the grounds that the labels may encourage consumers to eat more. In an FDA-commissioned study (Ref. 32), participants who viewed nutrition information for a food labeled as a single serving container tended to rate the products as less healthful on average than participants who viewed nutrition information for the same food declared as a two-serving product. As noted in a recent literature review (Ref. 34), people often expect that they can eat more of foods that they perceive as healthful. Research has shown that when smaller serving sizes were used to present nutrition information, participants were led to believe that they would experience less guilt after consuming the entire package and reported that they would be more likely to purchase these products than when nutrition information for the same products was declared using a larger serving size (Ref. 34). In light of the findings from FDA's research, which suggest that providing nutrition information for an entire package of a food that would be consumed in a single eating occasion could result in more discerning product judgments, and the conclusions by Chandon and Wansink (Ref. 34), the data to date suggest that providing nutrition information for the entire package would provide consumers with more accurate information about the nutritional significance of foods that are likely to be consumed in a single eating occasion. Therefore, FDA disagrees that providing nutrition information for the entire package would be problematic or

confusing to consumers or encourage overconsumption.

Finally, one comment indicated that the current nutrition labeling format and the criteria to define a single-serving container should be maintained because this would allow manufacturers flexibility to respond to their markets.

We disagree with the comment that states that the current criteria used to define a single-serving container should be maintained because it adds more ''flexibility to respond to their markets.'' The comment did not explain what it meant by ''flexibility to respond to their markets'' or why changes to the criteria used to define a single-serving container would not provide such flexibility. As is discussed in detail in the following section, the current criteria for the labeling of certain products as single-serving containers in § 101.9(b)(6) are not consistent with the current consumption data.

Criteria for Determining When a Product Is a Single-Serving Container

The ANPRM invited comment on the criteria we should use to determine which multi-serving products would require nutrition information for the entire package (70 FR 17010 at 17013). We also asked whether the criteria should be based on the total amount in the container, the types of food, or something else, and whether the current criteria to define single-serving containers should be changed (70 FR 17010 at 17013).

Most comments stated that single-serving labeling should be used even if a serving size is 200 percent or more of the applicable RACC when evidence indicates the product rarely is eaten by more than one person or at more than one time. Several other comments pointed out that factors such as whether a product is ready to eat, how the product is packaged (e.g., packaged in a re-sealable container), and how the food is presented by the media are relevant to determining whether a package is truly a single serving. Another comment stated that single-wrapped items, such as muffins or pastries, where the item is not divided should not be labeled as multiple servings. Several comments stated that foods containing one to three servings or less, regardless of the food, should list the nutrient information for the entire package (alone or with another column listing the nutrient information per serving). Another comment stated that sodas, chips, and candy bars should be labeled as single-serving containers if a package contained three servings under the current labeling requirements, and in instances when the package contains more than three servings, the product should be labeled as family sized.

One comment indicated that products containing and including 3.5 servings under the current labeling requirements should be labeled as a single-serving container. Another comment recommended that products containing two to four servings per container be labeled as a single-serving container for products that potentially could be consumed at a single-eating occasion. A comment also stated that if the food contained fewer than five servings, it should also have nutrition information provided per package. Lastly, a comment noted that allowing anything less than 200 percent of the RACC to constitute one serving was too high of a cutoff, which could cause confusion about the amount of a serving size and potentially encouraging overeating. The comment suggested that the cutoff for a single-serving container should be lowered to between 75 to 150 percent of the applicable RACC.

We do not agree that single-wrapped items such as muffins and pastries, which are not divided for consumption, should always be labeled as single-serving containers. As explained previously in this document, products that contain 200 percent or more of the RACC by definition contain more than one serving, because they contain at least two times the amount that is customarily consumed.

We also disagree with the comments that suggested the criteria for determining a single-serving container should be 200 percent or more of the RACC if the product is rarely eaten by more than one person, comments that suggested that the criteria should be 300 percent or less of the RACC, and with comments that suggested that the criteria should be 350 percent or less of the RACC. Products that contain 200, 300, or 350 percent of the RACC, by definition, contain 2, 3, or 3.5 servings, respectively, and thus are not single-serving containers. We also disagree that, in order to avoid encouraging overeating, the cutoff for a single-serving container should be lowered to between 75 to 150 percent of the RACC. Prior research has demonstrated that using smaller serving sizes to declare nutrition information may lead consumers to form more positive impressions of the nutritional attributes of foods than are warranted (Refs. 32 and 35). Therefore, we believe that lowering the cutoff for a single-serving container could increase the likelihood that the product would be perceived more positively, which in turn may encourage overeating. Further, as noted previously in section II.C.1.b., research shows that giving consumers nutrition information for the entire package will help them to more easily comprehend the nutrient amounts in the food.

b. Proposed Amendments for Single-Serving Containers

We are proposing to revise, in part, the definition of a single-serving container so that a product that is packaged and sold individually and contains less than 200 percent of the applicable RACC must be considered a single-serving container, and the entire content of the product must be labeled as one serving (proposed § 101.9(b)(6)) regardless of the size of the RACC of the product. Currently the definition of a single-serving container is a product that is packaged and sold individually and that contains less than 200 percent of the RACC. This provision, however, does not apply to products that have ''large'' RACCs (i.e., products that have reference amounts of 100 g (or mL) or larger). Manufacturers of these products may decide whether a package that contains more than 150 but less than 200 percent of the applicable RACC can be labeled as having one or two servings. See § 101.9(b)(6). We provided this qualification for products with large RACCs based in part on comments to the 1991 serving size proposed rule.

We stated in the 1993 serving size final rule that we agreed with the comments that the 200 percent cutoff level may be too high for some products with large RACCs. Further, we stated that the reference amounts of these products are very large compared to many other products, and examination of food consumption data showed that the average variability (defined as the standard deviation as a percent of the mean) in the amount customarily consumed for foods having a reference amount of 100 g (or mL) or larger is about two-thirds of the variability for foods having a reference amount less than 100 g (58 FR 2229 at 2233). In other words, at that time, we concluded that it was much less likely that a person would consume approximately twice the reference amount of a food with a reference amount of 100 g (or mL) or more, than it was that he or she would consume approximately twice the reference amount of a food with a smaller reference amount. Therefore, in the 1993 serving size final rule, we concluded that, for those products that have reference amounts of 100 g (or mL) or larger, 150 percent is a more reasonable cutoff for a single-serving container. As a result of this, we revised § 101.9(b)(6) to allow manufacturers to choose whether to declare 1 or 2 servings in packages that contain more

than 150 percent but less than 200 percent of the reference amount if the food in the package has a reference amount of 100 g (or mL) or larger.

For this proposed rule, we examined the correlation between the consumption variation and the RACCs for all products containing less than 200 percent of the applicable RACC, including the products with large RACCs (i.e., those products with RACCs of at least 100 g or 100 mL) and products that have RACCs that are less than 100 g (or mL), using combined consumption data from the NHANES 2003–2008 surveys (Ref. 36). The consumption variation is calculated as the standard deviation of the median consumption amount divided by the median consumption amount and then multiplied by 100 and is expressed as the percent of the median consumption amount (Ref. 36). The result shows that the correlation coefficient is 0.18, which means that there is a low correlation between the RACCs (whether the reference amount is more than or less than 100 g or mL) and the consumption variation for all products containing less than 200 percent of the RACC, regardless of whether the RACC is ''large'' or not. In other words, it is not less likely that a person would consume approximately twice the reference amount of a food with a reference amount of 100 g (or mL) or more, than it is that he or she would consume approximately twice the reference amount of a food with a smaller reference amount. Therefore, the exemption from the requirement to label a product with a large RACC, and containing between 150 percent and 200 percent of the applicable RACC, as a single-serving container is no longer warranted. Additionally, raising the required cutoff for labeling a product with a large RACC as a single serving may help consumers to more accurately interpret the nutrient amounts in these products. As discussed in section II.C.1., research shows that consumers have trouble accurately calculating the nutrient amounts in the entire package of a food that is labeled as containing multiple servings, and research also shows that package size tends to have a considerable impact on the amount of food consumed. Therefore, removing the exemption from the requirement to label a product with a large RACC as a single-serving container may help consumers to correctly interpret the nutrient amounts in the amount of food that they are consuming.

We are not proposing to change the current cutoff of less than 200 percent of the applicable RACC as the criterion for labeling a product as a single-serving container. Additionally, we are not proposing to increase the cutoff of less than 200 percent of the applicable RACC because, by definition, a product that contains 200 percent or more of the RACC means that it contains at least twice as much as the RACC and it is not a ''single'' serving container. Under section 403(q)(1)(A)(i) of the FD&C Act, a serving size is an amount customarily consumed. The RACCs we have established are reference amounts of food that are customarily consumed per eating occasion. As such, we do not consider it appropriate to label foods containing 200 percent or more of the applicable RACC as single-serving containers. Therefore, proposed § 101.9(b)(6) would remove the provision that products packaged and sold individually and containing 200 percent or more of the applicable RACC may be labeled as a single serving if the entire contents of the container can reasonably be consumed at a single-eating occasion.

For consistency with the proposed changes to the definition of a single-serving container, we propose to remove § 101.9(b)(2)(i)(E), which provides that if a discrete unit of food contains more than 150 percent but less than 200 percent of the RACC, the manufacturer may decide whether to declare the individual unit as 1 or 2 servings, for units that have large RACCs of 100 g (or 100 ml) or larger and are individual units within a multi-serving container. Also consistent with the changes in proposed § 101.9(b)(6), we are proposing to remove the text in current § 101.9(b)(2)(i)(D), which states that if a unit weighs 200 percent or more of the RACC the manufacturer may declare one unit as the serving size if the entire unit can reasonably be consumed in one-eating occasion, and replace the text with the text in proposed § 101.9(b)(2)(i)(D) (which is discussed in section II.C.3.b). Finally, we also propose to redesignate § 101.9(b)(2)(i)(F) as § 101.9(b)(2)(i)(E), redesignate § 101.9(b)(2)(i)(G) as § 101.9(b)(2)(i)(F), redesignate § 101.9(b)(2)(i)(H) as § 101.9(b)(2)(i)(G), and redesignate § 101.9(b)(2)(i)(I) as § 101.9(b)(2)(i)(H), because the proposed rule would remove current § 101.9(b)(2)(i)(E).

3. Dual-Column Labeling—Mandatory Listing of a Second Column of Nutrient Values on the Nutrition Facts Label Based on the Entire Container or Unit

a. Comments on the ANPRM Regarding Dual-Column Labeling

Dual-Column Labeling Requirements

The ANPRM invited comment on whether to require certain products to include an additional column within the Nutrition Facts label to list the quantitative amounts and percent DVs for the entire package, as well as the required columns listing the quantitative amounts and percent DVs for a serving that is less than the entire package (i.e., the serving size derived from the RACC) (70 FR 17010–17013).

Some comments supported the use of dual-column labeling. One comment suggested dual-column labeling for products that may be consumed in their entirety at a single occasion, but often are shared or eaten over time. Several comments requested that we not require dual-column labeling on the packaging of all food products. These comments stated that any discussion of disclosing information per package should address only packages that potentially could be consumed by one person at a single-eating occasion or possibly shared between one or more persons. Other comments suggested that we provide dual-column labeling on all packages with multiple servings such as a family sized package of frozen lasagna.

We agree with comments supporting a requirement for the use of an additional column of nutrition labeling (i.e., dual-column labeling) under certain conditions. As discussed in section II.C.1.c., research suggests that dual-column labeling helps consumers understand what the nutrient amounts are in an entire container of food. We also agree that dual-column labeling should be used for products that may be eaten by one individual in one-eating occasion or over several-eating occasions, but may also be eaten by multiple individuals. Information on the nutrient amounts in an entire container of food would not be as relevant to consumers if the food could not reasonably be consumed by one individual in a single-eating occasion. For this reason, we agree that it is unreasonable to require dual-column labeling on the containers of all food products. As discussed in this section, data show that products that contain more than 400 percent of the RACC are less likely to be consumed in one-eating occasion when compared to products that contain 400 percent or less of the RACC (Ref. 37). For this reason, we do not believe it is appropriate to require a second column of nutrient values on containers that contain more than 400 percent of the applicable RACC. Additionally, the proposed rule would not require dual-column labeling for bulk products that are used primarily as ingredients (e.g., flour, sweeteners, shortenings, oils); bulk products traditionally used for multi-purposes (e.g., eggs, butter, margarine); and

multipurpose baking mixes, because labeling these products with nutrition information based on the entire container would not be consistent with how these products are typically consumed.

We also do not agree with the comment that stated that dual-column labeling should be required for all multi-serving products, such as a family-sized package of lasagna. Products that contain more than 400 percent of the RACC are less likely to be consumed in one-eating occasion compared to products that contain 400 percent or less of the RACC (Ref. 37).

Some comments opposed mandatory dual-column labeling. A few comments opposed dual-column labeling noting that it would require changes that could cost a significant amount of money for companies and would use up valuable package space that is often used for other types of nutrition education messages. These comments noted that dual-column labels would be difficult for products with small label space. Some comments suggested that dual-column labeling be voluntary and not mandatory.

We agree that it may be difficult to fit an extra column of nutrition information on the labels of some products. However, many food packages, such as grab-size bags of chips, cookies, crackers, and frozen entrees that would be affected by the proposed dual-column labeling requirements provide enough space to accommodate a second column of nutrition information based on the entire container. We address the concern about providing dual-column labels for small products with a limited amount of space on the Nutrition Facts label in section II.C.3.b.

We also agree that a dual-column labeling requirement would have some costs for industry. The costs of the proposed dual-column labeling requirement are addressed in section IV.

Dual-Column Labeling and Consumer Understanding

The ANPRM invited comment on how listing the nutrient amount per serving size and per package side-by-side in separate columns would affect consumers' ability to understand the Nutrition Facts label (70 FR 17010–17013).

A few comments that objected to the use of dual-column labeling stated that the second column of values would be confusing to consumers or provide too much information, and would thus contribute to label clutter. Several comments noted that dual-column labeling may confuse the consumer in that it could imply to consumers that larger serving sizes were a recommended amount to consume and would have the opposite effect from what was intended and result in overconsumption. These comments also stated that consumers may not need, want, or understand why this information is on the label and how this quantity differs from a typical serving size. One comment noted that a problem with dual-column labeling was that consumers were unlikely to be interested in information provided in the second set of nutrition values and that the nutrition label format would become more complicated, potentially making the Nutrition Facts labels less friendly and manageable. None of these comments, however, provided data or information to support the possible consumer reactions identified.

We are not convinced that dual-column labeling may be confusing to consumers and that dual-column labeling would imply that consumers should eat more of an item. In fact, as discussed in section II.C.1.c., research findings from a study suggest that dual-column labeling would lead consumers who are not dieting to reduce rather than increase the amount of food they consume as suggested by comments (Ref. 31). We also conducted a study (Ref. 32) to help enhance our understanding of whether and what types of modifications to the label format may help consumers use the label. The main finding was that single serving per container labels and dual-column labels resulted in more participants correctly identifying the number of calories per container and the number of other nutrients per container and per serving compared to two-serving single-column labels (such as the current label) (Ref. 32).

One comment suggested that an appropriate and informative approach may be to have products that can be consumed in one-eating occasion provide both ''Servings Per Package'' and ''Calories Per Package'' near the top of the Nutrition Facts label. Finally, multiple comments noted that modifying the Nutrition Facts label would require consumer re-education on how to read an amended Nutrition Facts label.

We tested a format similar to the one suggested in the comment, in which ''Servings Per Package'' and ''Calories Per Serving'' were in close proximity, in our consumer study (Ref. 32). The test format included a listing of ''Calories in 1 cup serving'' followed by the declaration of servings per container (i.e., ''2 Servings per container'') near the top of the Nutrition Facts label (Label 4). Results from this study showed that dual-column labels were read with somewhat better accuracy when compared against labels that were similar to the one suggested in the comment. Based on these results, we do not agree with the comment.

We agree with the comment that modifying the Nutrition Facts label would require some re-education on how to read the Nutrition Facts label. We consider it important to provide consumers with education and outreach on nutrition labeling. We will consider appropriate education methods after the publication of this proposed rule.

Criteria for Determining Dual-Column Labeling

The ANPRM did not address the criteria to be used to determine what types of products should require dual-column labeling. However, some comments provided criteria for the use of dual-column labeling on Nutrition Facts labels based on the quantity of food in the container. One comment suggested that dual-column labeling on the Nutrition Facts label could be required for products that contained 200 to 300 percent of the RACC, unless the Nutrition Facts label for the product provided a single column for the entire packaged amount. The comment further suggested that for products with RACCs of 100 g or 100 mL or greater, and that contain more than 150 percent but less than 200 percent of the RACC, dual-column labeling could be optional, similar to the existing requirement for the Nutrition Facts label declaration for single-serving containers. Finally, the comment suggested that dual-column labeling should not be required for products that: (1) Contain up to 150 percent of the RACC or (2) contained 5 calories or less per RACC and were not fortified. Another comment suggested that products with 2, 3, or 4 servings per container that are likely to be consumed at a single-eating occasion be required to add an additional column with a disclosure for calories per container at the top of Nutrition Facts label, just below the servings per container. Other comments requested that information based on the entire package be listed for products with up to five servings and that this information be provided in a second column of the label.

In consideration of an upper limit for dual-column labeling, we looked at food consumption data from the NHANES 2003–2008 surveys. Dual-column labeling can, in part, provide information for products that may be consumed by one person in a single-eating occasion, but are oftentimes consumed by more than one person or

in more than one-eating occasion. To determine an upper limit for these products, we looked at NHANES 2003–2008 consumption data (Ref. 37). Intake distribution per eating occasion for each product showed that for almost all products, regardless of the amount of the RACC, the ratio of the intake at the 90th percentile level to the RACC was 400 percent or less. Thus, the data suggest that 90 percent of the reported consumption amount is 400 percent of the RACC or less for almost all product categories, meaning that dual-column labeling for products with 400 percent or less of the RACC would capture the most frequent consumption habits for all product categories. Conversely, the data show that products that contain more than 400 percent of the RACC are less likely to be consumed in one-eating occasion compared to products that contain 400 percent or less of the RACC. An upper limit of 400 percent of the RACC for dual-column labeling would be consistent with the upper limit suggested in the CSPI citizen petition, which requested that we consider dual-column labeling for snack packages containing between 200 percent and up to and including 400 percent of the RACC.

Given the consumption data, we do not agree with the comments that suggested thresholds for requiring dual-column labeling for products that contain 200 to 300 percent of the RACC or the comments that suggested that dual-column labeling be provided for up to five servings. As noted in the preceding paragraph, the data suggest that 90 percent of the reported consumption amount is 400 percent or less of the RACC for almost all product categories. Therefore, based on the consumption data, 300 percent of the RACC appears to be too low of a cutoff level for dual-column labeling and 500 percent is too high.

We disagree with the comment that suggested that for products with RACCs of 100 g or 100 mL or greater, and that contain more than 150 percent but less than 200 percent of the RACC, dual-column labeling could be optional, similar to the existing requirement for the Nutrition Facts label declaration for single-serving containers. As noted previously in section II.C.2.b, current consumption data indicate that there is no difference in intake of large RACC products containing 100 g or 100 mL or greater and smaller RACC products. Therefore, there is no need to make a distinction for large RACC products. Additionally, we are proposing to require that all products that contain less than 200 percent of the RACC be labeled as a single serving. Therefore, a proposal for dual-column labeling for these packages is unnecessary, because the products would already contain nutrition information based on the amounts in the entire container under the proposed revisions to the single-serving requirements.

We agree with the comment that suggested that dual-column labeling should not be required for products that contain up to 150 percent of the RACC. As noted previously in section II.C.2.b, we are proposing that all products packaged in containers with less than 200 percent of the RACC must be labeled as a single serving and have a Nutrition Facts label per container only. However, we disagree with the second part of the comment that suggested that dual-column labeling should not be required for products that contained 5 calories or less per RACC and were not fortified. If we were to adopt this provision, then this would allow for products, such as diet soft drinks, to be exempt from dual-column labeling. We believe that, for consistency purposes, dual-column labeling should apply to these products as well. This will allow consumers to view the same type of label and make an easy comparison when looking at different soft drinks.

b. Proposed Amendments for Dual-Column Labeling

We have carefully considered all available data, information, and comments for and against a second column of nutrient values based on the entire container and have concluded that mandatory labeling of a second column of nutrient values based on the entire container for containers that contain 200 percent and up to and including 400 percent of the applicable RACC is warranted. This will provide nutrition information for those who consume the entire container in one-eating occasion as well as those who consume the container over multiple-eating occasions or share the container with others. We base our conclusion, in part, on results of a consumer study we conducted that suggested that dual-column labels resulted in more participants correctly identifying the number of calories per container and the number of other nutrients per container and per serving compared to two-serving single-column labels (such as the current label) (Ref. 32). In addition, we are basing our conclusion, in part, on another study that suggested that dual-column labeling would lead consumers who are not dieting to reduce rather than increase the amount of food they consume (Ref. 31). This additional awareness is important in light of studies that indicate that package sizes influence the amount consumers consume (Refs. 21 and 25). We are proposing the cutoff of 400 percent for dual-column labeling based on our analysis of the intake distribution per eating occasion for all products. Based on this analysis, we concluded that for each product the ratio of the intake at the 90th percentile level to the RACC was 400 percent or less. As such, dual-column labeling for products 400 percent or less of the RACC would capture the most frequent consumption habits for all product categories. We propose a threshold of 200 percent of the applicable RACC to trigger the requirement for dual-column labeling, because under the proposed requirements discussed in section II.C.2.b., all products containing less than 200 percent of the RACC would be labeled as a single-serving container (proposed § 101.9(b)(6)). Therefore, products containing less than 200 percent of the RACC will already contain nutrient information based on the contents of the entire container.

Consequently, we are proposing to add a new § 101.9(b)(12) which would require an additional column within the Nutrition Facts label to list the quantitative amounts and percent DVs for the entire container, to the right of the preexisting column listing the quantitative amounts and percent DVs for a serving that is less than the entire container (i.e., the serving size derived from the RACC), for products that are packaged and sold individually and contain at least 200 percent and up to and including 400 percent of the applicable RACC. For example, under the proposed amendment, a manufacturer would have to use dual-column labeling on a bag of chips that contained 3 oz (90 g) (about 300 percent of the RACC). A major advantage of the proposed approach of dual-column labeling is that it will not require math to determine nutrition information for consumers who consume the entire container in a single-eating occasion and will continue to provide nutrient information per RACC for consumers who do not consume the entire container in a single-eating occasion, and for consumers who share the product. Thus, easily understandable information will be provided for all types of consumers of these products. For an example of a dual-column label as described in this section, see the proposed codified of the ''Food Labeling; Revision of the Nutrition and Supplement Facts Labels'' proposed rule published elsewhere in this issue of the **Federal Register**.

In addition to proposing dual-column labeling per serving and per container

(or unit, as applicable) for all nutrition information on the label, we are considering two additional options that would require nutrition information per serving and per container for only certain declarations but not all label declarations for containers of food or units of food, as applicable, containing at least 200 percent and up to and including 400 percent of the applicable RACC. The first option is for a label that includes calorie information per serving and per container (or unit, as applicable) following the serving size information in the Nutrition Facts label. With this option, the remaining nutrition information would be listed on a per serving basis only and in a single column below the calorie information per serving and per container. The second option is to provide nutrition information per serving and per container (or unit, as applicable) for calories, saturated fat and sodium following the serving size information in the Nutrition Facts label and the remaining nutrition information would be listed on a per serving basis in a single column below the dual column provided for calories, saturated fat and sodium declarations. These options may specifically highlight the calorie content alone, and the calorie content, saturated fat content, and sodium content, respectively, for both the serving size and the entire container of food (or unit, as applicable). These options would focus on a smaller number of nutrients presented per serving and per container of food (or unit, applicable) that the U.S. population should limit for those foods with at least 200 percent and up to and including 400 percent of the RACC. We question whether consumers would be more inclined to use dual column labeling for a smaller set of nutrients. We invite comment and data on dual column-labeling as proposed in this rule as well as the options presented for providing nutrition information per serving and per container (or unit, as applicable) for only certain declarations.

For consistency with proposed § 101.9(b)(12), the proposed rule would change § 101.9(b)(2)(i)(D). Section 101.9(b)(2)(i)(D), which applies to products in discrete units within a multi-serving container, provides that if a unit weighs 200 percent or more of the RACC, the manufacturer may declare the whole unit as the serving size if the whole unit can reasonably be consumed at a single-eating occasion. As noted previously, we are proposing to delete the current text in § 101.9(b)(2)(i)(D) and to replace it with text requiring that products that are discrete units within any size of a multi-serving container, and contain at least 200 percent and up to and including 400 percent of the applicable RACC (e.g., a container of six muffins where each muffin contains 200 percent of the RACC), have an additional column within the Nutrition Facts label that lists the quantitative amounts and percent DVs for each discrete unit, as well as the preexisting columns listing the quantitative amounts and percentage DVs for a serving that is not based on the discrete unit (i.e., the serving size derived from the RACC).

We are also proposing in § 101.9(b)(12)(i)(B) that the provisions for dual-column labeling would not be required for bulk products that are used primarily as ingredients (e.g., flour, sweeteners, shortenings, oils), or bulk products traditionally used for multi-purposes (e.g., eggs, butter, margarine), and multipurpose baking mixes because labeling these products with nutrition information based on the entire container would not be consistent with how these products are typically consumed. Finally, due to limitations in labeling space, proposed § 101.9(b)(12)(i)(A) would state that products that meet the requirements to present the Nutrition Facts label using the tabular format under current § 101.9(j)(13)(ii)(A)(1) or the linear format under current § 101.9(j)(13)(ii)(A)(2) are exempt from dual-column labeling.

We are aware of several food products that require further preparation, and contain at least 200 and up to and including 400 percent of the applicable RACC, such as macaroni and cheese kits, pancake mixes, pasta products, and rice products. Under our regulations, nutrition information for these types of products may be presented for two or more forms of the same food (e.g., both as ''purchased'' and ''prepared'') (§ 101.9(e)). Most of these products voluntarily contain two columns of nutrition information on the ''as purchased'' and ''as prepared'' forms of the food. Therefore, we tentatively conclude that these types of products that require further preparation and voluntarily include two columns of nutrition information on the ''as purchased'' and ''as prepared'' forms of the food, should be exempt from the dual-column labeling requirement under proposed § 101.9(b)(12)(i). For products requiring further preparation for consumption, it is helpful to consumers to include nutrition information based on the prepared form of the product in addition to the ''as purchased'' form of the product. If these products were required to use dual-column labeling with nutrition information for the serving size based on the RACC and nutrition information for the entire container, they would have to include at least three columns if they also voluntarily included one column of nutrition information representing servings per container for the prepared form of the food. Manufacturers could opt to not include the voluntary column for the prepared form of the food if we were to require dual-column labeling under proposed § 101.9(b)(12)(i) for their product. However, nutrition information based on the entire container of the unprepared food may be less meaningful to consumers than information on a serving of the prepared form of the food, because these types of products are meant to be consumed after further preparation. Thus, the proposed rule would exempt food products that require further preparation and also include voluntary labeling of ''as purchased'' and ''as prepared'' forms of the food under § 101.9(e) from the provisions of dual-column labeling (proposed § 101.9(b)(12)(i)(C)). Likewise, the proposed rule would exempt products that are commonly consumed in combination with other foods (e.g., cereal and skim milk) and that include another column with information regarding that combination as specified in § 101.9(e) and (h)(4) (proposed § 101.9(b)(12)(i)(C)). As is the case with foods that require further preparation, nutrition information based on the entire container of an uncombined food (for a food that is commonly combined with another food) may be less meaningful to consumers than information on a serving of the combined food, because these types of products are commonly consumed in combination with another food. For consistency, FDA is also proposing that the exemptions under §§ 101.9(b)(12)(i)(A), (B), and (C) apply to the dual-column labeling requirement under proposed § 101.9(b)(2)(i)(D) as well.

We invite comments on our tentative conclusion that products requiring further preparation and products that are commonly consumed in combination with other foods, and that voluntarily provide another column of nutrition information under § 101.9(e), should not be required to provide dual-column labeling under proposed § 101.9(b)(12)(i) or § 101.9(b)(2)(i)(D). Additionally, we invite comments regarding whether any other products that voluntarily include an additional column (or multiple columns) of nutrition information under our regulations (e.g., products for which

RDI's are established for two or more groups, as discussed under § 101.9(e)) should be exempt from the proposed dual-column labeling requirements under § 101.9(b)(12)(i) or § 101.9(b)(2)(i)(D).

Use of Nutrient Content Claims and Health Claims on Products With Dual-Column Labeling per Serving and per Container

RACCs are used to determine whether individual foods are eligible to bear nutrient content and health claims (§ 101.12(g)). If dual-column labeling is finalized as proposed, nutrition information will be presented on a per serving basis and on a per container or per unit basis, as applicable. To clarify that the level of the nutrient that is the subject of the claim is based on the RACC and not the amount in the entire container or unit of food, proposed § 101.9(b)(12)(ii) would require that the claim be followed by a statement that sets forth the basis on which the claim is made. The statement must express the amount of the nutrient in a serving for a nutrient content claim (e.g., ''good source of calcium'' ''a serving of ____ oz of this product contains 150 mg of calcium'' or for health claims ''A serving of ____ ounces of this product conforms to such a diet''). However, if the serving size declared on the product label differs from the RACC, and the amount of the nutrient contained in the labeled serving does not meet the maximum or minimum amount criterion in the definition for the descriptor for that nutrient, the claim must be followed by the criteria for the claim as required by § 101.12(g). We are also proposing that the statement that sets forth the basis on which the claim is made would not be required for products when the nutrient that is the subject of the claim meets the criteria based on the entire container amount or unit amount, as applicable.

D. Reference Amounts Customarily Consumed

The RACCs in the tables listed in § 101.12(b) are arranged by categories. The broadest category is the ''general category.'' There are 21 general categories, which separate the food products into broad groups, with similar types of products placed together. Examples of general categories are ''Beverages'' and ''Desserts.'' In each general category, there are product categories. As noted previously in this document, currently there are RACCs for 129 product categories for people 4 years of age or older in Table 2 of § 101.12(b) and 11 product categories for infants and children 1 through 3 years of age in Table 1 of § 101.12(b), for a total of 140 product categories. A product category is a group of products with similar dietary usage. The RACCs are assigned by product categories. In some cases, in the tables listed in § 101.12(b), examples of the types of products in the product category are listed.

The current RACCs for the 140 product categories are derived primarily from food consumption data from the 1977–1978 (*http://www.ars.usda.gov/Services/docs.htm?docid=16184*) and 1987–1988 (*http://www.ars.usda.gov/Services/docs.htm?docid=16185*) NFCS conducted by the USDA. In light of newer consumption data, newer food products in the market place, comments received on the ANPRM, several written requests (Refs. 8, 9, and 10) and four citizen petitions (the fruitcake petition, the NYA petition, the CMA/NCA petition, and the Andes petition), we are proposing to update, modify or establish RACCs. Updating RACCs refers to proposed amendments to RACCs for products that are currently listed in the tables in § 101.12(b), and for which the NHANES 2003–2008 consumption data showed an increase or decrease in consumption by at least 25 percent. Modifying RACCs refers to changes to existing RACCs in the tables in § 101.12(b) for which the NHANES 2003–2008 consumption data did not show an increase or decrease in consumption by at least 25 percent. Establishing RACCs refers to the addition of products (and assigning RACCs for such products) that are not already listed in the tables in § 101.12(b). In Section II.D.2. we are proposing to update the RACCs for selected categories for products that are already in the tables in § 101.12(b). In section II.D.3., we are proposing to modify or establish new RACCs based, in part, on requests to establish new RACCs for products that are not in the tables in § 101.12(b), modify the RACCs for selected products that are already in the tables in § 101.12(b), or add products to an existing general category or product category in the tables in § 101.12(b) (Refs. 8, 9, and 10). In section II.D.3., we are also proposing to modify some product categories on our own initiative. We invite comment on whether the RACCs and labeled serving size for certain products identified as products of concern in comments to the ANPRM should be updated. We also invite comment on whether we should propose changes to other product categories not amended by this proposed rule.

1. Research and Data Related to Updating, Modifying, and Establishing RACCs

We recognize that many consumers may consume substantially larger portions than the serving sizes presented on the Nutrition Facts label, and this could lead consumers to underestimate the number of calories and other nutrients consumed. The current RACCs used to determine serving sizes are based primarily on data obtained through 1977–78 and 1987–88 NFCS conducted by USDA. More recent empirical evidence suggests, however, that for many types of food the amount of food that Americans customarily consume has changed significantly since these data were collected. For instance, a review of nationwide food intake surveys from 1977–78, 1989, and 1996 concluded that portion sizes for numerous types of foods grew substantially between 1977 and 1996 (Ref. 6). Another review of data likewise concluded that portion sizes have increased substantially since the current RACCs were established (Ref. 5). Additionally, a study has noted the supersizing of portion sizes in America in recent years (Ref. 38).

Additionally, package sizes for many foods have increased, and the package size of a food product has been shown to have an impact on the amount of food that is consumed by a person. Package sizes in grocery stores, amounts served in restaurants, and dishware sizes at home could all influence how much people eat and their perceptions about portion sizes. In one study showing a link between larger portion sizes and increased calorie intake, participants were given all meals for two consecutive days each week for three weeks in a laboratory (Ref. 24). Each week the portion sizes of the meals varied from 100, 150, or 200 percent of the baseline amount. Results showed that a 50 percent increase in portion size led to a 16 percent increase in calorie intake and a 100 percent increase in portion size led to a 26 percent increase in calorie intake (Ref. 24).

We recognize that increases in portion and/or package sizes may play a role in overeating because the growth in portion and package sizes have coincided with the surge of obesity rates in the United States (Refs. 5, 6, and 39). We also recognize that the serving size can provide a usable reference point for evaluating the nutritional content of a food and is a critical tool to those trying to achieve or maintain a healthy lifestyle and/or body weight. The serving size can also help consumers select among food products based upon

calories and other nutrients per serving. However, to be an appropriate reference point, the serving size must be based upon a meaningful quantity of food, which is what the RACCs provide.

We have analyzed current data and determined that, for some product categories listed in the tables in § 101.12(b), the RACCs have changed. Additionally, we recognize that, since 1993, information regarding the RACCs for certain products not currently listed in the tables in § 101.12(b) has become necessary. These factors, combined with findings from the ''Calories Count'' report, information regarding the rise in obesity, increase in package sizes, and requests to establish and modify the RACCs have led us to propose the amendments to the RACCs below. The proposed amendments would help convey clear and accurate information on serving sizes and the related nutritional profile of foods, which is important for consumers to be able to make choices that support a more healthful diet. Section II.D.2.c. discusses our proposals for updating existing RACCs and section II.D.3.b discusses our proposals for modifying and establishing new RACCs.

2. Updating Existing RACCs

This section discusses public comments, methods used for updating existing RACCs, and the changes that we are proposing to update existing RACCs.

a. Comments on the ANPRM Regarding Updating the Existing RACCs

Selection of Food Consumption Data Sources and Criteria for Changing the RACCs Established in 1993

The ANPRM invited comment on how recent food consumption data, such as data from the 1999–2000 and 2001–2002 NHANES, should factor into the determination of which, if any, RACCs need to be updated and if there are other food consumption data sources that are available, or that could be provided for our consideration (70 FR 17010–17012). We also asked what criteria should be used as the basis for changing the RACCs, if the RACCs were revised.

Most comments supported the use of national food consumption data to establish serving sizes. One comment suggested that we consider the USDA/Agriculture Research Service Automated Multiple Pass Method validation study (AMPM) which provides an overall picture of health and nutrition as a consumption survey tool. Some comments opposed the use of any data other than food consumption data, arguing that they do not fulfill the FD&C Act's requirement that the serving sizes reflect amounts customarily consumed.

Some comments advised us against using current data to establish updated RACCs. These comments indicated that basing serving sizes on current consumption data was unsound from a policy perspective in that it could suggest to consumers they could or should eat larger amounts, which contradict current efforts to curb obesity as well as federal dietary recommendations. Some comments reasoned that food consumption data have many limitations, and therefore it is not possible to derive accurate estimates of the customarily consumed amounts from such data. Several comments indicated that nutrition survey data are not appropriate and there is no justification to base serving size on food consumption data because these data have known inaccuracies.

Regarding the comments on how food consumption data should factor into updating the RACCs, we note that none of the comments opposing the use of consumption data to establish RACCs provided any alternative sources of data to use. Section 403(q)(1)(A)(i) of the FD&C Act states that a serving size is the amount customarily consumed, making food consumption data the best source for determining serving sizes. In addition to the variability among individuals, we are aware of the limitations of the available food consumption databases. However, these databases are still the best sources of food consumption data collected under actual conditions of use available to us. Thus, we conclude that the use of food consumption data as the primary source for the customarily consumed amounts of food for nutrition labeling purposes is appropriate.

Regarding the comment suggesting that we consider the USDA/Agriculture Research Service Automated Multiple Pass Method validation study, this study as well as the food consumption data are used as part of our methodology to determine which RACCs to update. It is discussed further in section II.D.2.b.

With respect to the comment that suggested that basing serving sizes on current consumption data was unsound and could suggest to consumers they could or should eat larger amounts, our authority states that RACCs must be based on the amount customarily consumed. However, we understand that educational outreach may be needed in the future to clarify this information to consumers.

With respect to the criteria that should be used as the basis for change if the RACCs are revised, one comment indicated that applying percentages broadly across all product categories would not be fair to manufacturers of some product categories. For example, a 20 percent increase in intake of cereal with a 15 g RACC would equal a 3 g increase versus a 20 percent increase in the serving of a 55 g RACC cereal that would equal an 11 g increase. The comment suggested that we consider changes in weight or volume when updating RACCs.

We agree with the comment that applying percentages broadly across product categories would not be fair to some product categories. We are not proposing to update all RACCs using a percentage point, but rather propose to determine which RACCs should be updated by looking primarily at whether the amount consumed for each product in a product category increased or decreased by at least 25 percent compared to the RACCs established in 1993. Other factors as described below were also considered. When looking at the products in product categories, we are proposing that the unit of measurement for each category be taken into account.

The Impact of Updates to the RACCs on the Use of Nutrient Content Claims and Health Claims

Several comments stated that changes in serving sizes could have an unforeseen consequence of jeopardizing and negating the use of many nutrient content claims, such as ''low fat'' or ''reduced fat'' claims, and health claims on the product label. Some comments noted that some foods that typically would not be considered a ''good source'' of a particular nutrient might qualify if RACCs were to increase.

In response to comments regarding the impact of increasing serving sizes on nutrient content and health claims, we agree that changing the RACCs may have an impact on the health and nutrient content claims that can be made on certain products. However, such changes may be appropriate in light of the changes in the amounts of food being customarily consumed. For example, a product might qualify to bear a ''low fat'' nutrient content claim currently, but is actually being customarily consumed in amounts that contain more fat than would qualify for such a claim. Additionally, products that are not currently eligible for ''good source'' or ''excellent source'' claims may become eligible if the RACCs are increased. These products should be able to bear such claims if the consumption amount has increased enough to qualify the food for the claim.

Consumer Interpretation of ''Serving Size'' and Consumer Perception of Increased Serving Sizes

The ANPRM invited comment on whether consumers would think that an increase in serving size on food labels means that more of the food should be eaten and what additional education efforts should be provided to consumers to avoid such a conclusion. We also sought comment on whether we should reconsider the definition of ''serving'' and ''serving size'' or how we interpret ''customarily consumed.''

Many comments urged us to harmonize label serving sizes and RACCs with recommended dietary guidance and the Food Guide Pyramid. The comments indicated that an increase in serving sizes might suggest to consumers that they should eat larger portions. One comment indicated that if the serving size was increased to accommodate current consumption levels, consumers might choose to consume 125 percent of a new serving size which would result in increased consumption and is opposite of the intended effect. Some comments indicated that further science-based research is needed to obtain consumers' perceptions and reaction to serving sizes.

In response to the question concerning reconsidering the definition of serving size, two comments indicated that the terms ''serving'' and ''serving size'' may be confusing to consumers, because they are the same terms used in dietary guidance, such as the USDA Food Guide and the Dietary Guidelines for Americans. Other comments indicated that we should take into account dietary guidance recommendations when defining ''serving'' and ''serving size,'' or how we interpret ''customarily consumed.'' One comment suggested that ''FDA consider testing terms such as 'suggested serving size,' 'reasonable serving size,' or 'sensible serving size' to evaluate consumer usefulness.''

With regard to the comments that RACCs and serving sizes should be based on what people should eat rather than what they usually eat, we acknowledge that there may be benefits to have serving sizes on product labels that are consistent with the serving sizes in the dietary guidance documents published by Federal Government Agencies. However, the FD&C Act specifically defines serving size as an ''amount customarily consumed,'' rather than a recommended amount people should eat. In addition, dietary guidance documents published by Federal Government Agencies usually list approximate amounts of food for the purpose of providing ''general'' guidance as to what quantity of each food group a person should consume to maintain good health. Therefore, the amount that represents a serving is often not well defined. For example, dietary guidance documents define a serving of bread as 1 slice of bread. However, the weight of a slice of bread varies and would not be able to be converted into a reference amount without a specific gram weight. Another example is that the 2010 Dietary Guidelines for Americans recommended total cups to consume per day of fruits and vegetables, but does not list specific amounts of particular types of fruits and vegetables to be consumed per eating occasion (Ref. 7). In addition, not all foods are represented in the dietary guidelines while all foods would need to be represented in the serving size RACCs.

With respect to the comments that indicated that consumers might think that an increase in serving sizes on the food label suggest that they should eat larger portions, we agree that some consumers may misconstrue the meaning of the serving size. We recognize that research has shown that over half of consumers generally misunderstood the meaning of serving size on the food label to be a recommended amount (Ref. 40). Given this confusion among consumers, we will consider education efforts to help increase consumer understanding of the term serving size. However, we also note that some consumer comments on the ANPRM overwhelmingly indicated that current serving sizes in use are confusing and can be misleading. For example, some indicated that the RACCs and serving sizes currently in use (e.g., 2 servings on a 16 fl oz can of soft drink, or an 8 oz pot pie) are confusing because they do not reflect the amount of food that is currently customarily consumed. Providing the nutrition composition of the food based on current consumption amounts informs consumers of the amount of nutrients they are likely to ingest from a particular food.

In response to the comment suggesting that we consider testing terms such as ''suggested serving size,'' ''reasonable serving size,'' or ''sensible serving size'' to evaluate consumer usefulness, as previously explained, under section 403(q)(1)(A)(i) of the FD&C Act, serving size is based on the amount of food people customarily consume and is not a suggested or recommended amount of food to eat. The terms suggested by the comment are not an accurate indication of the value that the serving size represents.

b. Methods Used to Update the Existing RACCs

Food Consumption Database

To update existing RACCs that reflect the amounts of food products customarily consumed, we analyzed food consumption data from the NHANES 2003–2008 surveys to assess the amount of food reported consumed per eating occasion. The NHANES collects nutrition and health related measures among the civilian non-institutionalized U.S. population. The NHANES oversamples African Americans, Mexican Americans, low-income whites, adolescents 12 to 19 years of age, and persons 60 years of age and older. The dietary interview component of NHANES, called ''What We Eat in America'' (WWEIA), is conducted as a partnership between USDA and the U.S. Department of Health and Human Services (DHHS) (Ref. 41). Under this partnership, DHHS' National Center for Health Statistics is responsible for the sample design and data collection and USDA's Food Surveys Research Group (FSRG) is responsible for the data collection methodology and maintaining the food and nutrient database (i.e., the Food and Nutrient Database for Dietary Studies (FNDDS)) (Ref. 42), which is used for the survey. The WWEIA provides gram amounts of each food reported consumed in the past 24-hours (24-hour recall) from each survey participant. More details of the survey design procedure can be found in the NHANES Data (Refs. 41 and 43).

We analyzed the recent consumption by combining data from the survey years of the NHANES, 2003–2004, 2005–2006, and 2007–2008 (NHANES 2003–2008 surveys) using Statistical Analysis Systems (SAS) and Survey Data Analysis (SUDAAN) procedures (Refs. 44 and 45) which provide a current indication of the amount of food being consumed by individuals (Ref. 46). Food consumption data from the NHANES–WWEIA surveys are released in 2-year cycles. Since the survey of 2003–2004, there are two, 24-hour recalls of food intake data (day 1 and day 2) available for each survey participant and recall of intake data are collected using the USDA AMPM (Ref. 47). The AMPM is designed to provide an efficient and accurate way of collecting dietary intake data for a large-scale national survey (such as NHANES) based on a 5-step probing technique for extensive compilation of standardized food-specific questions and possible response

options (Ref. 47). USDA's validation study showed that AMPM provides an acceptable accuracy of collecting reported intake data by comparing the estimated calorie intake with total energy expenditure, and estimated protein intake with urinary nitrogen excretion as measured by the doubly-labeled water method (Refs. 48 and 49). In our analyses, we used data to determine the median and mean estimates of consumption (in grams or in household measurements) for the food products in the 140 product categories for the three population groups: Infants up to 12 months of age, children 1 through 3 years of age, and the general population of persons 4 years of age or older (Ref. 46). For the bakery products that were in ''as-consumed'' form (e.g., toasted bread), we multiplied by a factor of 1.1 or 1.2 to convert the consumption amount to an ''as-purchased'' form (e.g. untoasted bread) and those foods were then included in the analysis. The factor is the ratio of the moisture content between the foods in an ''as-purchased'' to ''as-consumed'' form due to loss of water during the toasting process. The factor was necessary in order to determine the consumption amount of bakery products in the form that is listed in table 2 in § 101.12(b).

Steps and Factors Used in Determining the Need to Update the 1993 RACCs (Ref. 50)

Step I—Evaluate Whether To Consider Updating the 1993 RACCs

Under Step I, FDA considered two factors. Under this step, if both of these factors were not met, FDA did not consider updating the 1993 RACC.

(1) The first factor was to determine whether there was an adequate sample size from the NHANES 2003–2008 consumption data for each product in the 140 product categories. The adequate sample size was determined based on the design effect of the data source for the analyses (Ref. 50). The design effect [5] is calculated using the ratio of the variance of the estimate that is based on a sample weighted design to the variance of the estimate based on a simple random sample by products within a product category (Ref. 50). This is necessary because NHANES uses a complex, stratified, probability survey design for data collection, which is a cost-saving data collection method often used for population surveys, rather than a simple random sampling method.

The data collection for NHANES, which is completed by CDC, is used to assess intake by the U.S. population; a purpose that differed from our purpose of updating RACCs. Therefore, sample sizes that CDC collected were not always adequate for considering updates to the RACCs. Thus, we retrospectively determined the adequate, minimum required sample size based on the calculated design effect for each product within the product categories with a 90 percent confidence level and 20 percent margin of error. For some products, sample sizes are not large enough to obtain a reliable estimate of consumption. Therefore, we have determined that for these products there is no compelling evidence (due to an insufficient number of samples) to consider updating the RACCs established in 1993 for those products.

(2) The second factor was to determine if, for those products with a sufficient sample size, the median intake estimate from the NHANES 2003–2008 consumption data for the product significantly differed from the 1993 RACC for that product. Thus, we compared the median intake estimate from the NHANES 2003–2008 consumption data with the 1993 RACCs to determine if there was a at least a 25 percent difference (i.e. a significant difference) from the current RACCs. We used the median estimate of the intake distribution because it represents the central tendency of the amount customarily consumed per eating occasion. Also, the median is less influenced by outliers than the mean. In addition, we used a statistically conservative approach when considering the difference between the median intake estimate and the 1993 RACC for a product, to provide a 90 percent confidence level, with a 20 percent margin of error, to determine whether significant differences occur when the 95 percent confidence intervals of the consumption amount from the NHANES 2003–2008 surveys is outside of the 25 percent range (± 25 percent) of the RACCs established in 1993 (Ref. 50). In other words, when the consumption amount calculated from NHANES 2003–2008 surveys increased or decreased by at least 25 percent from the RACCs established in 1993 (i.e., less than 0.75 of the RACC or more than 1.25 of the RACC), we concluded that the current consumption amount is significantly different than the RACCs established in 1993. We chose the 25 percent approach based on our analysis of the data and after evaluating other values for percentage differences (e.g. 5%, 10%), when applied to the data, to reach a reasonable conservative estimate based on statistical principles. We further evaluated a product in Step II below if we found at least a 25 percent difference in consumption from the product in Step I. For a product for which there was not at least a 25 percent difference in consumption, we did not consider updating the 1993 RACC.

Step II—Determine Whether the 1993 RACCs Need To Be Updated

When a product had an adequate sample size to provide a reliable median intake estimate and this amount was significantly different than the 1993 RACC for the product, we then considered the factors below in a step-wise process to determine whether to update the 1993 RACCs:

(1) The Skewness of the Intake Distribution

We compared the median intake estimate from the NHANES 2003–2008 consumption data for the product consumed with the mean intake estimate from the NHANES 2003–2008 consumption data to determine whether the distribution of intake was skewed (Ref 48). A skewed intake distribution suggested that an empirical number of the reported consumption amounts were inconsistent and therefore, the variability between the mean and median estimates was considered to be large. The median intake estimate could not by itself provide sufficient evidence for the amount customarily consumed of that product by the United States target population if the intake distribution was skewed.

(2) The Reasonable Consumption Amount

If the intake distribution was skewed and we could not rely on the median intake estimate from the NHANES 2003–2008 consumption data as the sole basis to propose a change in the RACC, we examined the data from the FNDDS 4.1 (Ref. 42). The data from FNDDS provides the ''reasonable consumption amount,'' which we used to assist in our decision about whether to propose a change to the RACC. The reasonable consumption amount is a default consumption amount of food that researchers have defined and is used by NHANES when survey participants cannot recall the amount of food that was consumed at one eating occasion (Ref. 42). If the reasonable consumption

[5] The design effect of the survey is a sample size adjustment compared to the survey if it would have been completed using a simple random sampling method. For example, if the design effect of a survey is 3, this means that the sample variance is 3 times larger than it would be if the data collection for the survey was based on a simple random sampling method. In other words, only one-third as many sample cases would be needed to measure the given statistic if a simple random sampling method were used instead of the cluster survey sampling method with a design effect of 3.0.

amount for the product was consistent with the median intake estimate, we considered whether to propose a change to the 1993 RACC on a case-by-case basis. If the median intake estimate from the NHANES 2003–2008 consumption data was not consistent with the reasonable consumption amount for the product, we then looked at if there was a significant difference between the median intake estimates from the NHANES 2003–2008 consumption data for the product, converted to a common household measure as applicable, and the 1993 RACC for the product.

(3) The Difference Between the Median Intake Estimates, Converted to Common Household Measures as Applicable, With the 1993 RACC for the Products

If we determined, based on our analysis, that the distribution of the intake of a product was not skewed, or skewed and not consistent with the reasonable consumption amount, we next compared the median intake estimate from the NHANES 2003–2008 consumption data for the product, converted to a common household measure as applicable, with the 1993 RACC for the product.

If the median intake estimate from the NHANES 2003–2008 consumption data for the product, converted to a common household measure as applicable, was not significantly different from the 1993 RACC for the product, we did not propose to update the 1993 RACC. This sometimes occurred when we converted the median intake estimate from the NHANES 2003–2008 consumption data to determine the common household measurement. If the converted median intake estimate from the NHANES 2003–2008 consumption data was significantly different from the 1993 RACC for the product, we used other considerations to determine whether the 1993 RACC should be changed.

(4) Other Considerations When the Median Intake Estimate From the NHANES 2003–2008 Consumption Data Is Significantly Different From the 1993 RACC for the Product

If there was no other comparable product with a median intake estimate from the NHANES 2003–2008 consumption data, we considered whether the estimated median intake from the NHANES 2003–2008 consumption data for the product was consistent with the reasonable consumption amount. If the median intake estimate from the NHANES 2003–2008 consumption data was consistent with the reasonable consumption amount, we proposed to update the 1993 RACC based on the median intake estimate from the NHANES 2003–2008 consumption data; otherwise, we considered each food product case-by-case to determine whether to change the 1993 RACC.

If there were comparable products with median intake estimates from the NHANES 2003–2008 consumption data, we considered these other comparable products to determine on a case-by-case basis whether to change the RACC for the product so that comparable products have the same RACC. In general, if multiple products were represented in a product category, we attempted to maintain a consistent RACC so that products with similar dietary usage (e.g., hot breakfast cereals, hominy, and grits are often used as breakfast items), similar product characteristics, and similar amounts customarily consumed could be easily compared. Similarly, we considered it beneficial to generally use the same RACCs for products that are in different product categories, when the products have similar amounts customarily consumed, similar dietary usage, and similar product characteristics (e.g., the ''All varieties, chips, pretzels, popcorns, extruded snacks, fruit-based snacks (e.g., fruit chips,) grain-based snack mixes'' product category and the ''Crackers that are usually used as snacks'' product category). Again, this is intended to help consumers to more easily compare nutrition information on the Nutrition Facts label across product categories. If the median intake estimate from the NHANES 2003–2008 consumption data for products in a product category varied, we gave greater consideration to the product that had the largest sample size (i.e., was consumed most frequently) in that product category when proposing a change to the 1993 RACC because there were more eating occasions reported by consumers for that product.

While we have taken a conservative approach in the methodology used to determine which RACCs should be updated, we recognize that there may be other methods that could be used. We invite comment on our analysis and rationale, and request data and factual information on alternative methodologies that we should use for determining which RACCs to update.

c. Proposed Amendments To Update the Existing RACCs

Using the methods described above, we propose to change the current RACCs used to determine the serving size for those products where consumption has changed significantly when compared to the RACCs established in 1993. These changes, if finalized, will be reflected in Table 1 ''Reference Amounts Customarily Consumed Per Eating Occasion: Foods for Infants and Children 1 through 3 years of age'' and Table 2 ''Reference Amounts Customarily Consumed Per Eating Occasion: General Food Supply'' of § 101.12(b).

Detailed information about how the principles, factors and steps were applied to change or not change the RACCs for specific food products is provided in a memorandum (Ref. 50). We analyzed consumption data for all 129 product categories in Table 2 in § 101.12(b) for persons 4 years of age or older and for the 11 product categories in Table 1 (§ 101.12(b)), for infants and children 1 through 3 years of age (Ref. 50). The proposed amendments that follow in this section are for food products where consumption has increased or decreased by at least 25 percent when compared to the RACCs established in 1993. Proposed amendments for food products where consumption has not increased or decreased by at least 25 percent when compared to the RACCs established in 1993 are provided in section II.D.3.b.

Changes to Table 1: Reference Amounts Customarily Consumed Per Eating Occasion: Food for Infants and Children 1 Through 3 Years of Age in § 101.12(b)

In the product category ''Dinners, desserts, fruits, vegetables or soups, ready-to-serve, strained type'' we are proposing to change the RACC to 110 g from 60 g. The median consumption for desserts, ready-to-serve, strained type was 103 g and dinners, ready-to-serve, strained type was 104 g. The median consumption for fruits and vegetables, ready-to-serve, strained type was about 70 g. Products in this product category have similar dietary usage and product characteristics to the products in the ''Dinners, desserts, fruits, vegetables or soups, ready-to-serve, junior type'' product category. We are proposing to change the RACC to 110 g, which would allow for consumers to make easy comparisons of nutrition information.

Changes to Table 2: Reference Amounts Customarily Consumed per Eating Occasion: General Food Supply in § 101.12(b)

In the general category of ''Bakery products,'' we propose to remove ''bagels,'' ''toaster pastries,'' and ''muffins'' from their current product categories, and to create a new product category for ''Bagels, toaster pastries, muffins (excluding English muffins),'' with a proposed RACC of 110 g compared to the current RACC of 55 g that was used for all of those food

products. This change is being proposed because the amounts customarily consumed in recent consumption data for these products are much higher than the amounts customarily consumed for the other products in their current product categories (i.e., the product categories established in 1993). Additionally, bagels, toaster pastries, and muffins (excluding English muffins) have similar product characteristics and dietary usage (e.g., they are products that can be used as breakfast products). The median consumption amounts for bagels, toaster pastries, and muffins are 104 g, 97 g, and 105 g, respectively. The median consumption amounts for those products are close to the reasonable consumption amount of one medium muffin, and the weight in grams of one regular-sized bagel.

In the general category of ''Beverages,'' we propose new RACCs of 360 mL and 360 mL for ''Carbonated and noncarbonated beverages, wine coolers, water'' and ''Coffee or tea flavored and sweetened,'' respectively, compared to the current RACCs of 240 mL and 240 mL prepared because current median intakes are 360 mL (or 12 fluid ounces) for these products. We also propose to change the label statements for these product categories within the general category of ''Beverages'' to 12 fl oz (360 mL) from 8 fl oz (240 mL). The consumption data for milk, fruit juices and vegetable juices remained unchanged from the current RACC of 240 mL. In the 1991 proposed serving size rule, we stated that a uniform RACC for all beverages would help consumers make nutritional comparisons across beverage categories (56 FR 60394 at 60407). While this is true, we still must base the RACCs on the amounts customarily consumed, and current data show that consumption amounts of carbonated and non-carbonated beverages, wine coolers, water, and coffee or tea flavored and sweetened are much greater than consumption amounts for milk, fruit juices, and vegetable juices. In addition to the consumption amounts being dissimilar, the product characteristics are somewhat different between milk, fruit juice, and vegetable juice compared to carbonated and non-carbonated beverages, wine coolers, water, and coffee or tea flavored and sweetened, because they are inherently nutrient dense (unlike carbonated and non-carbonated beverages, wine coolers, water, and coffee or tea flavored and sweetened). For these reasons we are not proposing to change the current RACC of 240 mL for milk, fruit juices, nectars, fruit drinks, and vegetable juices.

In the general category of ''Fish, Shellfish, Game Meats, and Meat or Poultry Substitutes,'' we propose a new RACC of 85 g for the ''Fish, shellfish or game meat, canned'' product category, compared to the current RACC of 55 g because the median intake estimate from the NHANES 2003–2008 consumption data is approximately 85 g.

In the general category of ''Fruits and Fruit Juices,'' we propose a new RACC of 50 g for the product category of ''Fruits used primarily as ingredients, avocado'', compared to the current RACC of 30 g because the median intake estimate from the NHANES 2003–2008 consumption data for avocado is 50 g, and avocado is often used as an ingredient (e.g., in salads and sandwiches), similar to the product category ''Fruits used primarily as ingredients, others (cranberries, lemon, line)'' for which we are also proposing a new RACC of 50 g. Proposing a new RACC of 50 g for the ''Fruits used primarily as ingredients, avocado'' product category would help consumers easily compare nutrition information between all fruits used primarily as ingredients.

In the general category of ''Fruits and Fruit Juices,'' we propose a new RACC of 50 g for the product category of ''Fruits used primarily as ingredients, others (cranberries, lemon, lime)'' compared to the current RACC of 55 g. Because of the large variation between mean and median intake estimates from the NHANES 2003–2008 consumption data, we looked at the reasonable consumption amount for the products in the product category. The reasonable consumption amount for this product category is 50 g. Products in this product category are comparable to the product category ''Fruits used primarily as ingredients, avocado,'' which we are proposing a new RACC of 50 g. Proposing a new RACC of 50 g for the ''Fruits used primarily as ingredients, others (cranberries, lemon, lime)'' product category would help consumers easily compare nutrition information between all fruits used primarily as ingredients.

In the general category of ''Sugars and Sweets,'' we propose a new RACC of 30 g for the ''All other candies'' product category compared to the current RACC of 40 g. The median consumption amount for this product category was 22 g and the mean was 33 g. Because intake distribution is not considered skewed and there is no comparable product with a reliable median intake estimate from the NHANES 2003–2008 consumption data, we looked at data from the FNDDS (Ref. 42) on the reasonable consumption amounts of candies other than baking candies; hard candies, breath mints; hard candies, roll-type, mini-size in dispenser packages and hard candies. The reasonable consumption amount ranges from 14 to 59 g with the majority of the reasonable consumption amounts being 28 g. Therefore, given the variance in the median and mean we rounded the reasonable consumption amount of 28 g up to 30 g, which can be easily converted to a convenient household measure of one ounce for the proposed RACC for ''All other candies.'' We are also proposing to change the label statement to ____ pieces (____ g); 1 oz (30 g/visual unit of measure) for bulk products.

In the general category of ''Sugars and Sweets,'' we propose a new RACC of 8 g for the ''Sugar'' product category compared to the current RACC of 4 g. The median intake estimate from the NHANES 2003–2008 consumption data for sugar is 8 g.

In the general category of ''Sugars and Sweets,'' we propose a new RACC of 30 mL for all syrups in the ''Syrups'' product category, compared to the RACC of 30 mL for syrups used primarily as an ingredient (e.g., light or dark corn syrup) and 60 mL for all others because the median intake estimate from the NHANES 2003–2008 consumption data for all syrups is 2 tablespoons (tbsp), which is close to 30 mL. We also propose to change the label statement for all Syrups to 2 tbsp (30 mL) from 2 tbsp (30 mL) for syrups used primarily as an ingredient; ¼ cup (60 mL) for all others.

3. Modifying and Establishing RACCs

This section discusses changes we are proposing that modify or establish RACCs. Since the final rule on serving sizes published in 1993, we have received requests from manufacturers to modify RACCs for products currently listed in the tables in § 101.12(b), establish RACCs for products not currently listed in the tables in § 101.12(b) and identify appropriate product categories for various food products (i.e., establish a RACC for that food product). These requests have come through various forms, including four citizen petitions referenced in section I.D.3., requests by manufacturers, and public comments to the ANPRM. In this section, we also propose to modify some product categories, on our own initiative, so that comparable products are grouped together. Thus, this proposed rule would establish certain RACCs for

products not currently listed in the tables in § 101.12(b) (in some cases by placing a product in a new product category with a new RACC, and in other cases by placing a product in an existing product category), and would modify RACCs for some existing products.

a. Methods Used To Modify Existing RACCs and Establish New RACCs

The products in this category are either new products for which no RACC is currently established, or products for which RACCs are currently established, but for which there has not been a significant increase or decrease in consumption (i.e., an increase or decrease in consumption representing a 25 percent difference) when compared to the RACCs established in 1993 (Ref. 50). Some products discussed below are ingredients of foods or other food products that are not available in the NHANES database. When determining where to place food products and what their RACCs should be, we looked first to the NHANES database, using similar methods to those used to update the 1993 RACCs, as described previously in this document. We analyzed recent consumption from the NHANES 2003–2008 surveys, when available, using SAS and SUDAAN procedures (Refs. 44 and 45). The factors considered when looking at NHANES 2003–2008 consumption data included: (1) The sample size and the median intake estimate from the NHANES 2003–2008 consumption data, and the mean intake estimate from the NHANES 2003–2008 consumption data (unlike the methods used to update the RACCs, the mean estimate was used as a guide when the median estimate was not available), (2) the difference between the NHANES 2003–2008 consumption data, converted to a common household measure as applicable, and the 1993 RACC for the product, (3) the reasonable consumption amount, (4) information received in manufacturers' requests, public comments, and (5) the NHANES 2003–2008 consumption data for comparable products and the largest sample size from the NHANES 2003–2008 consumption data within a product category. Detailed information about how these factors were applied to individual products is provided in a memorandum to the file (Ref 48).

If the food product was not available in the NHANES database, we looked to the main dietary usage of the product to determine if the product could fit into an existing product category. For accuracy and consistency in determining dietary usage, we used a culinary reference book entitled ''Food Lover's Companion,'' which has been used by nutrition professionals as a food dictionary reference (Ref. 51), and internet resources with extensive recipe collections such as, *http://www.allrecipes.com, http://www.food.com,* and *http://www.recipe.com* (Refs. 52, 53 and 54). Market data (e.g., Neilson sales data) were used to examine the top selling products. Additionally, the Gladson and Mintel databases, which provide labeling information for products that are currently available in the market, were used to look at industry practice (Refs. 55 and 56). For foods that are used as ingredients, the RACCs are generally determined based on the amount of the ingredient that is needed to prepare the finished product per eating occasion (e.g., cocoa powder, unsweetened is used as an ingredient for chocolate cakes). For all products in this section, we considered additional data sources, such as data from the gram weight information for various portion sizes based on the National Nutrient Database for Standard Reference, release 24 (Ref. 57), recipe information from FNDDS, a guidance document entitled ''Guidance for Industry: A Food Labeling Guide'' (Ref. 58), and other federal guidance documents (Ref. 59).

b. Proposed Amendments To Modify Existing RACCs and Establish New RACCs

In this section we propose to modify RACCs, establish RACCs, and place products in appropriate product categories in Table 2 in § 101.12(b).

In the general category of ''Bakery products,'' we propose to:

1. Add ''scones, crumpets, and English muffins'' to the current product category ''Biscuits, croissants, bagels, tortillas, soft bread sticks, soft pretzels, corn bread, hush puppies'' with a RACC of 55 g. The new name for this product category would be ''Biscuits, croissants, tortillas, soft bread sticks, soft pretzels, corn bread, hush puppies, scones, crumpets, and English muffins'' (as discussed in section II.D.2.c., we also are proposing to move bagels to a new product category). Currently there is no RACC for scones and crumpets. The median intake estimate from the NHANES 2003–2008 consumption data for scones and crumpets is 37 g. The reasonable consumption amount of one scone with or without fruit is 42 g, and one crumpet weighs 45 g. The median intake estimate from the NHANES 2003–2008 consumption data for biscuits and croissants is 51 g and 57 g, respectively. Biscuits and croissants have a larger sample size compared to scones and crumpets. Biscuits, croissants, scones, crumpets and English muffins are comparable to other products in this category and can be used as breakfast bakery products. Therefore, based on these factors, we propose to add scones, crumpets, and English muffins to the current product category ''Biscuits, croissants, bagels, tortillas, soft bread sticks, soft pretzels, corn bread, hush puppies'' with a RACC of 55 g; and

2. Add to proposed footnote 5 that the serving size for fruitcake is 1½ oz. Fruitcake belongs in the ''Cakes, heavy weight'' product category, which has a RACC of 125 g, because it is generally 18 g per cubic inch, which meets the 10 g or more per cubic inch weight minimum for this category (see current footnote 6 in table 2 of § 101.12(b)). The NHANES 2003–2008 surveys have limited consumption data for fruitcake because there are only 24 eating occasions for fruitcake from NHANES 2003–2008 surveys. The fruitcake petition requested a new RACC for fruitcake and noted that fruitcake is a specialty item consumed primarily over the holidays and that the industry has traditionally, before mandatory nutrition labeling was implemented, used 1½ oz as the serving size. We propose to add to proposed footnote 5 that the serving size for fruitcake is 1½ oz because: (1) It is a specialty item consumed primarily over the holidays; and (2) industry has traditionally used 1½ oz as a serving size; and

3. Establish a new product category ''Eggroll, dumpling, wonton, or potsticker wrappers'' with a RACC of 20 g. The proposed label statement is ''____ sheet (g)'' or ''____ wrapper (g).'' Wrappers for eggrolls, dumplings, wontons, or potstickers are generally used as ingredients to make eggrolls, dumplings, wontons, and potstickers. Eggrolls, dumplings, wontons, and potstickers are used primarily as appetizers. Generally about 1 eggroll, 5 wontons, and 3 potstickers will make 1 serving of an appetizer with a RACC of 85 g (as discussed in this section of the document, we are proposing a new product category for appetizers with a RACC of 85 g). The amount of wrappers that are needed to make 1 serving of an appetizer with a RACC of 85 g is about 20 g; and

4. Add ''crepes'' to the product category ''French toast, pancakes, variety mixes,'' with a RACC of 110 g prepared for French toast, crepes, and pancakes and 40 g dry mix for variety mixes. The new name for this product category would be ''French toast, crepes, pancakes, variety mixes.'' The median consumption for crepes is 101 g, and crepes are comparable products to pancakes and French toast (e.g.,

breakfast bakery products) and are similar to pancakes without the leavening ingredients that are used in pancakes; and

5. Add ''pie shell'' and ''pastry sheets'' to the product category ''Pie crust'' and modify the RACC to be ''the allowable declaration closest to an 8 square inch surface area.'' The new product category name would be ''Pie crust, pie shell, pastry sheets (e.g., phyllo, puff pastry sheets).'' We recognize a need to establish additional reference amounts for crusts to provide a basis for determining serving sizes for crusts and shells with diameters other than 8 or 9 inches. We also propose to change the label statement for this product category to ''____ fractional slice(s) (____ g) for large discrete units; ____ shells (____ g); ____ fractional ____ sheet(s) (____ g) for distinct pieces (e.g., Pastry sheet).'' An example of a label statement for pastry sheets would be ⅙ of 1 sheet (____ g). This modified product category would include, for example, miniature crusts, phyllo pastry sheets, puff pastry, and pie crusts with a diameter of 10 inches. Changing the RACC would make the crust and shell category consistent with the way that pies are treated in this product category, such that the fraction of the total pie will be equal to the same fraction of the crust or shell plus filling. In the case of small individual units, the serving size would be the same number of units whether filled or unfilled. Pie shells and pastry sheets have similar dietary usage to pie crusts as an ingredient of dessert products.

In the ''Dairy Products and Substitutes,'' general category, we are proposing to:

1. Change the name of the product category ''Milk, milk-based drinks, e.g., instant breakfast, meal replacement, cocoa'' to ''Milk, milk-substitute beverages, milk-based drinks, e.g., instant breakfast, meal replacement, cocoa, soy beverage'' with a RACC of 240 mL. We are adding milk-substitute beverages to this product category because milk and milk-substitute beverages are comparable products and consumers can make nutrition information comparisons among these products. Nutritionally equivalent (see § 101.3(e)(2)) soy beverages are an example of milk-substitute beverages and can be used as a substitute for milk (Ref. 51).

2. Change the RACC of the product category ''Yogurt'' to 170 g, which is approximately 6 oz. The current RACC for yogurt is 225 g or approximately 8 oz. The NHANES 2003–2008 consumption data show the median consumption for yogurt is about 6 oz, but did not meet the 25 percent change level we are using in this proposed rule as a factor to consider whether to update the RACCs. However, comments on the ANPRM from the yogurt industry and the NYA citizen petition have requested that we change the RACC for yogurt to reflect what is the most commonly consumed in the market place. In addition, 2009–2010 AC Nielson sales data has 6 oz containers of yogurt ranked highest among annual sales data for yogurt. We have decided to change the RACC for yogurt based on current consumption data, information in the NYA citizen petition, information from industry comments on yogurt consumption, and market trends.

In the general category of ''Desserts'' we propose to:

1. Change the name of the product category ''Ice cream, ice milk, frozen yogurt, sherbet: All types, bulk and novelties (e.g., bars, sandwiches, cones)'' to ''Ice cream, ice milk, frozen yogurt, sherbet, frozen flavored and sweetened ice, frozen fruit juices: All types bulk'' and change the RACC for this product category to 1 cup, as compared to the current RACC of ½ cup. We also propose to change the label statement for this product category to ''1 cup (____ g).'' This new product category would not include ice cream novelties because ice cream novelties are not comparable to the other products in this product category. Ice cream novelties are often prepackaged and come in multiple individual units per package. We received comments on the ANPRM stating that the RACC for ice cream is ''unrealistic and misleading.'' The comments stated that a ½ cup of ice cream is smaller than a household ice cream scoop and should be increased to an amount people normally consume. Current consumption data for bulk ice cream has increased to 0.875 cup, which is closer to 1 cup as compared to the current RACC of ½ cup. Bulk ice cream, ice milk, frozen yogurt, sherbet, frozen flavored and sweetened ice, frozen fruit juices are all comparable products and are usually all sold in the same area of the grocery store. We propose to change the RACC to 1 cup although, based on the calculations from the current consumption data, the products in the original product category (which included ice cream novelties) generally did not change by at least 25 percent; and

2. Change the name of the product category ''Frozen flavored and sweetened ice and pops, frozen fruit juices: All types, bulk and novelties (e.g., bars, cups)'' to ''Ice cream, ice milk, frozen yogurt, sherbet, frozen flavored and sweetened ice and pops, frozen fruit juices: All types novelties (e.g., bars, sandwiches, cones, cups)'' and change the RACC for this product category to ''½ cup—includes the volume for coatings and wafers,'' as compared to the current RACC of 85 g. We changed the RACC from a weight measurement (grams) to a volume measurement (cups) because of the difference in density between various ice creams, frozen flavored and sweetened ice and pops, frozen yogurts, and sherbets. For example, 1 cup of ice cream generally weighs about 133 g, while 1 cup of frozen yogurt generally weighs 200 g, and 1 cup of ice pop generally weighs 254 g. However, the median consumption for all of these products is ½ cup regardless of weight. The new product category will include ice cream, ice milk, frozen yogurt, and sherbet novelties. Current consumption for ice cream sandwiches, bars and cones is 68 g (about ½ cup) and for frozen yogurt cones is 78 g (about ½ cup), which is similar to the consumption data for frozen flavored novelties. Ice cream, ice milk, frozen yogurt, and sherbet novelties are more comparable with frozen flavored novelties than they are with bulk ice creams, ice milks, frozen yogurts, and sherbets; and are usually sold in the same area of the grocery store as the other products listed in this product category; and

3. Change the RACC for the product category ''Custard, gelatin, or pudding'' to ''½ cup prepared; Amount to make ½ cup prepared when dry.'' The current RACC for this category is ''½ cup.'' Custard powder, gelatin, and pudding powder are often used to make custard, gelatin, and pudding desserts. There is currently a RACC for the prepared version of these products, but not the dry form used in preparation mixtures.

In the general category of ''Dessert Toppings and Fillings'' we propose to:

1. Change the weight-based RACC for the product category of ''Cake frostings or icings'' with a RACC of 35 g to a volume-based RACC of 2 tbsp. The RACC of 35 g does not take into account whipped frosting and icings that may not weigh 35 g. Changing to a volume based reference amount would allow for consistency in the category and allow comparison of nutrition information for these products based on the same RACC.

In the general category of ''Egg and Egg Substitutes'' (proposed to be renamed as the general category of ''Egg and Egg Substitutes'' as discussed as follows), we propose to:

1. Change the name of the product category ''Egg Substitutes'' (which has a RACC of ''An amount to make 1 large

(50 g) egg'') to ''Egg whites, sugared eggs, sugared egg yolks, and egg substitutes (fresh, frozen, dried).'' The median consumption for egg white, sugared egg, and sugared egg yolk is 64 g. Egg white, sugared egg, and sugared egg yolk are comparable products and can be used as a substitution of a whole egg.

In the general category of ''Fish, Shellfish, Game Meats, and Meat or Poultry Substitutes,'' we propose to:

Add ''seafood'' to the product category ''Substitute for luncheon meat, meat spreads, Canadian bacon, sausages and frankfurters,'' which has a RACC of 55 g. The median consumption for seafood substitutes is 60 g. The new name for the product category would be ''Substitute for luncheon meat, meat spreads, Canadian bacon, sausages, frankfurters, and seafood.'' Seafood substitutes are comparable products to other products in this product category.

In the current general category of ''Miscellaneous Category'' (proposed to be renamed as the general category of ''Miscellaneous'' as discussed in section II.F.3.), we propose to:

1. Establish a new product category for ''Cocoa powder, carob powder, unsweetened'' with a RACC of 1 tbsp. The proposed label statement is 1 tbsp (____ g). Unsweetened cocoa powder or baking cocoa is a dry, unsweetened, chocolate-flavored powder that is often used as an ingredient in various recipes, including cakes, brownies, and cookies. Because it is an ingredient, there is no direct consumption data from the NHANES 2003–2008 surveys. Carob powder is used as a substitution for unsweetened cocoa powder in baking; thus, it has similar dietary usage to unsweetened cocoa powder (Ref. 51). Examining a variety of chocolate cake recipes (Ref. 52), the weight of baking cocoa powder ranges from 3 g to 5 g to make a reference amount of 55 g for chocolate cake without icing or filling; and

2. Change the name of the product category ''Drink mixers (without alcohol)'' to ''Milk, milk substitute, and fruit based drink mixes (without alcohol): (e.g., drink mixers, fruit flavored powdered drink mixes, sweetened cocoa powder)'' with a RACC of ''Amount to make 240 mL drink (without ice).'' The NHANES 2003–2008 consumption data show that the median intake estimate for milk-substitute beverages is 184 g (about 6 fl oz). Based on the Gladson database, the majority of products are using 8 fl oz or 1 cup as the serving size on the label. This proposed RACC is the same as the RACC for comparable products (i.e., milk, milk-based drinks, fruit juices, and fruit drinks). This new product category includes products that were not included in the 1993 serving size final rule. The 1993 serving size final rule includes prepared versions of the products in this category, but not the dry forms used to make the prepared beverages. We propose to establish a label statement for this product category of ''____ fl oz (____ ml), ____ tsp (____ g), ____ tbsp (____ g)''; and

3. Establish a new product category ''Drink mixes (without alcohol): all other types (e.g., flavored syrups and powdered drink mixes'' with a RACC of ''Amount to make 360 mL drink (without ice).'' This new product category includes products that were not included in the 1993 serving size final rule. The 1993 serving size final rule includes prepared versions of these products in the ''Beverages'' general category, but not the dry forms used to make the prepared beverages. The current RACC for the ''Beverages'' general category is 240 mL. We are proposing to change the RACC for ''Beverages'' to 360 mL. The products in this proposed product category are comparable to the products in the ''Beverages'' general category. We also propose to establish a label statement for this product category of ''____ fl oz (____ mL), ____ tsp (____ g), ____ tbsp (____ g)''; and

4. Establish a new product category ''Seasoning oils and seasoning sauces (e.g., coconut concentrate, sesame oil, almond oil, chili oil, coconut oil, walnut oil)'' with a RACC of 1 tbsp. This product category includes flavorings, seasonings and spices that are in a liquid form and are primarily used as ingredients in a product, rather than as sauces or dips with finished foods. Coconut concentrate is an extract of the cooked mixture of water and coconut meat, which is often used as an ingredient of a sauce or dressing (such as curry sauce) (Ref. 51). The reasonable consumption amount for the flavoring oils (sesame oil, almond oil, coconut oil, and walnut oil) is 13.6 g (about 1 tbsp) based on the FNDDS (Ref. 42). We also propose to establish a label statement for this product category of 1 tbsp (____ g); and

5. Establish a new product category ''Seasoning pastes (e.g., garlic paste, ginger paste, curry paste, chili paste, miso paste, fresh or frozen)'' with a RACC of 1 teaspoon (tsp). This product category includes seasonings and spices that are in a paste form and are primarily used as ingredients (such as miso in making miso soup), rather than as sauces or dips for finished foods. The current median intake estimate is 4 g. The reasonable consumption amount for miso paste, which is an example product in this product category, is 3 g (about 1 tsp). We also propose to establish a label statement for this product category of 1 tsp (____ g).

In the general category of ''Mixed Dishes,'' we propose to:

1. Change the name of the product category ''Not measurable with cup, e.g., burritos, egg rolls, enchiladas, pizza, pizza rolls, quiche, all types of sandwiches'' to ''Not measurable with cup, e.g., burritos, enchiladas, pizza, pizza rolls, quiche, sandwiches.'' We are proposing to include smaller sized versions of some of these products in a new appetizer product category. Smaller versions of these products are primarily used as appetizers, while products in the mixed dish category are primarily used as entrees or main dishes. We have updated the category name to reflect the change; and

2. Establish a new product category for ''Appetizers, hors d'oeuvres, mini mixed dishes, e.g., mini bagel pizzas, breaded mozzarella sticks, egg rolls, dumplings, potstickers, wontons, mini quesadillas, mini quiches, mini sandwiches, mini pizza rolls, potato skins,'' with a RACC of 85 g, add 35 g for products with gravy or sauce topping. The new ''Appetizers, hors d'oeuvres, mini mixed dishes'' product category would contain products that are not included in table 2 of § 101.12(b). The products in this new product category (e.g., mini pizza rolls) are similar to those found in a category in USDA's Guide to Federal Food Labeling Requirements for Meat and Poultry Products (USDA's Guide) (Ref. 59), which provides a RACC of 85 g for ''Appetizers hors d'oeuvres, mini eggrolls, mini pizza rolls, bagel pizza with meat or poultry.'' The USDA products are mostly the same as the products being proposed in our new ''Appetizers, hors d'oeuvres, mini mixed dishes'' product category, except that the USDA products always contain meat. The median consumption for mini pizza rolls is 83 g and for egg rolls is between 57 and 59 g. Additionally, all of the products in this proposed ''Appetizers, hors d'oeuvres, mini mixed dishes'' product category are comparable in their usage. Therefore, we propose a RACC of ''85 g add 35 g for products with gravy or sauce topping'' for this product category, which is consistent with USDA's RACC for ''Appetizers hors d'oeuvres, mini eggrolls, mini pizza rolls, bagel pizza with meat or poultry,'' which will allow consumers to compare nutrition information across food labels for these types of products. The addition of 35 g sauce is calculated proportionally by the

weight of the RACC for the product category ''Mixed Dishes not measurable with cup'' where the addition of 55 g of sauce is used for the 140 g of RACC. We propose that an individual unit in this new product category should not weigh more than 85 g, or it would not be considered an appetizer, hors d'oeuvre, or mini mixed dish. For example, if an individual eggroll were to weigh more than 85 g, it would be appropriate to use the RACC from the general category ''Mixed Dishes'' and the product Category ''Not measurable with cup.'' We also propose to establish a label statement for this product category of ____ pieces(s) (____ g).

In the general category of ''Sauces, Dips, Gravies and Condiments,'' we propose to:

1. Add ''Alfredo sauce'' to the product category ''Minor main entrée sauces (e.g., pizza sauce, pesto sauce)'' with a RACC of ¼ cup. The new product category name would be ''Minor main entrée sauces (e.g., pizza sauce, pesto sauce, Alfredo sauce), other sauces used as toppings (e.g., gravy, white sauce, cheese sauce), cocktail sauce.'' Alfredo sauce is mixed with and coats a pasta product (Ref. 51). This dietary usage is similar to that of pesto sauce in the ''Minor main entrée sauces'' product category.

In the general category of ''Soups,'' we propose to:

1. Establish a product category ''Dry soup mixes, bouillon.'' The RACC for this category would be the ''Amount to make 245 g.'' Bouillon and dry soup mixes are often used to make soups and broths (Ref. 51). There is currently a RACC for the prepared version of these products, but not the dry form used in preparation mixtures. The RACC for soups is 245 g. We also propose to establish a label statement for this product category of ____ cup (____ g); ____ cup (____ mL).

In the general category of ''Sugars and Sweets,'' we propose to:

1. Establish a new product category ''After-dinner confectionaries'' with a RACC of 10 g. We reviewed consumption data from the NHANES 2003–2008 surveys to determine whether a change in the RACC for Andes mint wafers and other after-dinner confectionaries, as requested in the Andes petition, was warranted. These types of candies are currently included in the ''All other candies'' product category. Because there are no intake data available from the NHANES 2003–2008 surveys to determine intake estimates for after-dinner confectionaries, we relied on industry product information available through the Gladson and Mintel databases (Refs. 55 and 56). These databases are comprehensive and include label information for products currently on the market. The databases indicated that products marketed as ''after-dinner confectionaries'' or comparable candy products ranged in weight from approximately 2 to 12 g per piece. According to the serving size information on after-dinner confectionary product labels in the Gladson and Mintel databases, the weight of an individual piece varies considerably among the different products in this category. To avoid having the serving size of the larger size products expressed as a faction of a piece, we propose that all products marketed as after-dinner confectionaries (or after-dinner mints) should have the same RACC of 10 g, which is slightly smaller than the 15 g RACC requested in the Andes petition. We also propose to establish a label statement for this product category of ____ piece(s) (____ g);

2. Add ''powdered candies'' and ''liquid candies'' to the product category ''Hard candies, others'' with a RACC of 15 mL for liquid candies and 15 g for all others. We propose to rename the product category to ''Hard candies, others; powdered candies, liquid candies'' to indicate that powdered and liquid candies would be added to this product category. After publication of the 1993 serving size final rule, two manufacturers asked that powdered candies, which are frequently sold in straws or small packets, be included in the ''Hard candies, others'' product category with a RACC of 15 g (Refs. 9 and 10). One manufacturer also asked to classify liquid candy (which is very sweet and frequently sold in wax containers containing syrup or flavored liquid) in the ''Hard candies, others'' product category with a RACC of 15 mL. The manufacturers stated that 15 g (or 15 mL) was a more reasonable RACC than 40 g in the ''All other candies category.'' We suggested that manufacturers use a RACC of 15 g for flavored and colored powdered candies and 15 mL for syrup-filled wax liquid candies (Refs. 60 and 61). In ''Guidance for Industry: A Food Labeling Guide'' (Question L62), we listed 15 g as the suggested RACC for powdered, flavored candy and 15 mL as the suggested RACC for colored, flavored syrup-filled wax candy (Ref. 58). There are no median intake estimates for either powdered or liquid candies and the mean intake estimate for liquid candies is 13 g in the NHANES 2003–2008 surveys. Based on product label information from the Mintel database, 15 g has been used for various powdered candy products, and 20 mL has been used for wax candies. Because powdered and liquid candies are used comparably, we propose to establish RACCs of 15 g for powdered candies and 15 mL for liquid candies and to add them to the ''Hard candies, others'' product category. These are the same RACCs we suggested in 1993 that manufacturers should use, and which are listed in our ''Guidance for Industry: A Food Labeling Guide'' (Question L62) (Ref. 58). We also propose to establish a label statement ____ piece(s) (____ g) for large pieces; ____ tbsp(s) (g) for ''mini-size'' candies measurable by tbsp; ____ straw(s) (____ g) for powdered candies; ____ wax bottle(s) (____ mL) for liquid candies; and 1/2 oz (14 g/visual unit of measure) for bulk products; and

3. Add ''fruit paste and fruit chutney'' to the product category ''Honey, jams, jellies, fruit butter, molasses'' with a RACC of 1 tbsp. The new product category name would be ''Honey, jams, jellies, fruit butter, molasses, fruit paste, fruit chutney.'' The current median consumption for fruit chutney and fruit paste is similar to the 1 tbsp RACC used for the product category ''Honey, jams, jellies, fruit butter, molasses.'' Fruit chutneys and fruit pastes have similar dietary usage to jams, jellies, and fruit pastes, as all can be used to spread on breads (Ref. 51).

In the general category of ''Vegetables,'' we propose to:

1. Change the name of the product category ''Chili pepper, green onion'' to ''Fresh or canned chili peppers, jalapeno peppers, other hot peppers, green onion.'' Jalapeno pepper and other hot peppers are comparable products to chili peppers;

2. Establish a new product category for ''Dried vegetables, dried tomatoes, sun-dried tomatoes, dried mushrooms, dried seaweed'' with a RACC of 5 g, add 5 g for products packaged in oil. We also propose to establish a label statement for this product category of ''____ piece(s); ⅓ cup (____ g).'' The median intake estimate from the NHANES 2003–2008 consumption data for dried vegetables is about 2 g and 6 g for dried tomatoes. One cup of dried seaweed weighs 15 g. Dried vegetables, dried tomatoes, sun-dried tomatoes, dried mushrooms, and dried seaweed are comparable products. Sun-dried tomatoes are dried tomatoes and are often packed in oil (Ref. 51). One tsp of oil weighs about 5 g;

3. Establish a new product category ''Dried seaweed sheets'' with a RACC of 3 g. We also propose to establish a label statement for this product category of ____ piece(s) (____ g); cup(s) (____ g). Industry uses 2.5 g to 3 g per sheet, with

one sheet per serving, on the product labels and the current suggested RACC for dried seaweed sheets is 3 g in our guidance ''Guidance for Industry: A Food Labeling Guide'' (Ref. 58); and

4. Establish a new product category ''Sprouts, all types: fresh or canned'' with a RACC of 10 g. The median intake estimate from the NHANES 2003–2008 consumption data for all sprouts, is 14 g. However, because there is a large variation in the density (i.e., the gram weight per cup) for various types of sprouts, we propose to establish a RACC of ¼ cup for this new product category. We also propose a label statement for this product category of ''¼ cup (____ g).''

We also considered modifying the RACCs for burritos, pizza and sandwiches. We note that burritos, pizza, and sandwiches appear to be commonly consumed products, as demonstrated by their relatively large sample sizes in the NHANES 2003–2008 surveys. The intake distributions for burritos, pizza, and sandwiches are not considered skewed, and although the median intake estimates from the NHANES 2003–2008 consumption data for burritos, pizza, and sandwiches products are 184 g, 172 g, and 170 g, respectively, they are not significantly different from the 1993 RACC of 140 g (Refs. 46 and 50). Therefore, we are not proposing to change to the 1993 RACC. However, the median intake estimates from the NHANES 2003–2008 surveys are higher for these products compared to the median intake estimates from the NHANES 2003–2008 surveys for other comparable products (e.g., Turnovers, 142 g; other mixed dishes, 149 g) in the same product category ''Mixed dishes not measureable with cup.'' Therefore, we invite comment on whether the current RACC for these products should be increased, and if so, by what amount.

4. Products of Concern Listed in Consumer Comments—Agency Request for Information

The majority of consumer comments on the ANPRM stated that the food labels on the following foods are misleading and recommended that the serving size be increased: 20 fluid oz bottles of carbonated beverages, canned soup, snack size packages of potato chips and pretzels (e.g., salty snacks), fruit juice, microwave popcorn, canned chili, shelled nuts, iced tea, TV dinners, energy drinks, canned ravioli, 5-inch pizzas, dairy beverages, pre-packaged lunches, vending machine items, breakfast cereals, macaroni and cheese, cookies, crackers, ice cream, coffee creamer and muffins. Most of these foods did not have a change in consumption of at least 25 percent, which is a factor we consider in this rule to update the RACC. Although the proposed rule would not change the RACC for most of these products, we feel that the comments' concerns have been addressed with the proposed definition of single-serving containers and the proposed requirements for dual-column labeling. The proposed requirements would allow for products that contain less than 200 percent of the RACC to be labeled as a single-serving container and for products that contain 200 percent and up to and including 400 percent of the RACC to be labeled with dual-column labeling that would provide nutrition information per serving and per container in the Nutrition Facts label. The majority of the products of concern listed above would meet either of the proposed requirements for single-serving containers or dual-column labeling.

We invite comment on whether we should change the RACC for foods in these categories due to consumer concern of misleading label information. If so, which foods should we change? What factor(s) should we use to determine when these foods should be changed? Are there any data available to support a change in the RACCs of these foods? Additionally, to the extent that some comments may be concerned about misleading package sizes when compared to labeled serving sizes, as opposed to being concerned with the appropriate serving size for specific food products within a product category, we invite comment on whether the proposed requirements for single serving and dual-column labeling alleviate the comments' concerns.

5. Impact of Changes in RACCs on the Eligibility of Nutrient Content Claims and Health Claims

We recognize that changes to the serving size regulations, especially updating the RACCs, could affect the eligibility of individual foods to bear nutrient content claims or health claims. The amount of a nutrient that is the subject of a nutrient content claim or health claim is typically calculated on a per RACC basis. For example, for individual foods (i.e., foods that are not meal products or main dish products) that have RACCs greater than 30 g or greater than 2 tbsp, to be eligible to bear a ''low fat'' nutrient content claim, the food must meet the criterion of 3 g of total fat or less per RACC (§ 101.62(b)(2)(i)(A)). Using the health claim on intake of sodium and reduced risk of hypertension as an example, the levels of sodium in an individual food eligible to bear the claim must meet the criterion of ''low sodium'' claim under § 101.61(b)(4), which contains specific requirements respecting maximum amounts of sodium per RACC for various foods eligible to bear the claim (see § 101.74(c)(2)(ii)).

We are aware that individual foods that currently meet the requirements for certain claims based on existing RACCs may potentially become ineligible to continue to bear such claims if their RACCs change. For example, an individual food with a total fat value of 3 g of total fat per ½ cup serving may have been eligible for a ''low fat'' claim with the existing RACC, but if the RACC increases to 1 cup, the food would have a total fat value of 6 g total fat per RACC and would no longer be able to be considered ''low fat.'' Additionally, we are aware that individual foods that are currently ineligible to bear certain claims may potentially become eligible to bear such claims if their RACCs change. For example, foods that are currently ineligible for a ''good source of calcium'' claim (§ 101.54(c)) at the current RACCs may be able to meet the specific criterion in the regulations if their RACCs increased in size, causing the food to have an accompanying increase in the calcium levels per RACC. Another example is that individual foods that are currently ineligible for a ''low sodium claim'' may be able to meet the specific criterion in the regulations if their RACCs are decreased in size, causing the food to have an accompanying decrease in the sodium levels per RACC.

Other regulatory requirements for nutrient content claims and health claims are considered on a per RACC basis, and changes to the RACCs could affect the ability of foods to meet these requirements as well. For example, the levels of total fat, saturated fat, cholesterol, and sodium that trigger the need for a disclosure statement for individual foods bearing a nutrient content claim are on a per RACC and per labeled serving basis (§ 101.13(h)). The disclosure levels for most foods are 13.0 g of total fat, 4.0 g of saturated fat, 60 mg of cholesterol, and 480 mg of sodium per RACC. Foods that currently bear nutrient content claims and do not exceed the disclosure values per RACC would not need to include any disclosure statement; however, if the RACC for that food were to increase, and values for total fat, saturated fat, cholesterol, or sodium per RACC were also to increase, the food may then potentially be required to bear a disclosure statement. Further, the same levels of total fat, saturated fat, cholesterol, and sodium per RACC that trigger the need for a disclosure

statement on certain products bearing nutrient content claims, also disqualify certain foods from making any health claims (§ 101.14(a)(4)). Therefore, an increase in a RACC with an accompanying increase in nutrient value per RACC could potentially disqualify that food from bearing a health claim. To bear a health claim, foods must also generally contain a minimum of 10 percent or more of the DV for one of the following nutrients: Vitamin A, vitamin C, iron, calcium, protein, or dietary fiber per RACC (§ 101.14(e)(6)). Changes to the RACCs could affect whether a food is able to meet this requirement. An increase in a RACC could cause a food to be able to meet the minimum nutrient content requirement, while a decrease in a RACC could cause a food to have decreased nutrient values per RACC and potentially lose its' ability to bear a health claim based on minimum nutrient content requirements.

Although changes to the existing RACCs have the potential to impact individual foods' eligibility to bear nutrition claims, changes in the eligibility to bear claims may be appropriate in light of the changes in the amounts of food being customarily consumed. It is difficult to fully understand any potential impacts of changes to the RACCs on the eligibility to bear claims until such time that rulemaking for both serving sizes and updating the Nutrition Facts label are finalized. We are inviting comment on any concerns related to changes to current claims used on specific foods that will be affected if RACCs are finalized as proposed.

6. Request To Establish a New 25 g RACC for Candies Weighing 20 g or Less

As discussed in section I.D.3.e., two trade associations representing chocolate and confectionary companies jointly submitted a citizen petition (the CMA/NCA petition) to FDA. The petitioners requested that we amend the ''Sugars and Sweets'' general category by establishing a new 25 g RACC for candies (other than hard candies or baking candies) weighing 20 g or less per piece.

Because the national food consumption data (i.e., from the NHANES 2003–2008 surveys) upon which we primarily rely to establish RACCs generally does not capture data for different sizes of candy products, we cannot establish a new candy product category with a RACC of 25 g for candies weighing 20 g or less per piece, as requested in the CMA/NCA petition. NHANES is designed to provide total intake amounts per eating occasion for different types of products. If the total consumption amount of a chocolate candy bar was 100 g, we would not be able to discern whether this amount was derived from 1 large-size candy bar weighing 100 g, or from 10 mini-sized bars weighing 10 g each. Therefore, we do not have data to support basing the RACC on the weight of individual pieces of candy, as requested in the petition.

E. Establishing a New Serving Size for Breath Mints

As discussed in section I.D.3.F., we received a petition from a breath mints manufacturer requesting that we create a separate product category with a 0.5 g RACC for small breath mints (weighing 0.5 g or less). The petitioner also specified that the serving size for small breath mints should be ''one mint.'' In response to this petition, we published the 1997 breath mints proposed rule (62 FR 67775), which would require that the label serving size of products included in the product category ''Hard candies, breath mints'' be one unit. However, we determined that it would not be appropriate to establish a separate 0.5 g RACC for small breath mints because there was insufficient evidence for revising the current RACC of 2 g for breath mints. Because we are addressing issues related to the label serving size for breath mints, in conjunction with other serving size issues, in this proposed rule, we are withdrawing the 1997 breath mints proposed rule elsewhere in this issue of the **Federal Register**.

Consumption of breath mints cannot be determined using NHANES 2003–2008 consumption data, which provide the most recent national food consumption data available to us. This is because a specific category for breath mints does not exist in the FNDDS to process and analyze dietary intake data for the NHANES 2003–2008 surveys. Rather, breath mints are included as part of the large ''hard candy'' group (food code 91745020), which contains approximately 50 items. However, the reasonable consumption amount for breath mints in the FNDDS database is 2 g for one-piece breath mints. Further, based on the Mintel and Gladson databases (large commercial databases containing full product details on currently available product packages), we determined that the median estimate of the gram weight distribution of breath mints from these databases is 3 g and 2 g, respectively (Ref. 62). Therefore, we have determined that 2 g remains an appropriate RACC for the product category ''Hard candies, breath mints.''

Although the 2 g RACC for ''Hard candies, breath mints'' remains reasonable, we share concerns about the apparent inappropriateness of the resulting serving sizes on the labels of small and very small breath mints when the 2 g RACC is used to determine the serving size (e.g., 5 small breath mints or 15 very small breath mints per serving). The data submitted to us through the citizen petition suggests that these products were designed to be consumed singly or in small numbers and that consumers do, in fact, customarily consume such amounts (Docket No. FDA–1994–P–0314, formerly Docket No 94P–0168). Requiring the serving size on the label of all breath mints to be declared as one mint (or one unit) would more accurately reflect the amount customarily consumed across a wide variety of breath mint sizes that are commercially available.

Therefore, using a label statement of one unit for the serving size of all breath mints is more appropriate than declaring the serving size in terms of the number of mints closest to the 2 g RACC, because the RACC of 2 g for all breath mint products does not specifically represent the amount customarily consumed per eating occasion for small breath mints and very small breath mints. This action would allow for efficient enforcement of the FD&C Act by maintaining one subcategory in table 2 of § 101.12(b) for all breath mints, while requiring the label statement for the serving size to accurately reflect the amount customarily consumed. Thus, we are proposing to amend footnote 9 (which we are proposing to redesignate as footnote 8 in this rule) of table 2 in § 101.12(b) to state that ''Label serving size for ice cream cones, eggs, and breath mints of all sizes will be 1 unit . . .'' while keeping 2 g as the reference amount for the product category ''Hard candies, breath mints.''

F. Comparison of Calories in Foods of Different Portion Sizes

As noted in the ''Calories Count'' report (Ref. 1), the Federal Trade Commission has suggested that we consider ''allowing food marketers to make truthful, non-misleading label claims comparing foods of different portion sizes.'' An example of this type of claim would be: ''This 4 ounce container of yogurt has 25 percent less calories than our 6 ounce container of yogurt.''

In the ANPRM, we invited comment on whether it would be confusing to consumers to have claims made only on the basis of the difference in the amount

of calories in two different labeled serving sizes (i.e., the serving size specified in two different Nutrition Facts labels (e.g., an 8 fl oz can of soda versus a 12 fl oz can of soda) or two different portions (i.e., amounts specified by the claim, e.g., one 15 g cookie versus two 15 g cookies) of the same food. We also invited comment on other questions related to this issue, but we received no comments on these other issues.

Several comments indicated that we should not allow comparison of calories to be made among foods of different portion sizes as this would increase confusion. Some comments suggested that we increase consumer education on serving sizes instead. Other comments noted that basing differences in calories on two different label servings or two different portions would be confusing to consumers and serve no constructive purpose. One comment noted that calorie claims would probably be confusing to consumers on bulk-type packages, where consumers portion out their own serving. However, this comment noted that if claims were made on single-serving containers, where portion size is determined by the manufacturer, they could be less confusing and more helpful to consumers. The comment stated that calorie differences between choosing an 8 fl oz can of soda versus a 12 fl oz can of soda could be more apparent to consumers if comparison claims were allowed.

We agree with the comments that stated consumer education on serving sizes should be increased. We consider it appropriate to provide consumers with education and outreach on serving size issues and will consider appropriate education methods after publication of this proposed rule. At this time, we do not see the need to propose specific regulations for the use of calorie comparison claims, because our current regulations do not expressly prohibit such claims. In fact, § 101.13(i) allows for the use of quantitative nutrient content claims that allow for statements about the amount or percentage of a nutrient. We also note that under section 403(a) of the FD&C Act, a food is deemed misbranded if its labeling is deemed false or misleading in any particular. As such, we would look at any calorie comparison claims on a case-by-case basis to determine if they were false or misleading as used in the particular labeling.

G. Technical Amendments

1. Rounding Rules for Products That Have More Than Five Servings and the Number of Servings Falls Exactly Between Two Values

Section 101.9(b)(8)(i) does not state how to round the number of servings for products that contain five or more servings when the number of servings falls exactly between two values. To provide clarity to manufacturers whose products have a number of servings that falls exactly between two values and is greater than five, proposed § 101.9(b)(8)(i) would add that ''For containers that contain greater than 5 servings, if the number of servings determined from the procedures provided in this section falls exactly halfway between two allowable declarations, the manufacturer must round the number of servings up to the nearest incremental size.''

2. Options for When the Number of Servings per Container Varies

Section 101.9(b)(8)(iii) states that, for random weight products, a manufacturer may declare ''varied'' for the number of servings per container provided the nutrition information is based on the reference amount expressed in ounces. In addition, the manufacturer may provide the typical number of servings in parenthesis following the ''varied'' statement, e.g., ''varied (about 6 servings).'' We intended that the term ''random weight product'' refer to products such as certain cheeses that are sold as random weights that vary in size, such that the net contents for different packages would vary (56 FR 60394 at 60412). The serving size for this type of product would be declared on the label as the number of ounces closest to the RACC for the product category with an accompanying visual unit of measure (§ 101.9(b)(5)(iii) (e.g., ''1 oz (28 g/1-inch cube) for bulk cheese)).''

We have identified several difficulties with § 101.9(b)(8)(iii) because: (1) There is no clear definition for which specific products are included in the designation of ''random weight products;'' (2) the requirement that nutrition information be based on the RACC expressed in ounces is confusing because, although serving sizes may be declared in ounces under certain occasions, none of the RACCs are expressed in ounces; (3) the ounce declaration is the last option in the hierarchy of household measures for expressing the serving size (§ 101.9(b)(5)(i), (b)(5)(ii), and (b)(5)(iii)); and (4) it would not necessarily be appropriate for all random weight products to list the serving size in ounces. For example, for a random-weight, multi-serving package of cooked shrimp or crabs, it would be more appropriate to declare the serving size as ''____ shrimp (____ g)'' or ''1 crab (____ g),'' and the number of servings would vary depending on the amount of shrimp or number of crabs in the package.

To resolve these difficulties, we propose to amend § 101.9(b)(8)(iii) to: (1) Define ''random-weight products;'' and (2) eliminate the wording that specifies that the nutrition information is based on the reference amount expressed in ounces. The proposed rule would define random weight products as ''foods such as cheeses that are sold as random weights that vary in size, such that the net contents for different containers would vary.''

3. Minor Corrections to General and Product Category Names

We propose to make minor changes to the names of certain general categories and product categories to clarify the products contained in the category, and to correct minor errors in these categories. The proposed rule would:

- Change the name of the general category ''Egg and Egg Sustitutes'' to ''Egg and Egg Substitutes'' to correct the error in the current spelling;
- Change the general category name ''Miscellaneous Category'' to ''Miscellaneous'' to be consistent with the manner in which the other general category names are titled;
- In the general category of ''Sauces, Dips, Gravies, and Condiments,'' add ''tomato chili sauce'' to the product category name ''Barbeque sauce, hollandaise sauce, tartar sauce, other sauces for dipping (e.g., mustard sauce, sweet and sour sauce), all dips (e.g., bean dips, dairy-based dips, salsa).'' Tomato chili sauce was included in the initial data analysis for this category, but was accidentally omitted from the category name in the codified text of the 1993 serving size rule. The modified product category would help clarify that although hot chili sauce belongs with hot sauces in the ''Minor condiments, e.g., hot sauce . . .'' category, tomato chili belongs in the ''Barbecue sauce, . . . tomato chili sauce . . .'' category;
- Also in the general category of ''Sauces, Dips, Gravies, and Condiments,'' correct an error in the product category name ''Minor condiments, e.g., horseradish, hot sauces, mustards, worcestershire sauce.'' The new product category name would be ''Minor condiments, e.g., horseradish, hot sauces, mustards, Worcestershire sauce.'' ''Worcestershire'' should be capitalized

in the category name and is currently listed in lower case;

• In the general category of ''Snacks,'' correct three errors in the product category name ''All varieties, chips, pretzels, popcorns, extruded snacks, fruit-based snacks (e.g., fruit chips,) grain-based snack mixes.'' First, there is a comma listed in the parenthesis as follows ''(fruit chips,)'' that should be listed outside of the parenthesis as follows ''(fruit chips),''. Second, the product category name ''Fruit-based snacks'' should be changed to ''fruit and/or vegetable-based snacks'', since these products can be made from fruits and/or vegetables. Finally, the word ''popcorns'' should be corrected to be written as ''popcorn'';

• In the general category of ''Vegetables,'' clarify the products that are encompassed in the product category ''Pickles, all types'' by renaming the product category to read as ''Pickles and pickled vegetables, all types.'' The current product category of ''Pickles, all types'' includes all types of pickled vegetables. This minor change will clarify this fact and should help manufacturers more easily locate the appropriate product category for these types of products;

• Also in the general category of ''Vegetables,'' clarify that parsley (an example of an herb used for garnish or flavor) can be in fresh or dried form in the product category ''Vegetables primarily used for garnish or flavor, e.g., pimento, parsley.'' The new product category name would be ''Vegetables primarily used for garnish or flavor, (e.g., pimento, parsley, fresh or dried);'' and

• Change the product category ''Toaster pastries—see coffee cakes'' to ''Toaster pastries—see bagels, toaster pastries, muffins (excluding English muffins)'' because we have proposed to move toaster pastries to a new product category labeled ''Bagels, toaster pastries, muffins (excluding English muffins).''

4. Minor Changes to Footnotes

We are aware of several areas of minor confusion in the footnotes to the RACC tables. Therefore, to reduce misunderstanding, we propose the following minor changes to the footnotes:

• As discussed in section I.D.2 in this proposed rule, both the 1991 serving size proposed rule and the 1993 serving size final rule provided an extensive list of products for each product category that manufacturers could use to determine the RACC for their specific product. Because we intend to update the list of products for each product category and make it available as guidance on our Web site, we are proposing to remove footnote 4 from both tables in § 101.12(b). We are also proposing to renumber the footnotes in each table to reflect the removal of footnote 4.

• Footnote 5 in tables 1 and 2 states that ''[t]he label statements are meant to provide guidance to manufacturers on the presentation of serving size information on the label, but they are not required.'' Several manufacturers have interpreted this language incorrectly to mean that the label statements are not required. Because label statements do not necessarily have to use the exact wording provided, but must contain a presentation of the serving size, the proposed rule would correct footnote 5 (proposed footnote 4) to state that label statements are meant to provide examples of serving size statements that may be used on the label, but that the specific wording may be changed as appropriate for individual products.

• Footnote 11 in Table 2 refers to products that are packed or canned in liquid where the RACC refers to the drained solids. The footnote is included as part of the declaration for ''Fruits for garnish or flavor, e.g., maraschino cherries.[11] '' The footnote was inadvertently omitted from the declaration for the current product category ''Vegetables primarily used for garnish or flavor, e.g., pimento, parsley,'' and the proposed rule would add the footnote (proposed Footnote 10) as a superscript to the word ''pimento.''

• Footnote 13 in Table 2 refers the reader to a **Federal Register** document for label statements for serving sizes for raw fruit, vegetables, and fish. Because it is more appropriate to direct the reader to the appendices of the Code of Federal Regulations, we are proposing to amend footnote 13 (proposed footnote 12) to refer the reader to the appendices of the Code of Federal Regulations.

5. Minor Changes to Table 1 in 21 CFR 101.12(b)

• Change the title of Table 1 from ''Reference Amounts Customarily Consumed Per Eating Occasion: Infant and Toddler Foods'' to ''Reference Amounts Customarily Consumed Per Eating Occasion: Foods for Infants and Children 1 through 3 years of age.''

• Change the product category name ''Dinners, stews or soups for toddlers, ready-to-serve'' to ''Dinners, stews or soups for young children, ready-to-serve.''

• Change the product category name ''Fruits for toddlers, ready-to-serve'' to ''Fruits for young children, ready-to-serve.''

• Change the product category name ''Vegetables for toddlers, ready-to-serve'' to ''Vegetables for young children, ready-to-serve.''

6. Minor Changes to Table 2 in 21 CFR 101.12(b)

• Add ''____ pieces (____ g)'' to the label statement for the ''Fruits for garnish or flavor, e.g., maraschino cherries'' to provide for other fruits besides cherries that can be used as a garnish or for flavor.

• Amend the RACC for the ''French fries, hash browns, skins or pancakes'' product category to: ''70 g prepared; 85 g for frozen unprepared French fries''. This amendment is necessary to capitalize the ''f'' in ''french fries.''

• Amend the product category name ''Bean cake (tofu), tempeh'' to ''Tofu, tempeh.''

7. Reference Amounts for Products That Require Further Preparation

Section 101.12(c)(2) states that: ''For products where the entire contents of the package is used to prepare one large discrete unit usually divided for consumption, the reference amount for the unprepared product shall be the amount of the unprepared product required to make the fraction of the large discrete unit closest to the reference amount for the prepared product as established in paragraph (b) of this section.''

This provision allows the RACC to vary based on how the product is packaged. Although the serving size routinely varies depending upon the size of the product and how the product is packaged, the RACC, which is the basis for claims, should not vary. Therefore, the proposed rule would change the definition of the reference amount for products that require further preparation in which the entire contents of the package are used to prepare one large discrete unit usually divided for consumption. Proposed § 101.12(c) would state that if a product requires further preparation, e.g., cooking or the addition of water or other ingredients, and if paragraph (b) of this section provides a reference amount for the product in the prepared form, but not the unprepared form, then the reference amount for the unprepared product must be the amount of the unprepared product required to make the reference amount for the prepared product as established in paragraph (b) of this section. The serving size would remain the same as described in § 101.9(b)(2)(ii).

8. Reference Amount for Combined Products Consisting of Two or More Separate Foods That Are Packaged Together and Are Intended To Be Eaten Together and That Have No Reference Amount for the Combined Product

Section 101.12(f) establishes the approach for determining the reference amount for combined products consisting of two or more separate foods, packaged together and intended to be eaten together, that have no established reference amount in the tables for the combined product. For combined products not in discrete units (e.g., peanut butter and jelly), the reference amount for the combined product is the reference amount for the ingredient that is represented as the main food (e.g., peanut butter) plus a proportioned amount of all minor ingredients of foods (e.g., jelly) (§ 101.12(f)(1)). For combined products where the main ingredient is in discrete units (e.g., pancakes and syrup, cake packaged together with frosting), the reference amount for the combined product is either the number of small discrete units (e.g., pancakes) or the fraction of the large discrete unit (e.g., cake) that is represented as the main ingredient that is closest to the reference amount for that ingredient plus proportioned amounts of all minor ingredients (e.g., syrup, frosting) (§ 101.12(f)(2)).

Although the serving size for this type of product varies depending on the size of the product or how the product is packaged, the RACC, which is the basis for claims, should not vary. Section 101.12(f) allows the RACCs to vary based on the size of the discrete units. For example, for combined products with the main ingredient in discrete units (e.g., pancakes packaged with syrup where pancakes are the main ingredient), the current regulation requires that the RACC for the combined product be based on the weight of the discrete units (e.g., the weight of the pancakes) which varies, rather than on the reference amount for pancakes, which does not vary.

Therefore, the proposed rule would change the definition of the RACC for this type of product in proposed § 101.12(f) so that it will not affect the serving size declaration on the label. The proposed rule would state that the reference amount for the combined products must be the reference amount, as established in paragraph (b) of this section, for the ingredient that is represented as the main ingredient (e.g., peanut butter, pancakes, cakes) plus proportioned amounts of all minor ingredients. The serving size would remain the number of discrete units (e.g., pancakes) or the fraction of a large discrete unit (e.g., cake) plus the proportioned minor ingredients closest to the RACC of the combined product.

9. Reference Amounts for Varieties or Assortments of Foods in Gift Packages That Have No Appropriate Reference Amount

Section 101.9(h)(3)(ii) establishes the procedure for determining the serving size for varieties or assortments of foods in gift packages where there is no appropriate reference amount. The current language in § 101.9(h)(3)(ii) states that 8 fluid ounces may be used as the standard serving size for beverage varieties or assortments in gift packages. We are proposing conforming amendments to this section to state that 12 fluid ounces should be used as the standard serving size for beverages, except that the standard serving size for milk, fruit juices, nectars and fruit drinks will be based on 8 fluid ounces. This change is consistent with the changes to the RACCs discussed in section II.D.2 of this rule. We are proposing to change the RACCs for the ''Carbonated and noncarbonated beverages, wine coolers, water'' and ''Coffee or tea flavored and sweetened'' product categories to 360 mL (or 12 fluid ounces). We are not proposing to change the RACC for milk, fruit juices, nectars, fruit drinks, and vegetable juices, which currently have RACCs of 240 mL or (8 fluid ounces).

III. Proposed Effective and Compliance Dates

We intend that any final rule resulting from this rulemaking, as well as any final rule resulting from the proposed rule entitled ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' become effective 60 days after the date of the final rule's publication in the **Federal Register** with a compliance date 2 years after the effective date. We recognize that it may take industry time to analyze products for which there may be new mandatory nutrient declarations, make any required changes to the Nutrition Facts label (which may be coordinated with other planned label changes), review and update their records of product labels and print new labels. A compliance date that is 2 years after the effective date is intended to provide industry time to revise labeling to come into compliance with the new labeling requirements. We invite comment on the proposed compliance date.

IV. Environmental Impact

We have determined under 21 CFR 25.30(i) and (k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

V. Analysis of Impacts

We have examined the impacts of this proposed rule under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act (5 U.S.C. 601–612), the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520).

Executive Orders 12866 and 13563 direct us to assess all 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, and other advantages; distributive impacts; and equity). We are publishing two proposed rules on nutrition labeling in the **Federal Register**. We have developed one comprehensive Preliminary Regulatory Impact Analysis (PRIA) (Ref. 63) that presents the benefits and costs of the two proposed nutrition labeling rules taken together; the PRIA is available at *http://www.regulations.gov* (Docket No. FDA–2004–N–0258). The full economic impact analyses of FDA regulations are no longer (as of April 2012) published in the **Federal Register** but are submitted to the docket and are available on this site. We believe that the cumulative impact of the proposed rules on nutrition labeling, taken as a whole, represents a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Additional costs per entity of the proposed rule are small, but not negligible, and as a result we conclude that the proposed rules on nutrition labeling, taken as a whole, would have a significant economic impact. Section 202(a) of the Unfunded Mandates Reform Act of 1995 requires that we prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more

(adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $141 million, using the most current (2012) Implicit Price Deflator for the Gross Domestic Product. We have determined that the proposed rules on nutrition labeling, taken as a whole, meet this threshold.

The analyses that we have performed to examine the impacts of the proposed rules under Executive Order 12866, Executive Order 13563, the Regulatory Flexibility Act, and the PRA (see Section V.) are included in the PRIA and are available at *http://www.regulations.gov* (Docket No. FDA–2004–N–0258). We invite comments on the PRIA.

VI. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the PRA. A description of these provisions is given in the PRIA available at *http://www.regulations.gov* (Docket No. FDA–2004–N–0258) with an estimate of the annual third-party disclosure burden. Included in the burden estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

We invite comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

To ensure that comments on information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the title ''Third-Party Disclosure Requirements for Serving Sizes of Foods That Can Reasonably Be Consumed At One-Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments.''

In compliance with the PRA, we have submitted the information collection provisions of this proposed rule to OMB for review. These requirements will not be effective until we obtain OMB approval. We will publish a notice concerning OMB approval of these requirements in the **Federal Register**.

VII. Federalism

We have analyzed this proposed rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive Order requires agencies to ''construe . . . a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.''

Section 403A of the FD&C Act (21 U.S.C. 343–1) is an express preemption provision. Section 403A(a) of the FD&C Act provides that: ''. . . no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—(4) any requirement for nutrition labeling of food that is not identical to the requirement of section 403(q) . . . .''

The express preemption provision of section 403A(a) of the FD&C Act does not preempt any State or local requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food (section 6(c)(2) of the Nutrition Labeling and Education Act of 1990, Public Law 101–535, 104 Stat. 2353, 2364 (1990)).

If this proposed rule is made final, the final rule would create requirements that fall within the scope of section 403A(a) of the FD&C Act.

VIII. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

IX. References

We have placed the following references on display in FDA's Division of Dockets Management (see **ADDRESSES**). The references may be seen between 9 a.m. and 4 p.m., Monday through Friday. (We have verified all the Web site addresses in the References section, but we are not responsible for any subsequent changes to the Web sites after this document publishes in the **Federal Register**.)

1. Report of the Working Group on Obesity, ''Calories Count,'' March 12, 2004.
2. Lando, A. M., J. Labiner-Wolfe. ''Helping Consumers Make More Healthful Food Choices: Consumer Views on Modifying Food Labels and Providing Point-of-Purchase Nutrition Information at Quick-Service Restaurants,'' *Journal of Nutrition Education and Behavior,* 39:157–63, 2007.
3. U.S. Department of Health and Human Services, National Institutes of Health, National Heart Lung and Blood Institute, ''Portion Distortion! Do You Know How Food Portions Have Changed in 20 Years?'' *http://www.nhlbi.nih.gov/health/public/heart/obesity/wecan/portion/index.htm* 2004.
4. Young, L. R., M. Nestle. ''Expanding Portion Sizes in the US Marketplace: Implications for Nutrition Counseling,'' *Journal of the American Dietetic Association,* 103:231–4, 2003.
5. Smiciklas-Wright, H., D. Mitchell, S. Mickle, J. Goldman, A. Cook. ''Foods Commonly Eaten in the United States, 1989–1991 and 1994–1996: Are Portion Sizes Changing?,'' *Journal of the American Dietetic Association,* 103:41–7, 2003.
6. Nielsen, S., B. Popkin. ''Patterns and trends in food portion sizes, 1977–1998,'' *The Journal of the American Medical Association,* 289:450–3, 2003.
7. U.S. Department of Agriculture and U.S. Department of Health and Human Services. Dietary Guidelines for Americans, 2010. 7th Edition, Washington, DC: U.S. Government Printing Office, December 2010. *http://www.cnpp.usda.gov/DGAs2010-PolicyDocument.htm*.
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List of Subjects in 21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 101 be amended as follows:

PART 101—FOOD LABELING

■ 1. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: 15 U.S.C. 1453, 1454, 1455; 21 U.S.C. 321, 331, 342, 343, 348, 371; 42 U.S.C. 243, 264, 271.

■ 2. Section 101.9 is amended as follows:

■ a. Revise paragraph (b)(2)(i)(D);

■ b. Remove paragraph (b)(2)(i)(E) and redesignate paragraphs (b)(2)(i)(F) through (b)(2)(i)(I), respectively, as paragraphs (b)(2)(i)(E) through (b)(2)(i)(H), respectively;

■ c. Revise paragraphs (b)(6), (b)(8)(i), and (b)(8)(iii);

■ d. Add paragraph (b)(12).

■ e. Revise paragraph (h)(3)(ii)

The revisions read as follows:

§ 101.9 Nutrition labeling of food.

* * * * *

(b) * * *

(2) * * *

(i) * * *

(D) If a unit weighs at least 200 percent and up to and including 400 percent of the applicable reference amount, the manufacturer must provide an additional column within the Nutrition Facts label that lists the quantitative amounts and percent Daily Values for the individual unit, as well as the preexisting columns listing the quantitative amounts and percent Daily Values for a serving that is less than the unit (i.e., the serving size derived from the Reference Amount Customarily Consumed (RACC)). The first column would be based on the serving size for the product and the second column would be based on the individual unit. The exemptions in paragraphs (b)(12)(i)(A), (b)(12)(i)(B), and (b)(12)(i)(C) of this section apply to this provision.

* * * * *

(6) A product that is packaged and sold individually and contains less than 200 percent of the applicable reference amount must be considered to be a single-serving container, and the entire content of the product must be labeled as one serving.

* * * * *

(8) * * *

(i) The number of servings must be rounded to the nearest whole number except for the number of servings between 2 and 5 servings and random weight products. The number of servings between 2 and 5 servings must be rounded to the nearest 0.5 serving. Rounding should be indicated by the use of the term *about* (e.g., about 2 servings, about 3.5 servings). For containers that contain greater than 5 servings, if the number of servings determined from the procedures provided in this section falls exactly halfway between two allowable declarations, the manufacturer must round the number of servings up to the nearest incremental size.

* * * * *

(iii) For random weight products, manufacturers may declare ''varied'' for the number of servings per container provided the nutrition information is based on the reference amount expressed in the appropriate household measure based on the hierarchy described in paragraph (b)(5) of this section. Random weight products are foods such as cheeses that are sold as random weights that vary in size, such that the net contents for different containers would vary. The manufacturer may provide the typical number of servings in parenthesis following the ''varied'' statement.

* * * * *

(12)(i) Products that are packaged and sold individually and contain at least 200 percent and up to and including 400 percent of the applicable reference amount must provide an additional column within the Nutrition Facts label that lists the quantitative amounts and percent Daily Values for the entire container, as well as the preexisting columns listing the quantitative amounts and percent Daily Values for a serving that is less than the entire container (i.e., the serving size derived from the reference amount). The first column would be based on the serving size for the product and the second column would be based on the entire contents of the container.

(A) This provision does not apply to products that meet the requirements to use the tabular format in paragraph (j)(13)(ii)(A)(*1*) of this section or to products that meet the requirements to use the linear format in paragraph (j)(13)(ii)(A)(*2*) of this section.

(B) This provision does not apply to bulk products that are used primarily as ingredients (e.g., flour, sweeteners, shortenings, oils), or bulk products traditionally used for multi-purposes (e.g., eggs, butter, margarine), and multipurpose baking mixes.

(C) This provision does not apply to products that require further preparation and provide an additional column of nutrition information under paragraph (e) of this section, or products that are commonly consumed in combination with another food and provide an additional column of nutrition information under paragraph (e) of this section.

(ii) When a nutrient content claim or health claim is made on the label of a product that uses a dual column as required in paragraphs (b)(12)(i) and (b)(2)(i)(D) of this section, the claim must be followed by a statement that sets forth the basis on which the claim is made. The statement must express the amount of the nutrient in a serving (e.g., ''good source of calcium'' ''a serving of ____ oz of this product contains ____ mg of calcium'' or for a health claim ''A serving of ____ ounces of this product conforms to such a diet''). However, if the serving size declared on the product label differs from the RACC, and the amount of the nutrient contained in the labeled serving does not meet the maximum or minimum amount criterion in the definition for the descriptor for that nutrient, the claim must be followed by the criteria for the claim as required by § 101.12(g) of this chapter. This statement is not required for products when the nutrient that is the subject of the claim meets the criteria based on the entire container amount or the unit amount, as applicable.

* * * * *

(h) * * *

(3) * * *

(ii) In the absence of a reference amount customarily consumed in § 101.12(b) that is appropriate for the variety or assortment of foods in a gift package, 1 ounce for solid foods, 2 fluid ounces for nonbeverage liquids (e.g., syrups), and 12 fluid ounces for beverages, except that milk and fruit juices, nectars and fruit drinks, which will be based on 8 fluid ounces, may be used as the standard serving size for purposes of nutrition labeling of foods subject to this paragraph. However, the reference amounts customarily consumed in § 101.12(b) shall be used for purposes of evaluating whether individual foods in a gift package qualify for nutrient content claims or health claims.

* * * * *

■ 3. Section 101.12 is amended as follows:

■ a. In paragraph (b), revise tables 1 and 2.

■ b. Revise paragraphs (c) and (f)(1), remove paragraph (f)(2), redesignate paragraph (f)(3) as paragraph (f)(2), and revise newly redesignated paragraph (f)(2).

The revisions read as follows:

§ 101.12 Reference amounts customarily consumed per eating occasion.

* * * * *

(b) * * *

TABLE 1—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: FOODS FOR INFANTS AND CHILDREN 1 THROUGH 3 YEARS OF AGE [2] [3]

Product category	Reference Amount	Label statement [4]
Cereals, dry instant	15 g	____ cup (____ g).
Cereals, prepared, ready-to-serve	110 g	____ cup(s) (____ g).
Other cereal and grain products, dry ready-to-eat, e.g., ready-to-eat cereals, cookies, teething biscuits, and toasts.	7g for infants and 20 g for young children (1 through 3 years of age) for ready-to-eat cereals; 7 g for all others.	____ cup(s) (____ g) for ready-to-eat cereals; ____ piece(s) (____ g) for others.
Dinners, deserts, fruits, vegetables or soups, dry mix	15 g	____ tbsp(s) (____ g); ____ cup(s) (____ g).
Dinners, desserts, fruits, vegetables or soups, ready-to-serve, junior type.	110 g	____ cup(s) (____ g); cup(s) (____ mL).
Dinners, desserts, fruits, vegetables or soups, ready-to-serve, strained type.	110 g	____ cup(s) (____ g); cup(s) (mL).
Dinners, stews or soups for young children, ready-to-serve	170g	____ cup(s) (____ g); cup(s) (____ mL).
Fruits for young children, ready-to-serve	125 g	____ cup(s) (____ g).
Vegetables for young children, ready-to-serve	70 g	____ cup(s) (____ g).
Eggs/egg yolks, ready-to serve	55 g	____ cup(s) (____ g).
Juices, all varieties	120 mL	4 fl oz (120 mL).

[1] These values represent the amount of food customarily consumed per eating occasion and were derived primarily from the 1977–1978 and the 1987–1988 Nationwide Food Consumption Surveys conducted by the U.S. Department of Agriculture and updated with data from the National Health and Nutrition Examination Survey, 2003–2004, 2005–2006, and 2007–2008 conducted by the Centers for Disease Control and Prevention, in the U.S. Department of Health and Human Services.

[2] Unless otherwise noted in the Reference Amount column, the reference amounts are for the ready-to-serve or almost ready-to-serve form of the product (i.e., heat and serve, brown and serve). If not listed separately, the reference amount for the unprepared form (e.g., dry mixes; concentrates; dough; batter; fresh and frozen pasta) is the amount required to make the reference amount of the prepared form. Prepared means prepared for consumption (e.g., cooked).

[3] Manufacturers are required to convert the reference amount to the label serving size in a household measure most appropriate to their specific product using the procedures in 21 CFR 101.9(b).

[4] The label statements are meant to provide examples of serving size statements that may be used on the label, but the specific wording may be changed as appropriate for individual products. The term ''piece'' is used as a generic description of a discrete unit. Manufacturers should use the description of a unit that is most appropriate for the specific product (e.g., sandwich for sandwiches, cookie for cookies, and bar for frozen novelties).

TABLE 2—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1] [2] [3]

Product category	Reference amount	Label statement [4]
Bakery Products:		
Bagels, toaster pastries, muffins (excluding English muffins).	110 g	____ piece(s) (____ g).
Biscuits, croissants, tortillas, soft bread sticks, soft pretzels, corn bread, hush puppies, scones, crumpets, English muffins.	55 g	____ piece(s) (____ g).
Breads (excluding sweet quick type), rolls	50 g	____ piece(s) (____ g) for sliced bread and distinct pieces (e.g., rolls); 2 oz (56 g/ ____ inch slice) for unsliced bread.
Bread sticks—see crackers.		
Toaster pastries—see bagels, toaster pastries, muffins (excluding English muffins).		
Brownies	40 g	____ piece(s) (____ g) for distinct pieces; fractional slice (____ g) for bulk.
Cakes, heavy weight (cheese cake; pineapple upside-down cake; fruit, nut and vegetable cakes with more than or equal to 35 percent of the finished weight as fruit, nuts, or vegetables or any of these combinations) [5].	125 g	____ piece(s) (____ g) for distinct pieces (e.g., sliced or individually packaged products); ____ fractional slice (____ g) for large discrete units.

TABLE 2—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1] [2] [3]—Continued

Product category	Reference amount	Label statement [4]
Cakes, medium weight (chemically leavened cake with or without icing or filling except those classified as light weight cake; fruit, nut, and vegetable cake with less than 35 percent of the finished weight as fruit, nuts, or vegetables or any of these combinations; light weight cake with icing; Boston cream pie; cupcake; eclair; cream puff) [6].	80 g	____ piece(s) (____ g) for distinct pieces (e.g., cupcake); ____ fractional slice (____ g) for large discrete units.
Cakes, light weight (angel food, chiffon, or sponge cake without icing or filling) [7].	55 g	____ piece(s) (____ g) for distinct pieces (e.g., sliced or individually packaged products); ____ fractional slice (____ g) for large discrete units.
Coffee cakes, crumb cakes, doughnuts, Danish, sweet rolls, sweet quick type breads.	55 g	____ piece(s) (____ g) for sliced bread and distinct pieces (e.g., doughnut); 2 oz (56 g/visual unit of measure) for bulk products (e.g., unsliced bread).
Cookies	30 g	____ piece(s) (____ g).
Crackers that are usually not used as snack; melba toast, hard bread sticks, ice cream cones [8].	15 g	____ piece(s) (__ g).
Crackers that are usually used as snacks	30 g	____ piece(s) (____ g).
Croutons	7 g	____ tbsp(s) (____ g); ____ cup(s) (____ g); ____ piece(s) (____ g) for large pieces.
Eggroll, dumpling, wonton, or potsticker wrappers	20 g	____ sheet (g); wrapper (g).
French toast, crepes, pancakes, variety mixes	110 g prepared for French toast, crepes, and pancakes; 40 g dry mix for variety mixes.	____ piece(s) (____ g); ____ cup(s) (____ g) for dry mix.
Grain-based bars with or without filling or coating, e.g., breakfast bars, granola bars, rice cereal bars.	40 g	____ piece(s) (____ g).
Ice cream cones—see crackers.		
Pies, cobblers, fruit crisps, turnovers, other pastries	125 g	____ piece(s) (____ g) for distinct pieces; ____ fractional slice (____ g) for large discrete units.
Pie crust, pie shells, pastry sheets, (e.g., phyllo, puff pastry sheets).	the allowable declaration closest to an 8 square inch surface area.	____ fractional slice(s) (____ g) for large discrete units; ____ shells (____ g); ____ fractional ____ sheet(s) (____ g) for distinct pieces (e.g., Pastry sheet).
Pizza crust	55 g	____ fractional slice (____ g).
Taco shells, hard	30 g	____ shell(s) (____ g).
Waffles	85 g	____ piece(s) (____ g).
Beverages:		
Carbonated and noncarbonated beverages, wine coolers, water.	360 mL	12 fl oz (360 mL).
Coffee or tea, flavored and sweetened	360 mL prepared	12 fl oz (360 mL).
Cereals and Other Grain Products:		
Breakfast cereals (hot cereal type), hominy grits	1 cup prepared; 40 g plain dry cereal; 55 g flavored, sweetened cereal.	____ cup(s) (____ g).
Breakfast cereals, ready-to-eat, weighing less than 20 g per cup, e.g., plain puffed cereal grains.	15 g	____ cup(s) (____ g).
Breakfast cereals, ready-to-eat, weighing 20 g or more but less than 43 g per cup; high fiber cereals containing 28 g or more of fiber per 100 g.	30 g	____ cup(s) (____ g).
Breakfast cereals, ready-to-eat, weighing 43 g or more per cup; biscuit types.	55 g	____ piece(s) (____ g) for large distinct pieces (e.g., biscuit type);____ cup(s) (____ g) for all others.
Bran or wheat germ	15 g	____ tbsp(s) (____ g); ____ cup(s) (____ g).
Flours or cornmeal	30 g	____ tbsp(s) (____ g); ____ cup(s) (____ g).
Grains, e.g., rice, barley, plain	140 g prepared; 45 g dry	____ cup(s) (____ g).
Pastas, plain	140 g prepared; 55 g dry	____ cup(s) (____ g); ____ piece(s) (____ g) for large pieces (e.g., large shells or lasagna noodles) or 2 oz (56 g/visual unit of measure) for dry bulk products (e.g., spaghetti).
Pastas, dry, ready-to-eat, e.g., fried canned chow mein noodles.	25 g	____ cup(s) (____ g).
Starches, e.g., cornstarch, potato starch, tapioca, etc	10 g	____ tbsp (____ g).
Stuffing	100 g	____ cup(s) (____ g).
Dairy Products and Substitutes:		
Cheese, cottage	110 g	____ cup (____ g).

TABLE 2—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1] [2] [3]—Continued

Product category	Reference amount	Label statement [4]
Cheese used primarily as ingredients, e.g., dry cottage cheese, ricotta cheese.	55 g	____ cup (____ g).
Cheese, grated hard, e.g., Parmesan, Romano	5 g	____ tbsp (____ g).
Cheese, all others except those listed as separate categories—includes cream cheese and cheese spread.	30 g	____ piece(s) (____ g) for distinct pieces;____ tbsp(s) (____ g) for cream cheese and cheese spread; 1 oz (28 g/visual unit of measure) for bulk.
Cheese sauce—see sauce category.		
Cream or cream substitutes, fluid	15 mL	1 tbsp (15 mL).
Cream or cream substitutes, powder	2 g	____ tsp (____ g).
Cream, half & half	30 mL	2 tbsp (30 mL).
Eggnog	120 mL	1/2 cup (120 mL); 4 fl oz (120 mL).
Milk, condensed, undiluted	30 mL	2 tbsp (30 mL).
Milk, evaporated, undiluted	30 mL	2 tbsp (30 mL).
Milk, milk-substitute beverages, milk-based drinks, e.g., instant breakfast, meal replacement, cocoa, soy beverage.	240 mL	1 cup (240 mL); 8 fl oz (240 mL).
Shakes or shake substitutes, e.g., dairy shake mixes, fruit frost mixes.	240 mL	1 cup (240 mL); 8 fl oz (240 mL).
Sour Cream	30 g	____ tbsp (____ g).
Yogurt	170 g	____ cup (____ g).
Desserts:		
Ice cream, ice milk, frozen yogurt, sherbet, frozen flavored and sweetened ice, frozen fruit juices: all types bulk.	1 cup	1 cup (____ g).
Ice cream, ice milk, frozen yogurt, sherbet, frozen flavored and sweetened ice and pops, frozen fruit juices: all types novelties (e.g., bars, sandwiches, cones, cups).	½ cup—includes the volume for coatings and wafers.	____ piece(s) (____ g) for individually wrapped or packaged products; ____ cup(s) (____ g) for others.
Sundae	1 cup	1 cup (____ g).
Custards, gelatin, or pudding	½ cup prepared; Amount to make ½ cup prepared when dry.	____ piece(s) (____ g) for distinct unit (e.g., individually packaged products); ½ cup (____ g) for bulk.
Dessert Toppings and Fillings:		
Cake frostings or icings	2 tbsp	____ tbsp(s) (____ g).
Other dessert toppings, e.g., fruits, syrups, spreads, marshmallow cream, nuts, dairy and non-dairy whipped toppings.	2 tbsp	2 tbsp (____ g); 2 tbsp (30 mL).
Pie fillings	85 g	____ cup(s) (____ g).
Egg Whites and Egg Substitutes:		
Egg mixtures, e.g., egg foo young, scrambled eggs, omelets.	110 g	____ piece(s) (____ g) for discrete pieces; ____ cup(s) (____ g).
Eggs (all sizes)	50 g	1 large, medium, etc. (____ g).
Egg whites, sugared eggs, sugared egg yolks, and egg substitutes (fresh, frozen, dried).	An amount to make 1 large (50 g) egg.	____ cup(s) (____ g); ____ cup(s) (____ mL).
Fats and Oils:		
Butter, margarine, oil, shortening	1 tbsp	1 tbsp (____ g); 1 tbsp (15 mL).
Butter replacement, powder	2 g	____ tsp(s) (____ g).
Dressings for salads	30 g	____ tbsp (____ g); ____ tbsp (____ mL).
Mayonnaise, sandwich spreads, mayonnaise-type dressings.	15 g	____ tbsp (____ g).
Spray types	0.25 g	About ____ seconds spray (____ g).
Fish, Shellfish, Game Meats [9], and Meat or Poultry Substitutes:		
Bacon substitutes, canned anchovies [10], anchovy pastes, caviar.	15 g	____ piece(s) (____ g) for discrete pieces; ____ tbsp(s) (____ g) for others.
Dried, e.g., jerky	30 g	____ piece(s) (____ g).
Entrees with sauce, e.g. fish with cream sauce, shrimp with lobster sauce.	140 g cooked	____ cup(s) (____ g); 5 oz (140 g/visual unit of measure) if not measurable by cup.
Entrees without sauce, e.g., plain or fried fish and shellfish, fish and shellfish cake.	85 g cooked; 110 g uncooked [11]	____ piece(s) (____ g) for discrete pieces; ____ cup(s) (____ g); ____ oz (____ g/visual unit of measure) if not measurable by cup.[12]
Fish, shellfish, or game meat [9], canned [10]	85 g	____ piece(s) (____ g) for discrete pieces; ____ cup(s) (____ g); 2 oz (56 g/____ cup) for products that are difficult to measure the g weight of cup measure (e.g., tuna); 2 oz (56 g/____ pieces) for products that naturally vary in size (e.g., sardines).

TABLE 2—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1] [2] [3]—Continued

Product category	Reference amount	Label statement [4]
Substitute for luncheon meat, meat spreads, Canadian bacon, sausages, frankfurters, and seafood.	55 g	____ piece(s) (____ g) for distinct pieces (e.g., slices, links); ____ cup(s) (____ g); 2 oz (56 g/visual unit of measure) for nondiscrete bulk product.
Smoked or pickled fish [10], shellfish, or game meat [9]; fish or shellfish spread.	55 g	____ piece(s) (____ g) for distinct pieces (e.g., slices, links) or ____ cup(s) (____ g); 2 oz (56 g/visual unit of measure) for nondiscrete bulk product.
Substitutes for bacon bits—see Miscellaneous.		
Fruits and Fruit Juices:		
Candied or pickled [10]	30 g	____ piece(s) (____ g).
Dehydrated fruits—see snack category.		
Dried	40 g	____ piece(s) (____ g) for large pieces (e.g., dates, figs, prunes); ____ cup(s) (____ g) for small pieces (e.g., raisins).
Fruits for garnish or flavor, e.g., maraschino cherries [10]	4 g	1 cherry (____ g); ____ piece(s) (____ g).
Fruit relishes, e.g., cranberry sauce, cranberry relish	70 g	____ cup(s) (____ g).
Fruits used primarily as ingredients, avocado	50 g	See footnote.[12]
Fruits used primarily as ingredients, others (cranberries, lemon, lime).	50 g	____ piece(s) (____ g) for large fruits; ____ cup(s) (____ g) for small fruits measurable by cup.[12]
Watermelon	280 g	See footnote.[12]
All other fruits (except those listed as separate categories), fresh, canned or frozen.	140 g	____ piece(s) (____ g) for large pieces (e.g., strawberries, prunes, apricots, etc.); ____ cup(s) (____ g) for small pieces (e.g., blueberries, raspberries, etc.).[12]
Juices, nectars, fruit drinks	240 mL	8 fl oz (240 mL).
Juices used as ingredients, e.g., lemon juice, lime juice	5 mL	1 tsp (5 mL).
Legumes:		
Tofu [10], tempeh	85 g	____ piece(s) (____ g) for discrete pieces; 3 oz (84 g/visual unit of measure) for bulk products.
Beans, plain or in sauce	130 g for beans in sauce or canned in liquid and refried beans prepared; 90 g for others prepared; 35 g dry.	____ cup (____ g).
Miscellaneous:		
Baking powder, baking soda, pectin	0.6 g	____ tsp (____ g).
Baking decorations, e.g., colored sugars and sprinkles for cookies, cake decorations.	1 tsp or 4 g if not measurable by teaspoon.	____ piece(s) (____ g) for discrete pieces; 1 tsp (____ g).
Batter mixes, bread crumbs	30 g	____ tbsp(s) (____ g);____ cup(s) (____ g).
Chewing gum [8]	3 g	____ piece(s) (____ g).
Cocoa powder, carob powder, unsweetened	1 tbsp	1 tbsp (____ g).
Cooking wine	30 mL	2 tbsp (30 mL).
Dietary Supplements	The maximum amount recommended, as appropriate, on the label for consumption per eating occasion, or, in the absence of recommendations, 1 unit, e.g., tablet, capsule, packet, teaspoonful, etc..	____ tablet(s), ____ capsules(s), ____ packet(s), ____ tsp(s) (____ g), etc.
Meat, poultry, and fish coating mixes, dry; seasoning mixes, dry, e.g., chili seasoning mixes, pasta salad seasoning mixes.	Amount to make one reference amount of final dish.	____ tsp(s) (____ g); ____ tbsp(s) (____ g).
Milk, milk substitutes, and fruit based drink mixers (without alcohol), e.g., drink mixers, fruit flavored powdered drink mixes, sweetened cocoa powder).	Amount to make 240 ml drink (without ice).	____ fl oz (____ mL); tsp (g); tbsp (g).
Drink mixes (without alcohol): all other types (e.g., flavored syrups and powdered drink mixes).	Amount to make 360 mL drink (without ice).	____ fl oz (____ mL); ____ tsp (____ g); ____ tbsp (____ g).
Salad and potato toppers, e.g., salad crunchies, salad crispins, substitutes for bacon bits.	7 g	____ tbsp(s) (____ g).
Salt, salt substitutes, seasoning salts (e.g., garlic salt)	¼ tsp	¼ tsp (____ g); ____ piece(s) (____ g) for discrete pieces (e.g., individually packaged products).
Seasoning oils and seasoning sauces (e.g., coconut concentrate, sesame oil, almond oil, chili oil coconut oil, walnut oil).	1 tbsp	1 tbsp (____ g).
Seasoning pastes (e.g., garlic paste, ginger paste, curry paste, chili paste, miso paste), fresh or frozen.	1 tsp	1 tsp (____ g).

TABLE 2—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1] [2] [3]—Continued

Product category	Reference amount	Label statement [4]
Spices, herbs (other than dietary supplements)	¼ tsp or 0.5 g if not measurable by teaspoon.	¼ tsp (____ g); ____ piece(s) (____ g) if not measurable by teaspoons (e.g., bay leaf).
Mixed Dishes:		
Appetizers, hors d'oeuvres, mini mixed dishes, e.g., mini bagel pizzas, breaded mozzarella sticks, egg rolls, dumplings, potstickers, wontons, mini quesadillas, mini quiches, mini sandwiches, mini pizza rolls, potato skins.	85 g, add 35g for products with gravy or sauce topping.	____ piece(s) (____ ____ g),.
Measurable with cup, e.g., casseroles, hash, macaroni and cheese, pot pies, spaghetti with sauce, stews, etc..	1 cup	1 cup (____ g).
Not measurable with cup, e.g., burritos, enchiladas, pizza, pizza rolls, quiche, sandwiches.	140g, add 55g for products with gravy or sauce topping, e.g., enchilada with cheese sauce, crepe with white sauce [13].	____ piece(s) (____ g) for discrete pieces; ____ fractional slice (____ g) for large discrete units.
Nuts and Seeds:		
Nuts, seeds and mixtures, all types: sliced, chopped, slivered, and whole.	30g	____ piece(s) (____ g) for large pieces (e.g., unshelled nuts);____ tbsp(s) (____ g) ;____ cup(s) (____ g) for small pieces (e.g., peanuts, sunflower seeds).
Nut and seed butters, pastes, or creams	2 tbsp	2 tbsp (____ g).
Coconut, nut and seed flours	15 g	____ tbsp(s) (____ g); ____ cup (____ g).
Potatoes and Sweet Potatoes/Yams:		
French fries, hash browns, skins, or pancakes	70 g prepared; 85 g for frozen unprepared French fries.	____ piece(s) (____ g) for large distinct pieces (e.g., patties, skins); 2.5 oz (70 g/____ pieces) for prepared fries; 3 oz (84 g/____ pieces) for unprepared fries.
Mashed, candied, stuffed or with sauce	140 g	____ piece(s) (____ g) for discrete pieces (e.g., stuffed potato); ____ cup(s) (____ g).
Plain, fresh, canned, or frozen	110 g for fresh or frozen; 125 g for vacuum packed; 160 g for canned in liquid.	____ piece(s) (____ g) for discrete pieces;____ cup(s) (____ g) for sliced or chopped products.
Salads:		
Gelatin Salad	120 g	____ cup (____ g).
Pasta or potato salad	140 g	____ cup(s) (____ g).
All other salads, e.g., egg, fish, shellfish, bean, fruit, or vegetable salads.	100 g	____ cup(s) (____ g).
Sauces, Dips, Gravies, and Condiments:		
Barbecue sauce, hollandaise sauce, tartar sauce, tomato chili sauce, other sauces for dipping (e.g., mustard sauce, sweet and sour sauce), all dips (e.g., bean dips, dairy-based dips, salsa).	2 tbsp	2 tbsp (____ g); 2 tbsp (30 mL).
Major main entree sauces, e.g., spaghetti sauce	125 g	____ cup (____ g); ____ cup (____ mL).
Minor main entree sauces (e.g., pizza sauce, pesto sauce, Alfredo sauce), other sauces used as toppings (e.g., gravy, white sauce, cheese sauce), cocktail sauce.	¼ cup	¼ cup (____ g); ¼ cup (60 mL).
Major condiments, e.g., catsup, steak sauce, soy sauce, vinegar, teriyaki sauce, marinades.	1 tbsp	1 tbsp (____ g); 1 tbsp (15 mL).
Minor condiments, e.g., horseradish, hot sauces, mustards, Worcestershire sauce.	1 tsp	1 tsp (____ g); 1 tsp (5 mL).
Snacks:		
All varieties, chips, pretzels, popcorn, extruded snacks, fruit and vegetable-based snacks (e.g., fruit chips), grain-based snack mixes.	30 g	____ cup (____ g) for small pieces (e.g., popcorn); ____ piece(s) (____ g) for large pieces (e.g., large pretzels; pressed dried fruit sheet); 1 oz (28g/visual unit of measure) for bulk products (e.g., potato chips).
Soups:		
All varieties	245 g	____ cup (____ g); ____ cup (____ mL).
Dry soup mixes, bouillon	Amount to make 245 g	____ cup (____ g); ____ cup (____ mL).
Sugars and Sweets:		
Baking candies (e.g., chips)	15 g	____ piece(s) (____ g) for large pieces; ____ tbsp(s) (____ g) for small pieces; ½ oz (14 g/visual unit of measure) for bulk products.
After-dinner confectionaries	10 g	piece(s) (____ g).
Hard candies, breath mints	2 g	____ piece(s) (____ g).
Hard candies, roll-type, mini-size in dispenser packages	5 g	____ piece(s) (____ g).

TABLE 2—REFERENCE AMOUNTS CUSTOMARILY CONSUMED PER EATING OCCASION: GENERAL FOOD SUPPLY [1] [2] [3]—Continued

Product category	Reference amount	Label statement [4]
Hard candies, others; powdered candies, liquid candies	15 mL for liquid candies; 15 g for all others.	____ piece(s) (____ g) for large pieces;____ tbsp(s) (____ g) for "mini-size" candies measurable by tablespoon; ____ straw(s) (____ g) for powdered candies; ____ wax bottle(s) (____ mL) for liquid candies; ½ oz (14 g/visual unit of measure) for bulk products.
All other candies	30 g	____ piece(s) (____ g); 1 oz (30) g/visual unit of measure) for bulk products.
Confectioner's sugar	30 g	____ cup (____ g).
Honey, jams, jellies, fruit butter, molasses, fruit pastes, fruit chutneys.	1 tbsp	1 tbsp (____ g); 1 tbsp (15 mL).
Marshmallows	30 g	____ cup(s) (____ g) for small pieces; ____ piece(s) (____ g) for large pieces.
Sugar	8 g	____ tsp (____ g) ; ____ piece(s) (____ g) for discrete pieces (e.g., sugar cubes, individually packaged products).
Sugar substitutes	An amount equivalent to one reference amount for sugar in sweetness.	____ tsp(s) (____ g) for solids; ____ drop(s) (____ g) for liquid; ____ piece(s) (____ g) (e.g., individually packaged products).
Syrups	30 mL for all syrups	2 tbsp (30 mL).
Vegetables:		
Dried vegetables, dried tomatoes, sun-dried tomatoes, dried mushrooms, dried seaweed.	5 g, add 5 g for products packaged in oil.	____ piece(s); ⅓ cup (____ ____ g).
Dried seaweed sheets	3 g	____ piece(s) (____ ____ g); ____ ____ ____ cup(s) (____ ____ ____ g).
Vegetables primarily used for garnish or flavor (e.g., pimento [10], parsley, fresh or dried).	4 g	piece(s) (____ g); ____ tbsp(s) (____ g) for chopped products.
Fresh or canned chili peppers, jalapeno peppers, other hot peppers, green onion.	30 g	____ piece(s) (____ g) [12]; ____ tbsp(s) (____ g); ____ cup(s) (____ g) for sliced or chopped products.
All other vegetables without sauce: fresh, canned, or frozen.	85 g for fresh or frozen; 95 g for vacuum packed; 130 g for canned in liquid, cream-style corn, canned or stewed tomatoes, pumpkin, or winter squash.	____ piece(s) (____ g) for large pieces (e.g., brussel sprouts); ____ cup(s) (____ g) for small pieces (e.g., cut corn, green peas); 3 oz (84 g/visual unit of measure) if not measurable by cup.
All other vegetables with sauce: fresh, canned, or frozen	110 g	____ piece(s) (____ g) for large pieces (e.g., Brussels sprouts); ____ cup(s) (____ g) for small pieces (e.g., cut corn, green peas); 4 oz (112 g/visual unit of measure) if not measurable by cup.
Vegetable juice	240 mL	8 fl oz (240 mL).
Olives [10]	15 g	____ piece(s) (____ g); ____ tbsp(s) (____ g) for sliced products.
Pickles and pickled vegetables, all types [10]	30 g	1 oz (28 g/visual unit of measure).
Pickle relishes	15 g	____ tbsp (____ g).
Sprouts, all types: fresh or canned	¼ cup	¼ cup (____ ____ ____ g).
Vegetable pastes, e.g., tomato paste	30 g	____ tbsp (____ g).
Vegetable sauces or purees, e.g., tomato sauce, tomato puree.	60 g	____ cup (____ g); ____ cup (____ mL).

[1] These values represent the amount (edible portion) of food customarily consumed per eating occasion and were derived from the 1977–1978 and the 1987–1988 Nationwide Food Consumption Surveys conducted by the U.S. Department of Agriculture and updated with data from the National Health and Nutrition Examination Survey, 2003–2004, 2005–2006 and 2007–2008 conducted by the Centers for Diseases Control and Prevention, in the Department of Health and Human Services.

[2] Unless otherwise noted in the Reference Amount column, the reference amounts are for the ready-to-serve or almost ready-to-serve form of the product (i.e., heat and serve, brown and serve). If not listed separately, the reference amount for the unprepared form (e.g., dry mixes; concentrates; dough; batter; fresh and frozen pasta) is the amount required to make the reference amount of the prepared form. Prepared means prepared for consumption (e.g., cooked).

[3] Manufacturers are required to convert the reference amount to the label serving size in a household measure most appropriate to their specific product using the procedures in 21 CFR 101.9(b).

[4] The label statements are meant to provide examples of serving size statements that may be used on the label, but that the specific wording may be changed as appropriate for individual products. The term "piece" is used as a generic description of a discrete unit. Manufacturers should use the description of a unit that is most appropriate for the specific product (e.g., sandwich for sandwiches, cookie for cookies, and bar for ice cream bars). The guidance provided is for the label statement of products in ready-to-serve or almost ready-to-serve form. The guidance does not apply to the products which require further preparation for consumption (e.g., dry mixes, concentrates) unless specifically stated in the product category, reference amount, or label statement column that it is for these forms of the product. For products that require further preparation, manufacturers must determine the label statement following the rules in § 101.9(b) using the reference amount determined according to § 101.12(c).

[5] Includes cakes that weigh 10 g or more per cubic inch. The serving size for fruitcake is 1 ½ ounces.

[6] Includes cakes that weigh 4 g or more per cubic inch but less than 10 g per cubic inch.

[7] Includes cakes that weigh less than 4 g per cubic inch.

[8] Label serving size for ice cream cones, eggs, and breath mints of all sizes will be 1 unit. Label serving size of all chewing gums that weigh more than the reference amount that can reasonably be consumed at a single-eating occasion will be 1 unit.

[9] Animal products not covered under the Federal Meat Inspection Act or the Poultry Products Inspection Act, such as flesh products from deer, bison, rabbit, quail, wild turkey, geese, ostrich, etc.

[10] If packed or canned in liquid, the reference amount is for the drained solids, except for products in which both the solids and liquids are customarily consumed (e.g., canned chopped clam in juice).

[11] The reference amount for the uncooked form does not apply to raw fish in § 101.45 or to single-ingredient products that consist of fish or game meat as provided for in § 101.9(b)(j)(11).

[12] For raw fruit, vegetables, and fish, manufacturers should follow the label statement for the serving size specified in Appendices C and D to part 101 (21 CFR 101) Code of Federal Regulations.

[13] Pizza sauce is part of the pizza and is not considered to be sauce topping.

(c) If a product requires further preparation, e.g., cooking or the addition of water or other ingredients, and if paragraph (b) of this section provides a reference amount for the product in the prepared form, but not the unprepared form, then the reference amount for the unprepared product must be the amount of the unprepared product required to make the reference amount for the prepared product as established in paragraph (b) of this section.

* * * * *

(f) * * *

(1) The reference amount for the combined product must be the reference amount, as established in paragraph (b) of this section, for the ingredient that is represented as the main ingredient (e.g., peanut butter, pancakes, cake) plus proportioned amounts of all minor ingredients.

(2) If the reference amounts are in compatible units, the weights or volumes must be summed (e.g., the reference amount for equal volumes of peanut butter and jelly for which peanut butter is represented as the main ingredient would be 4 tablespoons (tbsp) (2 tbsp peanut butter plus 2 tbsp jelly). If the reference amounts are in incompatible units, all amounts must be converted to weights and summed, e.g., the reference amount for pancakes and syrup would be 110 g (the reference amount for pancakes) plus the weight of the proportioned amount of syrup.

* * * * *

Dated: February 24, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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